



# **Utah**

# **Compilation of School**

# **Discipline Laws and**

# **Regulations**

Prepared: January 26, 2018

## ***Introduction***

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

## ***Notes & Disclaimers***

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of January 2018. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

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## **General Provisions**

### **Authority to develop and establish rules of conduct**

#### **LAWS**

##### **§ 53G-4-402. Powers and duties generally.**

(15)

(a) A board shall make and enforce rules necessary for the control and management of the district schools.

(b) Board rules and policies shall be in writing, filed, and referenced for public access.

##### **§ 53G-8-202. Public school discipline policies — Basis of the policies — Enforcement.**

(1) The Legislature recognizes that every student in the public schools should have the opportunity to learn in an environment which is safe, conducive to the learning process, and free from unnecessary disruption.

(2)

(a) To foster such an environment, each local school board or governing board of a charter school, with input from school employees, parents and guardians of students, students, and the community at large, shall adopt conduct and discipline policies for the public schools in accordance with Section 53G-8-211.

(b) A district or charter school shall base its policies on the principle that every student is expected:

(i) to follow accepted rules of conduct; and

(ii) to show respect for other people and to obey persons in authority at the school.

(c)

(i) On or before September 1, 2015, the State Board of Education shall revise the conduct and discipline policy models for elementary and secondary public schools to include procedures for responding to reports received through the School Safety and Crisis Line under Subsection 53E-10-502(3).

(ii) Each district or charter school shall use the models, where appropriate, in developing its conduct and discipline policies under this chapter.

(d) The policies shall emphasize that certain behavior, most particularly behavior which disrupts, is unacceptable and may result in disciplinary action.

(3) The local superintendent and designated employees of the district or charter school shall enforce the policies so that students demonstrating unacceptable behavior and their parents or guardians understand that such behavior will not be tolerated and will be dealt with in accordance with the district's conduct and discipline policies.

##### **§ 53G-8-203. Conduct and discipline policies and procedures.**

(1) The conduct and discipline policies required under Section 53G-8-202 shall include:

(a) provisions governing student conduct, safety, and welfare;

(b) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;

- (c) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection (1)(b);
- (d) procedures for the use of reasonable and necessary physical restraint in dealing with students posing a danger to themselves or others, consistent with Section 53G-8-302;
- (e) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:
  - (i) the school;
  - (ii) school property;
  - (iii) a person associated with the school; or
  - (iv) property associated with a person described in Subsection (1)(e)(iii);
- (f) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;
- (g) specific provisions, consistent with Section 53E-3-509, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events;
- (h) standards and procedures for dealing with habitual disruptive or unsafe student behavior in accordance with the provisions of this part; and
- (i) procedures for responding to reports received through the School Safety and Crisis Line under Subsection 53E-10-502(3).

(2)

- (a) Each local school board shall establish a policy on detaining students after regular school hours as a part of the district-wide discipline plan required under Section 53G-8-202.
- (b)
  - (i) The policy described in Subsection (2)(a) shall apply to elementary school students, grades kindergarten through six.
  - (ii) The board shall receive input from teachers, school administrators, and parents and guardians of the affected students before adopting the policy.
- (c) The policy described in Subsection (2)(a) shall provide for:
  - (i) notice to the parent or guardian of a student prior to holding the student after school on a particular day; and
  - (ii) exceptions to the notice provision if detention is necessary for the student's health or safety.

**§ 53G-10-405. Instruction on the harmful effects of alcohol, tobacco, and controlled substances -- Rulemaking authority -- Assistance from the Division of Substance Abuse and Mental Health.**

- (1) The State Board of Education shall adopt rules providing for instruction at each grade level on the harmful effects of alcohol, tobacco, and controlled substances upon the human body and society. The rules shall require but are not limited to instruction on the following:
  - (a) teaching of skills needed to evaluate advertisements for, and media portrayal of, alcohol, tobacco, and controlled substances;
  - (b) directing students towards healthy and productive alternatives to the use of alcohol, tobacco, and controlled substances; and
  - (c) discouraging the use of alcohol, tobacco, and controlled substances.

## **REGULATIONS**

### **R277-606-1. Authority and purpose.**

(1) This rule is authorized by:

- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and
- (b) Section 53A-15-1903, which requires the Board to develop rules to set policies related to a dropout prevention and recovery program;
- (c) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to:

- (a) develop policies related to an LEA's dropout prevention and recovery program; and
- (b) set reporting requirements for LEAs with a dropout prevention and recovery program.

### **R277-609-1. Authority and purpose.**

(1) This rule is authorized by:

- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
- (b) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
- (c) Subsection 53A-1-402(1)(b), which requires the Board to establish rules concerning discipline and control;
- (d) Section 53E-3-509, which requires the Board to adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction;
- (e) Section 53A-11-1603, which requires the Board to adopt rules regarding training programs for school principals and school resource officers; and
- (f) Section 53A-11-901, which directs local school boards and charter school governing boards to adopt conduct and discipline policies and directs the Board to develop model policies to assist local school boards and charter school governing boards.

(2)(a) The purpose of this rule is to outline requirements for school discipline plans and policies.

(b) An LEA's written policies shall include provisions to develop, implement, and monitor the policies for the use of emergency safety interventions in all schools and for all students within each LEA's jurisdiction.

### **R277-613-1. Authority and purpose.**

(1) This rule is authorized by:

- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and
- (b) Subsection ,53E-3-401(4)(a) which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of the rule is to:

- (a) require LEAs to develop, update, and implement bullying, cyber-bullying, hazing, retaliation, and abusive conduct policies at the school district and school level;

- (b) provide for regular and meaningful training of school employees and students;
- (c) provide for enforcement of the policies in schools, at the state level and in public school athletic programs; and
- (d) require an LEA to review allegations of bullying, cyber-bullying, hazing, retaliation, and abusive conduct.

**R277-615-2. Authority and purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by Section 53G-8-509 that directs the Board and LEAs to adopt rules to protect students against unreasonable and excessive intrusion of personal rights and privacy on school property or at school-sponsored activities, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to direct LEAs to adopt rules or policies or both to protect student rights with procedures and provisions that balance students' rights and privacy with the responsibility of school officials for the safety and protection of students and adults while on school property or at school-sponsored events.

**R277-709-1. Authority and purpose.**

(1) This rule is authorized by:

- (a) Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board;
- (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
- (c) Subsection 53E-3-503(2)(b) which requires the Board to adopt rules for the distribution of funds for the education of youth in custody.

(2) The purpose of this rule is to specify operation standards, procedures, and distribution of funds for youth in custody programs.

## Scope

### LAWS

**§ 53G-8-602. Possession or consumption of alcoholic beverages at school or school-sponsored activities -- Penalty.**

(1) Except as approved by a local school board as part of the curriculum, a person may not possess or drink an alcoholic beverage:

- (a) inside or on the grounds of any building owned or operated by a part of the public education system;  
or
- (b) in those portions of any building, park, or stadium which are being used for an activity sponsored by or through any part of the public education system.

(2)

(a) Subsection (1)(a) does not apply to property owned by a school district in contemplation of future use for school purposes while the property is under lease to another party.

(b)

(i) For purposes of Subsection (2)(a), a lease must be full time for a period of not less than two years.

- (ii) The property may not be used for school purposes at any time during the lease period.
- (3) Violation of this section is a class B misdemeanor.

**§ 53G-8-203. Conduct and discipline policies and procedures.**

- (1) The conduct and discipline policies required under Section 53G-8-202 shall include:
  - (a) provisions governing student conduct, safety, and welfare;
  - (b) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;
  - (c) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection (1)(b);
  - (d) procedures for the use of reasonable and necessary physical restraint in dealing with students posing a danger to themselves or others, consistent with Section 53G-8-302;
  - (e) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:
    - (i) the school;
    - (ii) school property;
    - (iii) a person associated with the school; or
    - (iv) property associated with a person described in Subsection (1)(e)(iii);
  - (f) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;
  - (g) specific provisions, consistent with Section 53E-3-509, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events;
  - (h) standards and procedures for dealing with habitual disruptive or unsafe student behavior in accordance with the provisions of this part; and
  - (i) procedures for responding to reports received through the School Safety and Crisis Line under Subsection 53E-10-502(3).
- (2)
  - (a) Each local school board shall establish a policy on detaining students after regular school hours as a part of the district-wide discipline plan required under Section 53G-8-202.
  - (b)
    - (i) The policy described in Subsection (2)(a) shall apply to elementary school students, grades kindergarten through six.
    - (ii) The board shall receive input from teachers, school administrators, and parents and guardians of the affected students before adopting the policy.
  - (c) The policy described in Subsection (2)(a) shall provide for:
    - (i) notice to the parent or guardian of a student prior to holding the student after school on a particular day; and
    - (ii) exceptions to the notice provision if detention is necessary for the student's health or safety.

**REGULATIONS**

**R277-613-4. LEA responsibility to create or update bullying policies.**

- (3) Subject to the parental consent requirements of Section 53E-9-203, if applicable, an LEA shall assess students about the prevalence of bullying, cyber-bullying, hazing, and retaliation in LEAs and schools,



specifically locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, and lunch areas.

## Communication of policy

### LAWS

#### **§ 53G-4-402. Powers and duties generally.**

(15)

(a) A board shall make and enforce rules necessary for the control and management of the district schools.

(b) Board rules and policies shall be in writing, filed, and referenced for public access.

#### **§ 53G-8-204. Suspension and expulsion procedures — Notice to parents — Distribution of policies.**

(1) (a) Policies required under this part shall include written procedures for the suspension and expulsion of, or denial of admission to, a student, consistent with due process and other provisions of law.

(b) (i) The policies required in Subsection (1)(a) shall include a procedure directing public schools to notify the custodial parent and, if requested in writing by a noncustodial parent, the noncustodial parent of the suspension and expulsion of, or denial of admission to, a student.

(ii) Subsection (1)(b)(i) does not apply to that portion of school records which would disclose any information protected under a court order.

(iii) The custodial parent is responsible for providing to the school a certified copy of the court order under Subsection (1)(b)(ii) through a procedure adopted by the local school board or the governing board of a charter school.

(2) (a) Each local school board or governing board of a charter school shall provide for the distribution of a copy of a school's discipline and conduct policy to each student upon enrollment in the school.

(b) A copy of the policy shall be posted in a prominent location in each school.

(c) Any significant change in a school's conduct and discipline policy shall be distributed to students in the school and posted in the school in a prominent location.

#### **§ 53G-9-605. Bullying, cyber-bullying, harassment, hazing, and retaliation policy.**

(1) On or before September 1, 2018, a school board shall update the school board's bullying, cyber-bullying, hazing, and retaliation policy to include abusive conduct.

(4) A copy of a policy shall be:

(a) included in student conduct handbooks;

(b) included in employee handbooks;

(c) provided to a parent or a guardian of a student enrolled in the charter school or school district; and

(d) distributed to parents.

### REGULATIONS

#### **R277-609-4. LEA responsibility to develop plans.**

(3) A plan described in Subsection (1) shall include:

(u) provisions that account for an individual LEA's or school's unique needs or circumstances, including:

(iii) a provision for publication of notice to parents and school employees of policies by reasonable means.

**R277-613-4. LEA responsibility to create or update bullying policies.**

(1) In addition to the requirements of Subsection 53G-9-605(3), an LEA shall:

(a) develop, update, and implement policies as required by Subsection 53G-9-605 and this rule, which shall include a prohibition on:

(i) bullying;

(ii) cyber-bullying;

(iii) hazing;

(iv) retaliation; and

(v) making a false report.

(b) post a copy of the LEA's policy on the LEA website;

(c) develop an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation; and

(d) provide a requirement for a signed statement that meets the requirements of Subsection 53G-9-605(3)(h) annually.

## ***In-School Discipline***

### **Use of multi-tiered discipline approaches**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

##### **R277-609-3. Incorporation of least restricted behavioral interventions (LRBI) technical assistance manual by reference.**

(1) This rule incorporates by reference the LRBI Technical Assistance Manual, dated September 2015, provides guidance and information in creating successful behavioral systems and supports within Utah's public schools that:

- (a) promote positive behaviors while preventing negative or risky behaviors; and
- (b) create a safe learning environment that enhances all student outcomes.

(2) A copy of the manual is located at:

- (a) <http://www.schools.utah.gov/sars/Behavior.aspx>; and
- (b) the Utah State Board of Education.

##### **R277-609-4. LEA responsibility to develop plans.**

(3) A plan described in Subsection (1) shall include:

- (m) direction for schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address the behavior of habitually disruptive students;

##### **R277-609-6. Implementation.**

(2) An LEA shall develop, use and monitor a continuum of intervention strategies to assist students, including students whose behavior in school falls repeatedly short of reasonable expectations, by teaching student behavior expectations, reinforcing student behavior expectations, re-teaching behavior expectations, followed by effective, evidence-based interventions matched to student needs prior to administrative referral.

(3) An LEA shall implement positive behavior interventions and supports as part of the LEA's continuum of behavior interventions strategies.

### **Teacher authority to remove students from classrooms**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

## Alternatives to suspension

### LAWS

#### § 53G-8-207. Alternatives to suspension or expulsion.

- (1) Each local school board or governing board of a charter school shall establish:
  - (a) policies providing that prior to suspending or expelling a student for repeated acts of willful disobedience, defiance of authority, or disruptive behavior which are not of such a violent or extreme nature that immediate removal is required, good faith efforts shall be made to implement a remedial discipline plan that would allow the student to remain in school; and
  - (b) alternatives to suspension, including policies that allow a student to remain in school under an in-school suspension program or under a program allowing the parent or guardian, with the consent of the student's teacher or teachers, to attend class with the student for a period of time specified by a designated school official.
- (2) If the parent or guardian does not agree or fails to attend class with the student, the student shall be suspended in accordance with the conduct and discipline policies of the district or the school.
- (3) The parent or guardian of a suspended student and the designated school official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies, if necessary, in dealing with the student's suspension.
- (4) The state superintendent of public instruction, in cooperation with school districts and charter schools, shall:
  - (a) research methods of motivating and providing incentives to students that:
    - (i) directly and regularly reward or recognize appropriate behavior;
    - (ii) impose immediate and direct consequences on students who fail to comply with district or school standards of conduct; and
    - (iii) keep the students in school, or otherwise continue student learning with appropriate supervision or accountability;
  - (b) explore funding resources to implement methods of motivating and providing incentives to students that meet the criteria specified in Subsection (4)(a);
  - (c) evaluate the benefits and costs of methods of motivating and providing incentives to students that meet the criteria specified in Subsection (4)(a);
  - (d) publish a report that incorporates the research findings, provides model plans with suggested resource pools, and makes recommendations for local school boards and school personnel;
  - (e) submit the report described in Subsection (4)(d) to the Education Interim Committee; and
  - (f) maintain data for purposes of accountability, later reporting, and future analysis.

### REGULATIONS

No relevant regulations found.

## Use of corporal punishment

### LAWS

#### § 53G-8-301. Definitions.

As used in this part:

- (1) "Corporal punishment" means the intentional infliction of physical pain upon the body of a student as a disciplinary measure.
- (2) "Physical escort" means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of guiding a student to another location.
- (3) "Physical restraint" means a personal restriction that immobilizes or significantly reduces the ability of a student to move the student's arms, legs, body, or head freely.
- (4) "School" means a public or private elementary school, secondary school, or preschool.
- (5) "Student" means an individual who is:
  - (a) under the age of 19 and receiving educational services; or
  - (b) under the age of 23 and receiving educational services as an individual with a disability.

**§ 53G-8-302. Prohibition of corporal punishment — Use of reasonable and necessary physical restraint or force.**

- (1) A school employee may not inflict or cause the infliction of corporal punishment upon a student.
- (2) A school employee may use reasonable and necessary physical restraint in self defense or when otherwise appropriate to the circumstances to:
  - (a) obtain possession of a weapon or other dangerous object in the possession or under the control of a student;
  - (b) protect a student or another individual from physical injury;
  - (c) remove from a situation a student who is violent; or
  - (d) protect property from being damaged, when physical safety is at risk.
- (3) Nothing in this section prohibits a school employee from using less intrusive means, including a physical escort, to address circumstances described in Subsection (2).
- (4)
  - (a) Any rule, ordinance, policy, practice, or directive which purports to direct or permit the commission of an act prohibited by this part is void and unenforceable.
  - (b) An employee may not be subjected to any sanction for failure or refusal to commit an act prohibited under this part.
- (5) A parochial or private school that does not receive state funds to provide for the education of a student may exempt itself from the provisions of this section by adopting a policy to that effect and notifying the parents or guardians of students in the school of the exemption.
- (6) This section does not apply to a law enforcement officer as defined in Section 53-13-103.

**§ 53G-8-303. Investigation of complaint — Confidentiality — Immunity.**

- (1)
  - (a) The reporting and investigation requirements of Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, apply to complaints on corporal punishment.
  - (b) If a violation is confirmed, school authorities shall take prompt and appropriate action, including in-service training and other administrative action, to ensure against a repetition of the violation.
- (2) Reports made on violations of this part are subject to the same requirements of confidentiality as provided under Section 62A-4a-412.
- (3) Any school or individual who in good faith makes a report or cooperates in an investigation by a school or authorized public agency concerning a violation of this part is immune from any civil or criminal liability that might otherwise result by reason of those actions.

**§ 53G-8-304. Liability.**

(1)

(a) Corporal punishment which would, but for this part, be considered to be reasonable discipline of a minor under Section 76-2-401 may not be used as a basis for any civil or criminal action.

(b) A court of competent jurisdiction may take appropriate action against any employing entity if the court finds that the employing entity has not taken reasonable steps to enforce the provisions of this part.

(2) Civil or criminal action may proceed without hindrance in the case of corporal punishment which would not be reasonable discipline under Sections 53G-8-305 and 76-2-401.

**§ 53G-8-305. Exception.**

Behavior reduction intervention which is in compliance with Section 76-2-401 and with state and local rules adopted under Section 53E-7-202 is excepted from this part.

**REGULATIONS**

**R277-608-1. Definitions.**

A. "Board" means the Utah State Board of Education.

B. "Corporal punishment" means the intentional infliction of physical pain upon the body of a minor child as a disciplinary measure.

C. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and the Utah Schools for the Deaf and the Blind.

D. "USOE" means the Utah State Office of Education.

**R277-608-2. Authority and purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests the general control and supervision of public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities and Sections 53G-8-301 through 53G-8-305 which provide guidelines for the use of reasonable and necessary physical restraint or force in educational settings.

B. The purpose of this rule is to direct LEAs to have policies in place that prohibit corporal punishment consistent with the law.

**R277-608-3. Reporting requirements.**

A. Each LEA shall incorporate in the LEA plan submitted to the USOE annually, the prohibition of corporal punishment consistent with the law.

B. An LEA policy shall incorporate a prohibition of corporal punishment consistent with the law, appropriate sanctions and appeal procedures for LEA employees disciplined under this rule and the corresponding state statute.

**R277-608-4. Special education exception(s) to this rule.**

LEAs shall have in place, as part of their LEA special education plans, procedures or manuals, criteria and procedures for using appropriate behavior reduction intervention in accordance with state and federal law.

**R277-609-5. Physical restraint and seclusionary time out.**

(5) An LEA may not use physical restraint as a means of discipline or punishment.

(11) A public education employee may not use seclusionary time out as a means of discipline or punishment.

## **Use of student and locker searches**

### **LAWS**

#### **§ 53G-8-508. Admissibility of evidence in civil and criminal actions.**

(1) Evidence relating to violations of this part which is seized by school authorities acting alone, on their own authority, and not in conjunction with or at the behest of law enforcement authorities is admissible in civil and criminal actions.

(2) A search under this section must be based on at least a reasonable belief that the search will turn up evidence of a violation of this part. The measures adopted for the search must be reasonably related to the objectives of the search and not excessively intrusive in light of the circumstances, including the age and sex of the person involved and the nature of the infraction.

#### **§ 53G-8-509. Board rules to ensure protection of individual rights.**

The State Board of Education and local boards of education shall adopt rules to implement this part. The rules shall establish procedures to ensure protection of individual rights against excessive and unreasonable intrusion.

### **REGULATIONS**

#### **R277-615-1. Definitions.**

A. "Board" means the Utah State Board of Education.

B. "Controlled substances" means substances identified under Sections 58-37-2, 58-37a-3 and 58-37b-2.

C. "Law enforcement authorities" means officers working under the direct supervision and in the employment of police or law enforcement, as opposed to under the supervision of a public education, agency. Law enforcement authorities have received police officer training and are acting in that capacity.

D. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and the Utah Schools for the Deaf and the Blind.

E. "Reasonable suspicion" means a particularized and objective basis, supported by objective and articulable facts leading the searcher to believe that there is a moderate chance of finding evidence of wrongdoing. Reasonableness considers the totality of the circumstances including such factors as the scope and manner of the intrusion, the justification for the search, the nature of the infraction, the place where the search is conducted, the student's age, history and school record, the prevalence and seriousness of the problem in the school, the exigency requiring the search without delay, the reliability of the information used as a justification for the search, and the school official's prior experience with the student. The search shall be reasonable both in inception of the search and the scope of the search.

F. "School official" means a school superintendent, associate superintendent, school district specialist, school principal or assistant principal or charter school employee who is a director, principal, headmaster, or assistant administrator.

G. "Weapon" means any item capable of causing death or serious bodily injury or a facsimile or representation of the item.

**R277-615-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by Section 53G-8-509 that directs the Board and LEAs to adopt rules to protect students against unreasonable and excessive intrusion of personal rights and privacy on school property or at school-sponsored activities, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to direct LEAs to adopt rules or policies or both to protect student rights with procedures and provisions that balance students' rights and privacy with the responsibility of school officials for the safety and protection of students and adults while on school property or at school-sponsored events.

**R277-615-3. Board responsibilities.**

A. The Board shall provide consistent definitions for LEAs to include in policies.

B. The Board shall develop a model policy as guidance for LEAs.

C. The Board shall include an assurance for LEAs regarding the student search policy required under Section 53G-8-509 in the Utah Consolidated Report, beginning with the 2012-13 school year.

**R277-615-4. LEA responsibilities.**

A. LEAs shall develop a policy for searching students for controlled substances as required under Utah law and for weapons before June 30, 2012.

B. LEAs shall include appropriate interested parties in the development of student search policies, including parents, school employees, and licensed school employees.

C. LEA policies shall ensure protection of individual student rights against excessive and unreasonable intrusion.

D. LEAs shall make policies available to parents electronically and in materials provided to parents and students upon enrollment as soon as reasonably possible following adoption of policies.

E. LEAs shall provide adequate training to appropriate classes of employees for fair and consistent implementation of student search policies.

**Other in-school disciplinary approaches**

**LAWS**

No relevant laws found.

**REGULATIONS**

No relevant regulations found.



## ***Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements***

### **Grounds for possible suspension or expulsion**

#### **LAWS**

##### **§ 53G-8-205. Grounds for suspension or expulsion from a public school.**

- (1) A student may be suspended or expelled from a public school for any of the following reasons:
  - (a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive behavior, including the use of foul, profane, vulgar, or abusive language;
  - (b) willful destruction or defacing of school property;
  - (c) behavior or threatened behavior which poses an immediate and significant threat to the welfare, safety, or morals of other students or school personnel or to the operation of the school;
  - (d) possession, control, or use of an alcoholic beverage as defined in Section 32B-1-102;
  - (e) behavior proscribed under Subsection (2) which threatens harm or does harm to the school or school property, to a person associated with the school, or property associated with that person, regardless of where it occurs; or
  - (f) possession or use of pornographic material on school property[...]

##### **§ 53G-8-212. Defacing or injuring school property — Student's liability — Voluntary work program alternative.**

- (1) A student who willfully defaces or otherwise damages any school property may be suspended or otherwise disciplined.
- (2)
  - (a) If a school's property has been lost or willfully cut, defaced, or otherwise damaged, the school may withhold the issuance of an official written grade report, diploma, or transcript of the student responsible for the damage or loss until the student or the student's parent or guardian has paid for the damages.
  - (b) The student's parent or guardian is liable for damages as otherwise provided in Section 78A-6-1113.
- (3)
  - (a) If the student and the student's parent or guardian are unable to pay for the damages or if it is determined by the school in consultation with the student's parent or guardian that the student's interests would not be served if the parent or guardian were to pay for the damages, the school shall provide for a program of work the student may complete in lieu of the payment.
  - (b) The school shall release the official grades, diploma, and transcripts of the student upon completion of the work.
- (4) Before any penalties are assessed under this section, the school shall adopt procedures to ensure that the student's right to due process is protected.
- (5) No penalty may be assessed for damages which may be reasonably attributed to normal wear and tear.
- (6) If the Department of Human Services or a licensed child-placing agency has been granted custody of the student, the student's records, if requested by the department or agency, may not be withheld from the department or agency for nonpayment of damages under this section.

## REGULATIONS

No relevant regulations found.

## Grounds for mandatory suspension or expulsion

### LAWS

#### **§ 53G-8-205. Grounds for suspension or expulsion from a public school.**

- (2) (a) A student shall be suspended or expelled from a public school for any of the following reasons:
- (i) any serious violation affecting another student or a staff member, or any serious violation occurring in a school building, in or on school property, or in conjunction with any school activity, including:
    - (A) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or flammable material;
    - (B) the actual or threatened use of a look alike weapon with intent to intimidate another person or to disrupt normal school activities; or
    - (C) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3; or
  - (ii) the commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor.
- (b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:
- (i) within 45 days after the expulsion the student shall appear before the student's local school board superintendent, the superintendent's designee, chief administrative officer of a charter school, or the chief administrative officer's designee, accompanied by a parent or legal guardian; and
  - (ii) the superintendent, chief administrator, or designee shall determine:
    - (A) what conditions must be met by the student and the student's parent for the student to return to school;
    - (B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53G-8-208, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and
    - (C) if it would be in the best interest of both the school district or charter school, and the student, to modify the expulsion term to less than a year, conditioned on approval by the local school board or governing board of a charter school and giving highest priority to providing a safe school environment for all students[...]

## REGULATIONS

No relevant regulations found.

## Limitations, conditions, or exclusions for use of suspension and expulsion

### LAWS

#### **§ 53G-8-205. Grounds for suspension or expulsion from a public school.**

(4) A suspension or expulsion under this section is not subject to the age limitations under Subsection 53G-6-204 (1)[...]

### REGULATIONS

No relevant regulations found.

## Administrative procedures related to suspension and expulsion

### LAWS

#### **§ 53G-8-206. Delegation of authority to suspend or expel a student — Procedure for suspension — Readmission.**

(1) (a) A local board of education may delegate to any school principal or assistant principal within the school district the power to suspend a student in the principal's school for up to ten school days.

(b) A governing board of a charter school may delegate to the chief administrative officer of the charter school the power to suspend a student in the charter school for up to ten school days.

(2) The board may suspend a student for up to one school year or delegate that power to the district superintendent, the superintendent's designee, or chief administrative officer of a charter school.

(3) The board may expel a student for a fixed or indefinite period, provided that the expulsion shall be reviewed by the district superintendent or the superintendent's designee and the conclusions reported to the board, at least once each year.

(4) If a student is suspended, a designated school official shall notify the parent or guardian of the student of the following without delay:

(a) that the student has been suspended;

(b) the grounds for the suspension;

(c) the period of time for which the student is suspended; and

(d) the time and place for the parent or guardian to meet with a designated school official to review the suspension.

(5) (a) A suspended student shall immediately leave the school building and the school grounds following a determination by the school of the best way to transfer custody of the student to the parent or guardian or other person authorized by the parent or applicable law to accept custody of the student.

(b) Except as otherwise provided in Subsection (5)(c), a suspended student may not be readmitted to a public school until:

(i) the student and the parent or guardian have met with a designated school official to review the suspension and agreed upon a plan to avoid recurrence of the problem; or

(ii) in the discretion of the principal or chief administrative officer of a charter school, the parent or guardian of the suspended student and the student have agreed to participate in such a meeting.

(c) A suspension may not extend beyond ten school days unless the student and the student's parent or guardian have been given a reasonable opportunity to meet with a designated school official and respond to the allegations and proposed disciplinary action.

## REGULATIONS

No relevant regulations found.

## In-school suspension

### LAWS

#### **§ 53G-8-207. Alternatives to suspension or expulsion.**

(1) Each local school board or governing board of a charter school shall establish:

(b) alternatives to suspension, including policies that allow a student to remain in school under an in-school suspension program or under a program allowing the parent or guardian, with the consent of the student's teacher or teachers, to attend class with the student for a period of time specified by a designated school official.

## REGULATIONS

No relevant regulations found.

## Return to school following removal

### LAWS

#### **§ 53G-8-205. Grounds for suspension or expulsion from a public school.**

(2) (b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

(i) within 45 days after the expulsion the student shall appear before the student's local school board superintendent, the superintendent's designee, chief administrative officer of a charter school, or the chief administrative officer's designee, accompanied by a parent or legal guardian; and

(ii) the superintendent, chief administrator, or designee shall determine:

(A) what conditions must be met by the student and the student's parent for the student to return to school;

(B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53G-8-208, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and

(C) if it would be in the best interest of both the school district or charter school, and the student, to modify the expulsion term to less than a year, conditioned on approval by the local school board or governing board of a charter school and giving highest priority to providing a safe school environment for all students[...]

(3) A student may be denied admission to a public school on the basis of having been expelled from that or any other school during the preceding 12 months [...]

**§ 53G-8-206. Delegation of authority to suspend or expel a student — Procedure for suspension — Readmission.**

(5)(b) Except as otherwise provided in Subsection (5)(c), a suspended student may not be readmitted to a public school until:

- (i) the student and the parent or guardian have met with a designated school official to review the suspension and agreed upon a plan to avoid recurrence of the problem; or
- (ii) in the discretion of the principal or chief administrative officer of a charter school, the parent or guardian of the suspended student and the student have agreed to participate in such a meeting.

**REGULATIONS**

No relevant regulations found.

**Use of restraint and seclusion**

**LAWS**

**§ 53G-8-203. Conduct and discipline policies and procedures.**

(1) The conduct and discipline policies required under Section 53G-8-202 shall include:

- (d) procedures for the use of reasonable and necessary physical restraint in dealing with students posing a danger to themselves or others, consistent with Section 53G-8-302;

**§ 53G-8-301. Definitions.**

As used in this part:

- (1) "Corporal punishment" means the intentional infliction of physical pain upon the body of a student as a disciplinary measure.
- (2) "Physical escort" means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of guiding a student to another location.
- (3) "Physical restraint" means a personal restriction that immobilizes or significantly reduces the ability of a student to move the student's arms, legs, body, or head freely.
- (4) "School" means a public or private elementary school, secondary school, or preschool.
- (5) "Student" means an individual who is:
  - (a) under the age of 19 and receiving educational services; or
  - (b) under the age of 23 and receiving educational services as an individual with a disability.

**§ 53G-8-302. Prohibition of corporal punishment — Use of reasonable and necessary physical restraint or force.**

(1) A school employee may not inflict or cause the infliction of corporal punishment upon a student.

(2) A school employee may use reasonable and necessary physical restraint in self defense or when otherwise appropriate to the circumstances to:

- (a) obtain possession of a weapon or other dangerous object in the possession or under the control of a student;
- (b) protect a student or another individual from physical injury;
- (c) remove from a situation a student who is violent; or
- (d) protect property from being damaged, when physical safety is at risk.

(3) Nothing in this section prohibits a school employee from using less intrusive means, including a physical escort, to address circumstances described in Subsection (2).

(4)

(a) Any rule, ordinance, policy, practice, or directive which purports to direct or permit the commission of an act prohibited by this part is void and unenforceable.

(b) An employee may not be subjected to any sanction for failure or refusal to commit an act prohibited under this part.

(5) A parochial or private school that does not receive state funds to provide for the education of a student may exempt itself from the provisions of this section by adopting a policy to that effect and notifying the parents or guardians of students in the school of the exemption.

(6) This section does not apply to a law enforcement officer as defined in Section 53-13-103.

#### **§ 53G-8-303. Investigation of complaint -- Confidentiality -- Immunity.**

(1)

(a) The reporting and investigation requirements of Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, apply to complaints on corporal punishment.

(b) If a violation is confirmed, school authorities shall take prompt and appropriate action, including in-service training and other administrative action, to ensure against a repetition of the violation.

(2) Reports made on violations of this part are subject to the same requirements of confidentiality as provided under Section 62A-4a-412.

(3) Any school or individual who in good faith makes a report or cooperates in an investigation by a school or authorized public agency concerning a violation of this part is immune from any civil or criminal liability that might otherwise result by reason of those actions.

#### **§ 53G-8-304. Liability.**

(1)

(a) Corporal punishment which would, but for this part, be considered to be reasonable discipline of a minor under Section 76-2-401 may not be used as a basis for any civil or criminal action.

(b) A court of competent jurisdiction may take appropriate action against any employing entity if the court finds that the employing entity has not taken reasonable steps to enforce the provisions of this part.

(2) Civil or criminal action may proceed without hindrance in the case of corporal punishment which would not be reasonable discipline under Sections 53G-8-305 and 76-2-401.

#### **§ 53G-8-305. Exception.**

Behavior reduction intervention which is in compliance with Section 76-2-401 and with state and local rules adopted under Section 53E-7-202 is excepted from this part.

### **REGULATIONS**

#### **R277-608-2. Authority and purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests the general control and supervision of public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities and Sections 53G-8-301 through 53G-8-305 which provide guidelines for the use of reasonable and necessary physical restraint or force in educational settings.

B. The purpose of this rule is to direct LEAs to have policies in place that prohibit corporal punishment consistent with the law.

**R277-609-1. Authority and purpose.**

(1) This rule is authorized by:

- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
- (b) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
- (c) Subsection 53A-1-402(1)(b), which requires the Board to establish rules concerning discipline and control;
- (d) Section 53E-3-509, which requires the Board to adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction;
- (e) Section 53A-11-1603, which requires the Board to adopt rules regarding training programs for school principals and school resource officers; and
- (f) Section 53A-11-901, which directs local school boards and charter school governing boards to adopt conduct and discipline policies and directs the Board to develop model policies to assist local school boards and charter school governing boards.

(2)(a) The purpose of this rule is to outline requirements for school discipline plans and policies.

(b) An LEA's written policies shall include provisions to develop, implement, and monitor the policies for the use of emergency safety interventions in all schools and for all students within each LEA's jurisdiction.

**R277-609-2. Definitions.**

(1) "Discipline" includes:

- (a) imposed discipline; and
- (b) self-discipline.

(2) "Disruptive student behavior" includes:

- (a) the grounds for suspension or expulsion described in Section 53G-8-205; and
- (b) the conduct described in Subsection 53G-8-209 (2)(b).

(3)(a) "Emergency safety intervention" means the use of seclusionary time out or physical restraint when a student presents an immediate danger to self or others.

(b) An "emergency safety intervention" is not for disciplinary purposes.

(4) "Functional Behavior Assessment" or "FBA" means a systematic process of identifying problem behaviors and the events that reliably predict occurrence and non-occurrence of those behaviors and maintain the behaviors across time.

(5) "Immediate danger" means the imminent danger of physical violence or aggression towards self or others, which is likely to cause serious physical harm.

(6) "Imposed discipline" means a code of conduct prescribed for the highest welfare of the individual and of the society in which the individual lives.

(7) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(8) "Physical restraint" means personal restriction that immobilizes or reduces the ability of an individual to move the individual's arms, legs, body, or head freely.

- (9) "Plan" means an LEA and school-wide written model for prevention and intervention addressing student behavior management and discipline procedures for students.
- (10) "Program" means an instructional or behavioral program, including a program:
- (a) provided by contract private providers under the direct supervision of public school staff;
  - (b) that receives public funding; or
  - (c) for which the Board has regulatory authority.
- (11) "Policy" means standards and procedures that include:
- (a) the provisions of Section 53A-11-901 and additional standards, procedures, and training adopted in an open meeting by a local board of education or charter school board that:
    - (i) defines hazing, bullying, cyber-bullying, and harassment;
    - (ii) prohibits hazing and bullying;
    - (iii) requires annual discussion and training designed to prevent hazing, bullying, cyber-bullying, discipline, emergency safety interventions, and harassment among school employees and students; and
    - (iv) provides for enforcement through employment action or student discipline.
- (12) "Qualifying minor" means a school-age minor who:
- (a) is at least nine years old; or
  - (b) turns nine years old at any time during the school year.
- (13) "School" means any public elementary or secondary school or charter school.
- (14) "School board" means:
- (a) a local school board; or
  - (b) a local charter board.
- (15) "School employee" means:
- (a) a school teacher;
  - (b) a school staff member;
  - (c) a school administrator; or
  - (d) any other person employed, directly or indirectly, by an LEA.
- (16) "Seclusionary time out" means that a student is:
- (a) placed in a safe enclosed area by school personnel in accordance with the requirements of Rules R392-200 and R710-4;
  - (b) purposefully isolated from adults and peers; and
  - (c) prevented from leaving, or reasonably believes that the student will be prevented from leaving, the enclosed area.
- (17) "Section 504 accommodation plan," required by Section 504 of the Rehabilitation Act of 1973, means a plan designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.
- (18) "Self-Discipline" means a personal system of organized behavior designed to promote self-interest while contributing to the welfare of others.



**R277-609-3. Incorporation of least restricted behavioral interventions (LRBI) technical assistance manual by reference.**

(1) This rule incorporates by reference the LRBI Technical Assistance Manual, dated September 2015, provides guidance and information in creating successful behavioral systems and supports within Utah's public schools that:

- (a) promote positive behaviors while preventing negative or risky behaviors; and
- (b) create a safe learning environment that enhances all student outcomes.

(2) A copy of the manual is located at:

- (a) <http://www.schools.utah.gov/sars/Behavior.aspx>; and
- (b) the Utah State Board of Education.

**R277-609-4. LEA responsibility to develop plans.**

(1) An LEA or school shall develop and implement a board approved comprehensive LEA plan or policy for student and classroom management, and school discipline.

(2) An LEA shall include administration, instruction and support staff, students, parents, community council, and other community members in policy development, training, and prevention implementation so as to create a community sense of participation, ownership, support, and responsibility.

(3) A plan described in Subsection (1) shall include:

- (a) the definitions of Section 53G-8-210;
- (b) written standards for student behavior expectations, including school and classroom management;
- (c) effective instructional practices for teaching student expectations, including:
  - (i) self-discipline;
  - (ii) citizenship;
  - (iii) civic skills; and
  - (iv) social skills;
- (d) systematic methods for reinforcement of expected behaviors;
- (e) uniform methods for correction of student behavior;
- (f) uniform methods for at least annual school level data-based evaluations of efficiency and effectiveness;
- (g) an ongoing staff development program related to development of:
  - (i) student behavior expectations;
  - (ii) effective instructional practices for teaching and reinforcing behavior expectations;
  - (iii) effective intervention strategies; and
  - (iv) effective strategies for evaluation of the efficiency and effectiveness of interventions;
- (h) procedures for ongoing training of appropriate school personnel in:
  - (i) crisis intervention training;
  - (ii) emergency safety intervention professional development; and
  - (iii) LEA policies related to emergency safety interventions consistent with evidence-based practice;
- (i) policies and procedures relating to the use and abuse of alcohol and controlled substances by students;
- (j) policies and procedures, consistent with requirements of Rule R277-613, related to:
  - (i) bullying;

- (ii) cyber-bullying;
  - (iii) harassment;
  - (iv) hazing; and
  - (v) retaliation;
- (k) policies and procedures for the use of emergency safety interventions for all students consistent with evidence-based practices including prohibition of:
- (i) physical restraint, subject to the requirements of Section R277-609-5, except when a student:
    - (A) presents a danger of serious physical harm to self or others; or
    - (B) is destroying property;
  - (ii) prone, or face-down, physical restraint;
  - (iii) supine, or face-up, physical restraint;
  - (iv) physical restraint that obstructs the airway of a student or adversely affects a student's primary mode of communication;
  - (v) mechanical restraint, except:
    - (A) protective or stabilizing restraints;
    - (B) restraints required by law, including seatbelts or any other safety equipment when used to secure students during transportation; and
    - (C) any device used by a law enforcement officer in carrying out law enforcement duties;
  - (vi) chemical restraint, except as:
    - (A) prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under State law, for the standard treatment of a student's medical or psychiatric condition; and
    - (B) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority under state law;
  - (vii) seclusionary time out, subject to the requirements of Section R277-609-5, except when a student presents an immediate danger of serious physical harm to self or others; and
  - (viii) for a student with a disability, emergency safety interventions written into a student's IEP, as a planned intervention, unless:
    - (A) school personnel, the family, and the IEP team agree less restrictive means which meet circumstances described in Section R277-608-5 have been attempted;
    - (B) a FBA has been conducted; and
    - (C) a positive behavior intervention plan based on data analysis has been written into the plan and implemented.
- (l) direction for dealing with bullying and disruptive students;
- (m) direction for schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address the behavior of habitually disruptive students;
- (n) identification, by position, of an individual designated to issue notices of disruptive and bullying student behavior;
- (o) identification of individuals who shall receive notices of disruptive and bullying student behavior;
- (p) a requirement to provide for documentation of disruptive student behavior prior to referral of disruptive students to juvenile court;

- (q) strategies to provide for necessary adult supervision;
  - (r) a requirement that policies be clearly written and consistently enforced;
  - (s) notice to employees that violation of this rule may result in employee discipline or action;
  - (t) gang prevention and intervention policies in accordance with Subsection 53E-3-509 (1); and
  - (u) provisions that account for an individual LEA's or school's unique needs or circumstances, including:
    - (i) the role of law enforcement; and
    - (ii) emergency medical services; and
    - (iii) a provision for publication of notice to parents and school employees of policies by reasonable means.
- (4) A plan described in Subsection (1) may include:
- (a) the provisions of Subsection 53E-3-509 (2); and
  - (b) a plan for training administrators and school resource officers in accordance with Section 53A-11-1603.

**R277-609-5. Physical restraint and seclusionary time out.**

- (1) When used consistently with an LEA plan under Subsection R277-609-4(1);
- (a) a physical restraint must be immediately terminated when:
    - (i) a student is no longer an immediate danger to self or others; or
    - (ii) a student is in severe distress; and
  - (b) the use of physical restraint shall be for the minimum time necessary to ensure safety and a release criteria, as outlined in LEA policies, must be implemented.
- (2) If a public education employee physically restrains a student, the school or the public education employee shall immediately notify:
- (a) the student's parent or guardian; and
  - (b) school administration.
- (3) A public education employee may not use physical restraint on a student for more than 30 minutes.
- (4) In addition to the notice described in Subsection (2), if a public education employee physically restrains a student for more than fifteen minutes, the school or the public education employee shall immediately notify:
- (a) the student's parent or guardian; and
  - (b) school administration.
- (5) An LEA may not use physical restraint as a means of discipline or punishment.
- (6) If a public education employee uses seclusionary time out, the public education employee shall:
- (a) use the minimum time necessary to ensure safety;
  - (b) use release criteria as outlined in LEA policies;
  - (c) ensure that any door remains unlocked;
  - (d) maintain the student within line of sight of the public education employee;
  - (e) use the seclusionary time out consistent with the LEA's plan described in Section R277-609-4; and
  - (f) ensure that the enclosed area meets the fire and public safety requirements described in R392-200 and R710-4.
- (7) If a student is placed in seclusionary time out, the school or the public education employee shall immediately notify:

- (a) the student's parent or guardian; and
  - (b) school administration.
- (8) A public education employee may not place a student in a seclusionary time out for more than 30 minutes.
- (9) In addition to the notice described in Subsection (7), if a public education employee places a student in seclusionary time out for more than fifteen minutes, the school or the public education employee shall immediately notify:
- (a) the student's parent or guardian; and
  - (b) school administration.
- (10) Seclusionary time out may only be used for maintaining safety.
- (11) A public education employee may not use seclusionary time out as a means of discipline or punishment.

**R277-609-6. Implementation.**

- (1) An LEA shall implement strategies and policies consistent with the LEA's plan required in Section R277-609-4.
- (2) An LEA shall develop, use and monitor a continuum of intervention strategies to assist students, including students whose behavior in school falls repeatedly short of reasonable expectations, by teaching student behavior expectations, reinforcing student behavior expectations, re-teaching behavior expectations, followed by effective, evidence-based interventions matched to student needs prior to administrative referral.
- (3) An LEA shall implement positive behavior interventions and supports as part of the LEA's continuum of behavior interventions strategies.
- (4)(a) An LEA shall provide a formal written assessment of a habitually disruptive student as part of a student's suspension or expulsion process that results in court involvement, once an LEA receives information from the court that disruptive student behavior will result in court action.
- (b) An LEA shall use assessment information to connect parents and students with supportive school and community resources.
- (5) Nothing in state law or this rule restricts an LEA from implementing policies to allow for suspension of students of any age consistent with due process requirements and consistent with all requirements of the Individuals with Disabilities Education Act 2004.
- (6) An LEA shall establish an Emergency Safety Intervention (ESI) Committee before September 1, 2015.
- (7) The LEA ESI Committee:
- (a) shall include:
    - (i) at least two administrators;
    - (ii) at least one parent or guardian of a student enrolled in the LEA, appointed by the LEA; and
    - (iii) at least two certified educational professionals with behavior training and knowledge in both state rules and LEA discipline policies;
  - (b) shall meet often enough to monitor the use of emergency safety intervention in the LEA;
  - (c) shall determine and recommend professional development needs; and
  - (d) shall develop policies for local dispute resolution processes to address concerns regarding disciplinary actions.
- (8) An LEA shall have procedures for the collection, maintenance, and periodic review of documentation or records of the use of emergency safety interventions at schools within the LEA.

(9) The Superintendent shall define the procedures for the collection, maintenance, and review of records described in Subsection (8).

(10) An LEA shall provide documentation of any school, program or LEA's use of emergency safety interventions to the Superintendent annually.

**R277-609-7. Special education exception(s) to this rule.**

(1) An LEA shall have in place, as part of its LEA special education policies, procedures, or practices, criteria and steps for using emergency safety interventions consistent with state and federal law.

(2) The Superintendent shall periodically review:

- (a) all LEA special education behavior intervention plans, procedures, or manuals; and
- (b) emergency safety intervention data as related to IDEA eligible students in accordance with Utah's Program Improvement and Planning System.

**R277-609-8. Parent/Guardian notification and court referral.**

(1) Through school administrative and juvenile court referral consequences, LEA policies shall provide procedures for qualifying minors and their parents to participate in decisions regarding consequences for disruptive student behavior.

(2) An LEA shall establish policies that:

- (a) provide notice to parents and information about resources available to assist a parent in resolving the parent's school-age minors' disruptive behavior;
- (b) provide for notices of disruptive behavior to be issued by schools to qualifying minors and parents consistent with:
  - (i) numbers of disruptions and timelines in accordance with Section 53G-8-210;
  - (ii) school resources available;
  - (iii) cooperation from the appropriate juvenile court in accessing student school records, including:
    - (A) attendance;
    - (B) grades;
    - (C) behavioral reports; and
    - (D) other available student school data; and
  - (iv) provide due process procedures for minors and parents to contest allegations and citations of disruptive student behavior.

(3)(a) When a crisis situation occurs that requires the use of an emergency safety intervention to protect the student or others from harm, a school shall notify the LEA and the student's parent or guardian as soon as possible and no later than the end of the school day.

(b) In addition to the notice described in Subsection (3)(a), if a crisis situation occurs for more than fifteen minutes, the school shall immediately notify:

- (i) the student's parent or guardian; and
- (ii) school administration.

(d) A notice described in Subsection (3)(a) shall be documented within student information systems (SIS) records.

(4)(a) A school shall provide a parent or guardian with a copy of any notes or additional documentation taken during a crisis situation upon request of the parent or guardian.

(b) Within 24 hours of a crisis situation, a school shall notify a parent or guardian that the parent or guardian may request a copy of any notes or additional documentation taken during a crisis situation.

(c) A parent or guardian may request a time to meet with school staff and administration to discuss a crisis situation.

**R277-609-9. Model policies.**

(1) The Superintendent shall develop, review regularly, and provide to LEA boards model policies to address disruptive student behavior and appropriate consequences.

(2) The Superintendent shall provide technical assistance to LEAs in developing and implementing policies and training employees in the appropriate use of physical force and emergency safety interventions to the extent of resources available.

**R277-609-10. LEA compliance.**

If an LEA fails to comply with this rule, the Superintendent may withhold funds in accordance with Rule R277-114 or impose any other sanction authorized by law.

## **Alternative placements**

### **LAWS**

**§ 53G-8-207. Alternatives to suspension or expulsion.**

(1) Each local school board or governing board of a charter school shall establish:

(a) policies providing that prior to suspending or expelling a student for repeated acts of willful disobedience, defiance of authority, or disruptive behavior which are not of such a violent or extreme nature that immediate removal is required, good faith efforts shall be made to implement a remedial discipline plan that would allow the student to remain in school; and

(b) alternatives to suspension, including policies that allow a student to remain in school under an in-school suspension program or under a program allowing the parent or guardian, with the consent of the student's teacher or teachers, to attend class with the student for a period of time specified by a designated school official.

(2) If the parent or guardian does not agree or fails to attend class with the student, the student shall be suspended in accordance with the conduct and discipline policies of the district or the school.

(3) The parent or guardian of a suspended student and the designated school official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies, if necessary, in dealing with the student's suspension.

(4) The state superintendent of public instruction, in cooperation with school districts and charter schools, shall:

(a) research methods of motivating and providing incentives to students that:

(i) directly and regularly reward or recognize appropriate behavior;

(ii) impose immediate and direct consequences on students who fail to comply with district or school standards of conduct; and

(iii) keep the students in school, or otherwise continue student learning with appropriate supervision or accountability;

(b) explore funding resources to implement methods of motivating and providing incentives to students that meet the criteria specified in Subsection (4)(a);

(c) evaluate the benefits and costs of methods of motivating and providing incentives to students that meet the criteria specified in Subsection (4)(a);

- (d) publish a report that incorporates the research findings, provides model plans with suggested resource pools, and makes recommendations for local school boards and school personnel;
- (e) submit the report described in Subsection (4)(d) to the Education Interim Committee; and
- (f) maintain data for purposes of accountability, later reporting, and future analysis.

**§ 53G-8-208. Student suspended or expelled — Responsibility of parent or guardian — Application for students with disabilities.**

(1) If a student is suspended or expelled from a public school under this part for more than ten school days, the parent or guardian is responsible for undertaking an alternative education plan which will ensure that the student's education continues during the period of suspension or expulsion.

(2) (a) The parent or guardian shall work with designated school officials to determine how that responsibility might best be met through private education, an alternative program offered by or through the district or charter school, or other alternative which will reasonably meet the educational needs of the student.

(b) The parent or guardian and designated school official may enlist the cooperation of the Division of Child and Family Services, the juvenile court, or other appropriate state agencies to meet the student's educational needs.

(3) Costs for educational services which are not provided by the school district or charter school are the responsibility of the student's parent or guardian.

(4) (a) Each school district or charter school shall maintain a record of all suspended or expelled students and a notation of the recorded suspension or expulsion shall be attached to the individual student's transcript.

(b) The district or charter school shall contact the parent or guardian of each suspended or expelled student under the age of 16 at least once each month to determine the student's progress.

(5) (a) This part applies to students with disabilities to the extent permissible under applicable law or regulation.

(b) If application of any requirement of this part to a student with a disability is not permissible under applicable law or regulation, the responsible school authority shall implement other actions consistent with the conflicting law or regulation which shall most closely correspond to the requirements of this part.

**REGULATIONS**

**R277-709-2. Definitions.**

(1) "Accreditation" means the formal process for evaluation and approval from a regional accrediting body.

(2) "Custody" means the status of being legally subject to the control of another person or a public agency.

(3)(a) "Youth in Custody" means a person for whom the Board is responsible to provide educational services under Subsections 53E-3-503(2)(a) and 62A-15-609(1).

(b) "Youth in custody" does not include a person taken into custody for the primary purpose of obtaining access to education programs provided for youth in custody.

**R277-709-1. Authority and purpose.**

(1) This rule is authorized by:

- (a) Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
  - (c) Subsection 53E-3-503(2)(b) which requires the Board to adopt rules for the distribution of funds for the education of youth in custody.
- (2) The purpose of this rule is to specify operation standards, procedures, and distribution of funds for youth in custody programs.

**R277-709-3. Student evaluation, education plans, and LEA programs.**

- (1) Each student meeting the eligibility definition of youth in custody shall have a written SEOP/plan for college and career readiness defining the student's academic achievement, which shall specify known in-school and extra-school factors which may affect the student's school performance.
- (2) A student, school staff and parent/guardian shall annually review the student's SEOP/plan for college and career readiness maintained in the student's file.
- (3) A program receiving a youth in custody student is responsible for obtaining the student's evaluation records, and, in cases where the records are not current, for conducting the evaluation, which may include a special education eligibility evaluation, as quickly as possible so that unnecessary delay in developing a student's education program is avoided.
- (4) The LEA in which a youth in custody program is located has the responsibility to conduct IDEA child find activities within the program, consistent with Section R277-750-2 and Utah State Board of Education Special Education Rule II.A.
- (5)(a) A youth in custody program shall prepare appropriate SEOP/plan for college and career readiness and, as needed, an Individualized Education Program for each eligible youth in custody based upon the results of the student evaluation.
  - (b) A youth in custody program shall review and update the plans required under Subsection (5)(a) at least once each year or immediately following transfer of a student from one program to another, whichever is sooner.
  - (c) A youth in custody program shall develop the plans required under Subsection (5)(a) in cooperation with appropriate representatives of other service agencies working with a student.
  - (d) The plans required under Subsection (5)(a) shall specify the responsibilities of each of the agencies towards the student and shall be signed by each agency's representative.
- (6)(a) All provisions of the IDEA and state special education rules apply to youth in custody programs.
  - (b) The USBE Special Education Department shall include youth in custody programs in annual general supervision monitoring annually.
- (7)(a) An LEA shall provide an education program for the student which conforms as closely as possible to the student's education plan.
  - (b) An LEA shall provide educational services in the least restrictive environment appropriate for the student's behavior and educational performance.
- (8) An LEA shall consider youth in custody who do not require educational services or supervision beyond students not in custody to be part of the district's regular enrollment and provided education services.
- (9) An LEA shall not assign or allow youth in custody to remain in restrictive or non-mainstream programs simply because of:
  - (a) their custodial status;
  - (b) past behavior that does not put others at risk; or



- (c) the inappropriate behavior of other students.
- (10)(a) Education programs to which youth in custody are assigned shall meet the standards which are adopted by the Board for that type program.
  - (b) The Superintendent shall monitor compliance in periodic review visits.
- (11) An LEA shall accept credit earned in youth in custody programs that are accredited at face value in Utah's public schools consistent with Section R277-410-9, Transfer or Acceptance of Credit.
- (12) A youth in custody program shall sufficiently coordinate educational services with non-custody programs to enable youth in custody to continue their education with minimal disruption following discharge from custody.
- (13)(a) A youth in custody program shall admit youth in custody to classes within five school days following arrival at a new residential placement.
  - (b) If a youth in custody program cannot complete an evaluation and SEOP/plan for college and career readiness or IEP development within five school days, the program shall enroll the student temporarily based upon the best information available.
  - (c) A temporary schedule may be modified to meet the student's needs after the evaluation and planning process is complete.
- (14)(a) Following a student's release from custody or transfer to a new program, the sending program shall bring all available school records up to date and forward them to the receiving program consistent with Section 53G-6-604.
  - (b) An LEA shall maintain all grades, attendance records and special education SCRAM records in the LEA's SIS system in compliance with Rule R277-484, Data Standards.

**R277-709-4. Program fiscal and accountability procedures.**

- (1) The Superintendent shall allocate state funds appropriated for youth in custody, including the Utah State Hospital, in accordance with Section 53E-3-503 and Section 62A-15-609.
- (2) Funds appropriated for youth in custody programs shall be subject to Board accounting, auditing, and budgeting rules and policies.
- (3) The Superintendent shall, through an annually submitted and approved state application and plan, contract with LEAs to provide educational services for youth in custody.
  - (a) A contract required by Subsection (3) shall include the respective responsibilities of the Board, LEAs, and other local service providers for education
  - (b) An LEA may subcontract with local non-district educational service providers for the provision of educational services.
- (4) The Superintendent may only contract through an RFP process with an appropriate entity if the Board Superintendent determines that the LEA where the facility is located is unable or unwilling to provide adequate education services.
- (5) Youth in custody students receiving education services by or through an LEA are students of that LEA.
- (6) Notwithstanding the procedures for determining an alternative district of residency in Rule R277-621, an LEA may not create an alternative district of residency for a student who has been placed in custody primarily in an attempt to receive services in a state funded youth in custody program.
- (7) The Superintendent shall allocate state funds appropriated for youth in custody on the basis of an annually submitted and approved application made by the LEA where a youth in custody program resides.
- (8) The Superintendent shall base the share of funds distributed to an LEA upon criteria which include:

- (a) the number of youth in custody served by the LEA;
- (b) the type of program required for the youth;
- (c) the setting for providing services; and
- (d) the length of the program.

9. A youth in custody program shall expend funds approved for youth in custody projects solely for the purposes described in the respective funding application.

(10) The Superintendent may retain no more than five percent of the total youth in custody annual legislative appropriation for administration, oversight, monitoring, and evaluation of youth in custody programs and their compliance with law and this rule.

(11) Up to three percent of the five percent of administrative funds allowed under Subsection (9) may be withheld by the Superintendent and directed to students attending youth in custody programs for short periods of time or to new or beginning youth in custody programs or initiatives benefitting youth in custody students.

(12) The Superintendent may withhold federal or state funds for noncompliance with state policy and procedures and associated reporting timelines in accordance with Rule R277-114.

(13) The Superintendent or its designee shall develop uniform forms, deadlines, reporting and accounting procedures and guidelines to govern the youth in custody school-based programs and Utah State Hospital funded programs.

#### **R277-709-5. Youth in custody programs and students with disabilities.**

(1) The youth in custody program is separate from and not conducted under the state's education program for students with disabilities.

(2) Custodial status alone does not qualify a youth in custody student as a student with a disability under laws regulating education for students with disabilities.

(3) Youth in custody students may be eligible for special education funding and services based upon special education rules and regulations.

(4) Youth in custody students qualifying for special education services shall receive educational instruction as defined in R277-750, Education Programs for Students with Disabilities.

(5) Special education procedural safeguards shall apply to all IDEA eligible youth in custody students regardless of instructional location.

(6) The Superintendent shall monitor special education programs provided through youth in custody programs on an annual basis in accordance with special education rules and policies.

#### **R277-709-6. Youth in custody program staffing and monitoring.**

(1) Education staff assigned to youth in custody shall be qualified and appropriate for their assignments as defined in R277-503, Licensing Routes in accordance with Board licensing rules.

(2) Youth in custody programs shall maintain accreditation as part of the LEA where the programs are located consistent with Rule R277-410, Accreditation of Schools.

(3) The Superintendent shall evaluate youth in custody programs through regular site monitoring visits and monthly desk monitoring.

(4) Monitored programs shall prepare and submit to the Superintendent a written corrective action plan for each monitoring finding as requested by the Superintendent.

(5) A youth in custody program's failure to resolve monitoring findings as soon as possible, and, in no case, later than one calendar year from date of notice, may result in the termination of state funding as provided in Rule R277-114.

(6) The Superintendent may review LEA or State Hospital records and practices for compliance with the law and this rule.

**R277-709-7. Utah state hospital.**

(1) Funding for the education programs at the Utah State Hospital shall be contingent upon a legislative appropriation.

(2)(a) State education contract funds appropriated for State Hospital youth in custody are allocated to the LEA on a reimbursement basis.

(b) The State Hospital shall annually submit requests for reimbursement.

(3) Funding shall be distributed to the LEA on a reimbursement basis subject to required documentation that supports expenditures.

(4) Funds may be withheld or terminated for noncompliance with state and federal policies and procedures and associated reporting requirements and timelines as defined by the Superintendent and in accordance with Rule R277-114.

(5) The Utah State Hospital shall serve all students qualifying for special education services in accordance with the special education standards adopted in the Special Education Rules and [in] Rule R277-750.

**R277-709-8. Youth in custody/LEA fiscal procedures.**

(1) Ten percent or \$50,000, whichever is less, of state youth in custody funds or educational contract funds not expended in the current fiscal year may be carried over by eligible LEAs and spent in the next fiscal year with written approval of the Superintendent.

(2) An LEA shall submit a request to carry over funds for approval by August 1. Approved carry over amounts shall be detailed in a revised budget submitted to the Superintendent no later than October 1 in the year requested.

(4) The Superintendent may consider excess funds in determining the LEA's allocation for the next fiscal year.

(5)(a) The Superintendent shall annually recapture fund balances in excess of ten percent or \$50,000 no later than February 1

(b) The Superintendent shall reallocate funds recaptured in accordance with Subsection (5)(a) to the youth in custody programs based on the criteria and procedures provided by this rule.

**R277-709-9. Program, curriculum, outcomes and student mastery.**

(1) Youth in custody programs shall offer courses consistent with the Utah Core standards under Rule R277-700.

(2) A youth in custody program may modify or adjust Utah core standards and teaching strategies to meet the individual needs of youth in custody students.

(3) Youth in custody programs shall stress course content mastery rather than completion of predetermined seat time in a classroom.

(4) The Superintendent shall make available written course descriptions for GED Test preparation for youth in custody students who consider pursuing GED Tests as an alternative to traditional Carnegie diploma courses.

**R277-709-10. Confidentiality.**

(1) An LEA shall issue transcripts and diplomas prepared for youth in custody in the name of an existing LEA which also serves non-custodial youth and shall not bear references to custodial status.

(2) School records which refer to custodial status, juvenile court records, and related matters shall be kept separate from permanent school records, but are nonetheless student records if retained by the LEA.

(3)(a) Members of the interagency team which design and oversee student education plans shall have access, through team member representatives of the participating agencies, to relevant records of the various agencies.

(b) The records and information obtained from the records remain the property of the supplying agency and shall not be transferred or shared with other persons or agencies without the permission of the supplying agency, the student's legal guardian, or the eligible student as defined under 20 U.S.C. 1232g(d).

(4) Youth in custody programs shall comply with all state and federal privacy requirements for student records.

#### **R277-709-11. Coordinating council.**

(1)(a) The Department of Human Services and the Board shall appoint a coordinating council in accordance with Subsection 53E-3-503(6)(a) to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice Services and the Division of Child and Family Services.

(b) The coordinating council shall operate under guidelines developed and approved by the Department of Human Services and the Board.

(2) Coordinating council membership shall include a representative of the following:

- (a) the Department of Human Services;
- (b) the Division of Substance Abuse and Mental Health;
- (c) the Division of Juvenile Justice Services;
- (d) the Division of Child and Family Services;
- (e) the Board;
- (f) the Administrative Office of the Courts;
- (g) school district superintendents; and
- (h) a Native American tribe.

#### **R277-709-12. Advisory councils.**

(1)(a) Each LEA serving youth in custody shall establish a local interagency advisory council which shall be responsible for advising member agencies concerning coordination of youth in custody programs.

(b) Members of council required under Subsection (1)(a) shall include, if applicable to the LEA, the following:

- (i) a representative of the Division of Child and Family Services;
- (ii) a representative of the Division of Juvenile Justice Services;
- (iii) directors of agencies located in an LEA such as detention centers, secure lockup facilities, observation and assessment units, and the Utah State Hospital;
- (iv) a representative of community-based alternative programs for custodial juveniles; and
- (v) a representative of the LEA.

(2) A local interagency advisory council required under Subsection (1)(a) shall

- (a) adopt by-laws for its operation; and
- (b) meet at least quarterly.

## ***Disciplinary Approaches Addressing Specific Infractions and Conditions***

### **Firearms (as required by the Gun-Free Schools Act)**

#### **LAWS**

#### **§ 53G-8-510. Notification of teachers of weapons on school property — Immunity from civil and criminal liability.**

(1) Whenever a student is found on school property during school hours or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to or known by the principal, the principal shall notify law enforcement personnel and school or district personnel who, in the opinion of the principal, should be informed.

(2) A person who in good faith reports information under Subsection (1) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

#### **§ 76-3-203.2. Definitions — Use of dangerous weapon in offenses committed on or about school premises — Enhanced penalties.**

(1) (a) As used in this section "on or about school premises" means:

(i) (A) in a public or private elementary or secondary school; or

(B) on the grounds of any of those schools;

(ii) (A) in a public or private institution of higher education; or

(B) on the grounds of a public or private institution of higher education;

(iii) within 1,000 feet of any school, institution, or grounds included in Subsections (1)(a)(i) and (ii); and

(iv) in or on the grounds of a preschool or child care facility.

(b) As used in this section:

(i) "Dangerous weapon" has the same definition as in Section 76-1-601.

(ii) "Educator" means a person who is:

(A) employed by a public school district; and

(B) required to hold a certificate issued by the State Board of Education in order to perform duties of employment.

(iii) "Within the course of employment" means that an educator is providing services or engaging in conduct required by the educator's employer to perform the duties of employment.

(2) A person who, on or about school premises, commits an offense and uses or threatens to use a dangerous weapon, as defined in Section 76-1-601, in the commission of the offense is subject to an enhanced degree of offense as provided in Subsection (4).

(3) (a) A person who commits an offense against an educator when the educator is acting within the course of employment is subject to an enhanced degree of offense as provided in Subsection (4).

(b) As used in Subsection (3)(a), "offense" means:

(i) an offense under Title 76, Chapter 5, Offenses Against the Person; and

(ii) an offense under Title 76, Chapter 6, Part 3, Robbery.

(4) If the trier of fact finds beyond a reasonable doubt that the defendant, while on or about school premises, commits an offense and in the commission of the offense uses or threatens to use a dangerous weapon, or that the defendant committed an offense against an educator when the educator was acting within the course of the educator's employment, the enhanced penalty for a:

- (a) class B misdemeanor is a class A misdemeanor;
- (b) class A misdemeanor is a third degree felony;
- (c) third degree felony is a second degree felony; or
- (d) second degree felony is a first degree felony.

(5) The enhanced penalty for a first degree felony offense of a convicted person:

- (a) is imprisonment for a term of not less than five years and which may be for life, and imposition or execution of the sentence may not be suspended unless the court finds that the interests of justice would be best served and states the specific circumstances justifying the disposition on the record; and
- (b) is subject also to the dangerous weapon enhancement provided in Section 76-3-203.8, except for an offense committed under Subsection (3) that does not involve a firearm.

(6) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice upon the information or indictment that the defendant is subject to the enhanced degree of offense or penalty under Subsection (4) or (5).

(7) In cases where an offense is enhanced under Subsection (4), or under Subsection (5)(a) for an offense committed under Subsection (2) that does not involve a firearm, the convicted person is not subject to the dangerous weapon enhancement in Section 76-3-203.8.

(8) The sentencing enhancement described in this section does not apply if:

- (a) the offense for which the person is being sentenced is:
  - (i) a grievous sexual offense;
  - (ii) child kidnapping under Section 76-5-301.1;
  - (iii) aggravated kidnapping under Section 76-5-302; or
  - (iv) forcible sexual abuse under Section 76-5-404; and
- (b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

**§ 76-10-505.5. Possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises -- Penalties.**

(1) As used in this section, "on or about school premises" means:

- (a) (i) in a public or private elementary or secondary school; or
- (ii) on the grounds of any of those schools;
- (b) (i) in a public or private institution of higher education; or
- (ii) on the grounds of a public or private institution of higher education; and
  - (iii) (A) inside the building where a preschool or child care is being held, if the entire building is being used for the operation of the preschool or child care; or
  - (B) if only a portion of a building is being used to operate a preschool or child care, in that room or rooms where the preschool or child care operation is being held.

(2) A person may not possess any dangerous weapon, firearm, or short barreled shotgun, as those terms are defined in Section 76-10-501, at a place that the person knows, or has reasonable cause to believe, is on or about school premises as defined in this section.

(3) (a) Possession of a dangerous weapon on or about school premises is a class B misdemeanor.

(b) Possession of a firearm or short barreled shotgun on or about school premises is a class A misdemeanor.

(4) This section does not apply if:

(a) the person is authorized to possess a firearm as provided under Section 53-5-704, 53-5-705, 76-10-511, or 76-10-523, or as otherwise authorized by law;

(b) the possession is approved by the responsible school administrator;

(c) the item is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the person responsible for its possession or use; or

(d) the possession is:

(i) at the person's place of residence or on the person's property; or

(ii) in any vehicle lawfully under the person's control, other than a vehicle owned by the school or used by the school to transport students.

(5) This section does not prohibit prosecution of a more serious weapons offense that may occur on or about school premises.

## REGULATIONS

No relevant regulations found.

## Other weapons

## LAWS

### **§ 53G-8-205. Grounds for suspension or expulsion from a public school.**

(2) (a) A student shall be suspended or expelled from a public school for any of the following reasons:

(i) any serious violation affecting another student or a staff member, or any serious violation occurring in a school building, in or on school property, or in conjunction with any school activity, including:

(A) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or flammable material;

(B) the actual or threatened use of a look alike weapon with intent to intimidate another person or to disrupt normal school activities; or

(C) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3; or

(ii) the commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor.

(b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

- (i) within 45 days after the expulsion the student shall appear before the student's local school board superintendent, the superintendent's designee, chief administrative officer of a charter school, or the chief administrative officer's designee, accompanied by a parent or legal guardian; and
- (ii) the superintendent, chief administrator, or designee shall determine:
  - (A) what conditions must be met by the student and the student's parent for the student to return to school;
  - (B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53G-8-208, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and
  - (C) if it would be in the best interest of both the school district or charter school, and the student, to modify the expulsion term to less than a year, conditioned on approval by the local school board or governing board of a charter school and giving highest priority to providing a safe school environment for all students[...]

**§ 53G-8-510. Notification of teachers of weapons on school property — Immunity from civil and criminal liability.**

- (1) Whenever a student is found on school property during school hours or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to or known by the principal, the principal shall notify law enforcement personnel and school or district personnel who, in the opinion of the principal, should be informed.
- (2) A person who in good faith reports information under Subsection (1) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

**REGULATIONS**

No relevant regulations found.

**Students with chronic disciplinary issues**

**LAWS**

**§ 53G-6-203. Truancy — Notice of truancy — Failure to cooperate with school authorities — Habitual truant citation.**

- (1) Except as provided in Section 53G-6-204 or 53G-6-702, a school-age minor who is enrolled in a public school shall attend the public school in which the school-age minor is enrolled.
- (2) A local school board, charter school governing board, or school district may impose administrative penalties on a school-age minor in accordance with Section 53G-8-211 who is truant.
- (3) A local school board or charter school governing board:
  - (a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue notices of truancy to school-age minors who are at least 12 years old; and
  - (b) shall establish a procedure for a school-age minor, or the school-age minor's parents, to contest a notice of truancy.
- (4) The notice of truancy described in Subsection (3):
  - (a) may not be issued until the school-age minor has been truant at least five times during the school year;



- (b) may not be issued to a school-age minor who is less than 12 years old;
- (c) may not be issued to a minor exempt from school attendance as provided in Section 53G-6-204 or 53G-6-702;
- (d) shall direct the school-age minor and the parent of the school-age minor to:
  - (i) meet with school authorities to discuss the school-age minor's trancies; and
  - (ii) cooperate with the school board, local charter board, or school district in securing regular attendance by the school-age minor; and
- (e) shall be mailed to, or served on, the school-age minor's parent.

**§ 53G-8-203. Conduct and discipline policies and procedures.**

- (1) The conduct and discipline policies required under Section 53G-8-202 shall include:
  - (h) standards and procedures for dealing with habitual disruptive or unsafe student behavior in accordance with the provisions of this part; and

**§ 53G-8-210. Disruptive student behavior.**

- (1) As used in this section:
  - (a) "Disruptive student behavior" includes:
    - (i) the grounds for suspension or expulsion described in Section 53G-8-205; and
    - (ii) the conduct described in Subsection 53G-8-209 (2)(b) [...]
- (2) A local school board, school district, governing board of a charter school, or charter school may impose administrative penalties on a school-age minor who violates this part.
- (3) (a) It is unlawful for a school-age minor to engage in disruptive student behavior.
  - (b) A qualifying minor is subject to the jurisdiction of the juvenile court if the qualifying minor:
    - (i) engages in disruptive student behavior, that does not result in suspension or expulsion, at least six times during the school year;
    - (ii) (A) engages in disruptive student behavior, that does not result in suspension or expulsion, at least three times during the school year; and
      - (B) engages in disruptive student behavior, that results in suspension or expulsion, at least once during the school year; or
    - (iii) engages in disruptive student behavior, that results in suspension or expulsion, at least twice during the school year.
- (4) (a) A local school board or governing board of a charter school shall:
  - (i) authorize a school administrator or a designee of a school administrator to issue notices of disruptive student behavior to qualifying minors; and
  - (ii) establish a procedure for a qualifying minor, or a qualifying minor's parent, to contest a notice of disruptive student behavior.
  - (b) A school representative shall provide to a parent of a school-age minor, a list of resources available to assist the parent in resolving the school-age minor's disruptive student behavior problem.
  - (c) A local school board or governing board of a charter school shall establish procedures for a school counselor or other designated school representative to work with a qualifying minor who engages in disruptive student behavior in order to attempt to resolve the minor's disruptive student behavior problems before the qualifying minor becomes subject to the jurisdiction of the juvenile court as provided for under this section.
- (5) The notice of disruptive student behavior described in Subsection (4)(a):

- (a) shall be issued to a qualifying minor who:
    - (i) engages in disruptive student behavior, that does not result in suspension or expulsion, three times during the school year; or
    - (ii) engages in disruptive student behavior, that results in suspension or expulsion, once during the school year;
  - (b) shall require that the qualifying minor and a parent of the qualifying minor:
    - (i) meet with school authorities to discuss the qualifying minor's disruptive student behavior; and
    - (ii) cooperate with the local school board or governing board of a charter school in correcting the school-age minor's disruptive student behavior;
  - (c) shall contain a statement indicating:
    - (i) the number of additional times that, if the qualifying minor engages in disruptive student behavior that does not result in suspension or expulsion, will result in the qualifying minor receiving a habitual disruptive student behavior citation; and
    - (ii) that the qualifying minor will receive a habitual disruptive student behavior citation if the qualifying minor engages in disruptive student behavior that results in suspension or expulsion; and
  - (d) shall be mailed by certified mail to, or served on, a parent of the qualifying minor.
- (6) A habitual disruptive student behavior citation:
- (a) may only be issued to a qualifying minor who:
    - (i) engages in disruptive student behavior, that does not result in suspension or expulsion, at least six times during the school year;
      - (ii) (A) engages in disruptive student behavior, that does not result in suspension or expulsion, at least three times during the school year; and
      - (B) engages in disruptive student behavior, that results in suspension or expulsion, at least once during the school year; or
    - (iii) engages in disruptive student behavior, that results in suspension or expulsion, at least twice during the school year; and
  - (b) may only be issued by a school administrator, a designee of a school administrator, or a truancy specialist, who is authorized by a local school board or governing board of a local charter school to issue habitual disruptive student behavior citations.
- (7) (a) A qualifying minor to whom a habitual disruptive student behavior citation is issued under Subsection (6) shall be referred to the juvenile court for violation of Subsection (3).
- (b) Within five days after the day on which a habitual disruptive student behavior citation is issued, a representative of the school district or charter school shall provide documentation, to a parent of the qualifying minor who receives the citation, of the efforts made by a school counselor or representative under Subsection (4)(c).[...]

## **REGULATIONS**

### **R277-609-4. LEA responsibility to develop plans.**

- (3) A plan described in Subsection (1) shall include:
  - (m) direction for schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address the behavior of habitually disruptive students;

### **R277-609-4. Implementation.**

(2) An LEA shall develop, use and monitor a continuum of intervention strategies to assist students, including students whose behavior in school falls repeatedly short of reasonable expectations, by teaching student behavior expectations, reinforcing student behavior expectations, re-teaching behavior expectations, followed by effective, evidence-based interventions matched to student needs prior to administrative referral.

(4)(a) An LEA shall provide a formal written assessment of a habitually disruptive student as part of a student's suspension or expulsion process that results in court involvement, once an LEA receives information from the court that disruptive student behavior will result in court action.

(b) An LEA shall use assessment information to connect parents and students with supportive school and community resources.

## **Attendance and truancy**

### **LAWS**

#### **§ 53G-6-202. Compulsory education.**

(1) For purposes of this section:

(a) "Intentionally" is as defined in Section 76-2-103.

(b) "Recklessly" is as defined in Section 76-2-103.

(c) "Remainder of the school year" means the portion of the school year beginning on the day after the day on which the notice of compulsory education violation described in Subsection (3) is served and ending on the last day of the school year.

(d) "School-age child" means a school-age minor under the age of 14.

(2) Except as provided in Section 53G-6-204 or 53A-11-102.5, the parent of a school-age minor shall enroll and send the school-age minor to a public or regularly established private school.

(3) A school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist may issue a notice of compulsory education violation to a parent of a school-age child if the school-age child is absent without a valid excuse at least five times during the school year.

(4) The notice of compulsory education violation, described in Subsection (3):

(a) shall direct the parent of the school-age child to:

(i) meet with school authorities to discuss the school-age child's school attendance problems; and

(ii) cooperate with the school board, local charter board, or school district in securing regular attendance by the school-age child;

(b) shall designate the school authorities with whom the parent is required to meet;

(c) shall state that it is a class B misdemeanor for the parent of the school-age child to intentionally or recklessly:

(i) fail to meet with the designated school authorities to discuss the school-age child's school attendance problems; or

(ii) fail to prevent the school-age child from being absent without a valid excuse five or more times during the remainder of the school year;

(d) shall be served on the school-age child's parent by personal service or certified mail; and

(e) may not be issued unless the school-age child has been truant at least five times during the school year.

(5) It is a class B misdemeanor for a parent of a school-age minor to intentionally or recklessly fail to enroll the school-age minor in school, unless the school-age minor is exempt from enrollment under Section 53G-6-204 or 53A-11-102.5.

(6) It is a class B misdemeanor for a parent of a school-age child to, after being served with a notice of compulsory education violation in accordance with Subsections (3) and (4), intentionally or recklessly:

(a) fail to meet with the school authorities designated in the notice of compulsory education violation to discuss the school-age child's school attendance problems; or

(b) fail to prevent the school-age child from being absent without a valid excuse five or more times during the remainder of the school year.

(7) A local school board, local charter board, or school district shall report violations of this section to the appropriate county or district attorney.

**§ 53G-6-203. Truancy — Notice of truancy — Failure to cooperate with school authorities — Habitual truant citation.**

(1) Except as provided in Section 53G-6-204 or 53G-6-702, a school-age minor who is enrolled in a public school shall attend the public school in which the school-age minor is enrolled.

(2) A local school board, charter school governing board, or school district may impose administrative penalties on a school-age minor in accordance with Section 53G-8-211 who is truant.

(3) A local school board or charter school governing board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue notices of truancy to school-age minors who are at least 12 years old; and

(b) shall establish a procedure for a school-age minor, or the school-age minor's parents, to contest a notice of truancy.

(4) The notice of truancy described in Subsection (3):

(a) may not be issued until the school-age minor has been truant at least five times during the school year;

(b) may not be issued to a school-age minor who is less than 12 years old;

(c) may not be issued to a minor exempt from school attendance as provided in Section 53G-6-204 or 53G-6-702;

(d) shall direct the school-age minor and the parent of the school-age minor to:

(i) meet with school authorities to discuss the school-age minor's trancies; and

(ii) cooperate with the school board, local charter board, or school district in securing regular attendance by the school-age minor; and

(e) shall be mailed to, or served on, the school-age minor's parent.

**§ 53G-6-204. Minors exempt from school attendance.**

(1)(a) A local school board or charter school governing board may excuse a school-age minor from attendance for any of the following reasons:

(i) a school-age minor over age 16 may receive a partial release from school to enter employment, or attend a trade school, if the school-age minor has completed the eighth grade; or

(ii) on an annual basis, a school-age minor may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the school-age minor has already completed the work required for graduation from high school, or has demonstrated mastery of required skills and competencies in accordance with Subsection 53A-15-102(1);

(B) the school-age minor is in a physical or mental condition, certified by a competent physician if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age minor's employment; or

(D) the district superintendent or charter school governing board has determined that a school-age minor over the age of 16 is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) A school-age minor receiving a partial release from school under Subsection (1)(a)(i) is required to attend:

(i) school part time as prescribed by the local school board or charter school governing board; or

(ii) a home school part time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.

(d) A local school board or charter school governing board that excuses a school-age minor from attendance as provided by this Subsection (1) shall issue a certificate that the minor is excused from attendance during the time specified on the certificate.

(2) (a) A local school board shall excuse a school-age minor from attendance, if the school-age minor's parent files a signed and notarized affidavit with the school-age minor's school district of residence, as defined in Section 53A-2-201, that:

(i) the school-age minor will attend a home school; and

(ii) the parent assumes sole responsibility for the education of the school-age minor, except to the extent the school-age minor is dual enrolled in a public school as provided in Section 53A-11-102.5.

(b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:

(i) the school-age minor attends a home school; and

(ii) the school district where the affidavit was filed remains the school-age minor's district of residence.

(c) A parent of a school-age minor who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction; and

(iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent of a school-age minor who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

(e) Upon the request of a parent, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age minor from attendance as provided by this Subsection (2) shall annually issue a certificate stating that the school-age minor is excused from attendance for the specified school year.

(g) A local school board shall issue a certificate excusing a school-age minor from attendance:

(i) within 30 days after receipt of a signed and notarized affidavit filed by the school-age minor's parent pursuant to Subsection (2); and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age minor enrolls in a school within the school district;

(B) the school-age minor's parent or guardian notifies the school district that the school-age minor no longer attends a home school; or

(C) the school-age minor's parent or guardian notifies the school district that the school-age minor's school district of residence has changed.

(3) A parent who files a signed and notarized affidavit as provided in Subsection (2)(a) is exempt from the application of Subsections 53G-6-202 (2), (5), and (6).

(4) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent or guardian of a minor attending a home school.

#### **§ 53G-6-205. Preapproval of extended absence.**

In determining whether to preapprove an extended absence of a school-age minor as a valid excuse under Subsection 53G-6-201 (9)(e), a local school board, local charter board, or school district shall approve the absence if the local school board, local charter board, or school district determines that the extended absence will not adversely impact the school-age minor's education.

#### **§ 53G-6-206. Duties of a school board, local charter board, or school district in resolving attendance problems — Parental involvement — Liability not imposed.**

(1) Except as provided in Section 53G-6-204 or 53G-6-702, a school-age minor who is enrolled in a public school shall attend the public school in which the school-age minor is enrolled.

(2) A local school board, charter school governing board, or school district may impose administrative penalties on a school-age minor in accordance with Section 53G-8-211 who is truant.

(3) A local school board or charter school governing board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue notices of truancy to school-age minors who are at least 12 years old; and

(b) shall establish a procedure for a school-age minor, or the school-age minor's parents, to contest a notice of truancy.

(4) The notice of truancy described in Subsection (3):

(a) may not be issued until the school-age minor has been truant at least five times during the school year;

(b) may not be issued to a school-age minor who is less than 12 years old;

(c) may not be issued to a minor exempt from school attendance as provided in Section 53G-6-204 or 53G-6-702;

- (d) shall direct the school-age minor and the parent of the school-age minor to:
  - (i) meet with school authorities to discuss the school-age minor's trancies; and
  - (ii) cooperate with the school board, local charter board, or school district in securing regular attendance by the school-age minor; and
- (e) shall be mailed to, or served on, the school-age minor's parent.

**§ 53G-6-207. Truancy specialists.**

A local school board or local charter board may appoint and fix the compensation of a truancy specialist to assist in enforcing laws related to school attendance and to perform other duties prescribed by law or the board.

**§ 53G-6-208. Taking custody of a person believed to be a truant minor — Disposition — Receiving centers — Reports — Immunity from liability.**

- (1) A peace officer or public-school administrator may take a minor into temporary custody if there is reason to believe the minor is a truant minor.
- (2) An individual taking a school-age minor into custody under Subsection (1) shall, without unnecessary delay, release the minor to:
  - (a) the principal of the minor's school;
  - (b) a person who has been designated by the local school board or local charter board to receive and return the minor to school; or
  - (c) a truancy center established under Subsection (5).
- (3) If the minor refuses to return to school or go to the truancy center, the officer or administrator shall, without unnecessary delay, notify the minor's parents and release the minor to their custody.
- (4) If the parents cannot be reached or are unable or unwilling to accept custody and none of the options in Subsection (2) are available, the minor shall be referred to the Division of Child and Family Services.
- (5)
  - (a) A local school board or local charter board, singly or jointly with another school board, may establish or designate truancy centers within existing school buildings and staff the centers with existing teachers or staff to provide educational guidance and counseling for truant minors. Upon receipt of a truant minor, the center shall, without unnecessary delay, notify and direct the minor's parents to come to the center, pick up the minor, and return the minor to the school in which the minor is enrolled.
  - (b) If the parents cannot be reached or are unable or unwilling to comply with the request within a reasonable time, the center shall take such steps as are reasonably necessary to insure the safety and well being of the minor, including, when appropriate, returning the minor to school or referring the minor to the Division of Child and Family Services. A minor taken into custody under this section may not be placed in a detention center or other secure confinement facility.
- (6) Action taken under this section shall be reported to the appropriate school district. The district shall promptly notify the minor's parents of the action taken.
- (7) The Utah Governmental Immunity Act applies to all actions taken under this section.
- (8) Nothing in this section may be construed to grant authority to a public school administrator to place a minor in the custody of the Division of Child and Family Services, without complying with Title 62A, Chapter 4a, Part 2, Child Welfare Services, and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

**§ 53G-6-209. Truancy support centers.**

- (1) A school district may establish one or more truancy support centers for:
  - (a) truant minors taken into custody under Section 53G-6-208; or
  - (b) students suspended or expelled from school.
- (2) A truancy support center shall provide services to the truant minor and the truant minor's family, including:
  - (a) assessments of the truant minor's needs and abilities;
  - (b) support for the parents and truant minor through counseling and community programs; and
  - (c) tutoring for the truant minor during the time spent at the center.
- (3) For the suspended or expelled student, the truancy support center shall provide an educational setting, staffed with certified teachers and aides, to provide the student with ongoing educational programming appropriate to the student's grade level.
- (4) In a district with a truancy support center, all students suspended or expelled from school shall be referred to the center. A parent or guardian shall appear with the student at the center within 48 hours of the suspension or expulsion, not including weekends or holidays. The student shall register and attend classes at the truancy support center for the duration of the suspension or expulsion unless the parent or guardian demonstrates that alternative arrangements have been made for the education or supervision of the student during the time of suspension or expulsion.
- (5) The truancy support center may provide counseling and other support programming for students suspended or expelled from school and their parents or guardian.

**REGULATIONS**

**R277-607-1. Definitions.**

- A. "Absence" means a student's non-attendance at school for one school day or part of one school day.
- B. "Habitual truant" means a school-age minor who:
  - (1) is at least 12 years old;
  - (2) is subject to the requirements of Section 53G-6-202; and
  - (3)(a) is truant at least five times during one school year; and
  - (b) fails to cooperate with efforts on the part of school authorities to resolve the minor's attendance problem as required under Section 53G-6-206.
- C. "Habitual truant citation" is a citation issued only consistent with Section 53G-6-203.
- D. "IEP team" means an local education agency representative, a parent, a regular and special education educator, and person qualified to interpret evaluation results, in accordance with the Individuals with Disabilities Education Act (IDEA).
- E. "LEA" means a local education agency, including local school boards/public school districts and charter schools.
- F. "Truant" means absent without a valid excuse.
- G. "Unexcused absence" means a student's absence from school for reasons other than those authorized under the LEA policy.
- H. "USOE" means the Utah State Office of Education.
- I. "Valid excuse" means an excuse for an absence from school consistent with Section 53A-11- 101(9).



**R277-607-2. Authority and purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and Sections 53G-6-201 through 53G-6-209 which direct educational entities and parents working on behalf of children to make efforts to resolve school attendance problems of school-age minors who are or should be enrolled in LEAs.

B. The purpose of this rule is to direct LEAs to establish procedures for:

- (1) informing parents about compulsory education laws;
- (2) encouraging and monitoring school attendance consistent with the law; and
- (3) providing firm consequences for noncompliance.

C. This rule encourages meaningful incentives for parental responsibility and directs LEAs to establish ongoing truancy prevention procedures in schools especially for students in grades 1-8.

**R277-607-3. General provisions.**

A. Each LEA board shall develop a truancy policy that encourages regular, punctual attendance of students, consistent with this rule and 53G-6-201 through 53G-6-208, and shall review the policy annually.

B. LEA boards shall annually review attendance data and consider revisions to policies to encourage student attendance.

C. LEAs shall make truancy policies available for review by parents or interested parties.

D. LEAs may issue habitual truant citations to students consistent with Section 53G-6-203.

**R277-607-4. LEA responsibilities.**

A. LEAs shall:

- (1) establish definitions not provided in law or this rule necessary to implement a compulsory attendance policy;
- (2) include definitions of approved school activity under Section 53G-6-201 (9)(c) and excused absence to be provided locally under Section 53G-6-201 (9)(e);
- (3) include criteria and procedures for preapproval of extended absences consistent with Section 53A-11-101.3; and
- (4) establish programs and meaningful incentives which promote regular, punctual student attendance.

B. LEAs shall include in their policies provisions for:

- (1) notice to parents of the policy;
- (2) notice to parents as discipline or consequences progress; and
- (3) the opportunity to appeal disciplinary measures.

C. LEAs shall establish and publish procedures for use by school-age minors or their parents to contest notices of truancy.

## Substance use

### LAWS

#### **§ 53G-8-602 . Possession or consumption of alcoholic beverages at school or school-sponsored activities -- Penalty.**

- (1) Except as approved by a local school board as part of the curriculum, a person may not possess or drink an alcoholic beverage:
  - (a) inside or on the grounds of any building owned or operated by a part of the public education system;  
or
  - (b) in those portions of any building, park, or stadium which are being used for an activity sponsored by or through any part of the public education system.
- (2)
  - (a) Subsection (1)(a) does not apply to property owned by a school district in contemplation of future use for school purposes while the property is under lease to another party.
  - (b)
    - (i) For purposes of Subsection (2)(a), a lease must be full time for a period of not less than two years.
    - (ii) The property may not be used for school purposes at any time during the lease period.
- (3) Violation of this section is a class B misdemeanor.

#### **§ 53G-8-205. Grounds for suspension or expulsion from a public school.**

- (1) A student may be suspended or expelled from a public school for any of the following reasons:
  - (d) possession, control, or use of an alcoholic beverage as defined in Section 32B-1-102;
- (2) (a) A student shall be suspended or expelled from a public school for any of the following reasons:
  - (C) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3; [...]

#### **§ 53G-8-505. Definitions.**

- (1) The definitions in Sections 58-37-2, 58-37a-3, and 58-37b-2 apply to this part.
- (2) As used in this part:
  - (a) "Prohibited act" means an act punishable under Section 53G-4-402 , Section 58-37-8, Section 58-37a-5, or Title 58, Chapter 37b.
  - (b) "School" means a public or private elementary or secondary school.

### REGULATIONS

#### **R277-609-4. LEA responsibility to develop plans.**

- (3) A plan described in Subsection (1) shall include:
  - (i) policies and procedures relating to the use and abuse of alcohol and controlled substances by students;

# Bullying, harassment, or hazing

## LAWS

### **§ 53E-10-502. School safety and crisis line established.**

The University Neuropsychiatric Institute shall:

- (1) establish a School Safety and Crisis Line to provide:
  - (a) a means for an individual to anonymously report:
    - (ii) incidents of bullying, cyber-bullying, harassment, or hazing; and
- (2) provide the services described in Subsection (1) 24 hours a day, seven days a week; and
- (3) when necessary, or as required by law, promptly forward a report received under Subsection (1)(a) to appropriate:
  - (a) school officials; and
  - (b) law enforcement officials.

### **§ 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.
- (2) "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; or
    - (ii) a power differential between the bully and the target; or
  - (e) substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.
- (3) "Communication" means the conveyance of a message, whether verbal, written, or electronic.
- (4) "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.
- (5)

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

(6) "Policy" means a school board policy described in Section 53G-9-605.

(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.

(8) "School" means a public elementary or secondary school, including a charter school.

(9) "School board" means:

(a) a local school board; or

(b) a charter school governing board.

(10) "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, school board, or school district; and

(ii) who works on a school campus.

**§ 53G-9-602. Bullying, cyber-bullying, harassment, hazing, sexual battery, and sexual exposure 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 a school employee or student at any time or in any location.

**§ 53G-9-603. Retaliation and making 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, or retaliation against a school employee or student.

**§ 53G-9-605. Bullying, cyber-bullying, harassment, hazing, and retaliation policy.**

(1) On or before September 1, 2018, a school board shall update the school board's bullying, cyber-bullying, hazing, and retaliation policy to include abusive conduct.

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

(3) A policy shall include the following components:

- (a) definitions of bullying, cyber-bullying, hazing, and abusive conduct that are consistent with this part;
- (b) language prohibiting bullying, cyber-bullying, hazing, and abusive conduct;
- (c) language prohibiting retaliation against an individual who reports conduct that is prohibited under this part;
- (d) language prohibiting making a false report of bullying, cyber-bullying, hazing, abusive conduct, or retaliation;
- (e) as required in Section 53G-9-604, parental notification of:
  - (i) a student's threat to commit suicide; and
  - (ii) an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation, involving the parent's student;
- (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; and

(h) a requirement for a signed statement annually, indicating that the individual signing the statement has received the school board's policy, from each:

- (i) school employee;
- (ii) student who is at least eight years old; and
- (iii) parent or guardian of a student enrolled in the charter school or school district.

(4) A copy of a policy shall be:

- (a) included in student conduct handbooks;
- (b) included in employee handbooks;
- (c) provided to a parent or a guardian of a student enrolled in the charter school or school district; and
- (d) distributed to parents.

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

**§ 53G-9-608. Other forms of legal redress.**

(1) Nothing in this part prohibits a victim of bullying, cyber-bullying, hazing, abusive conduct, 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.

**§ 76-5-107.5. Prohibition of "hazing" -- Definitions -- Penalties.**

(1) A person is guilty of hazing if that person intentionally, knowingly, or recklessly commits an act or causes another to commit an act that:

- (a) (i) endangers the mental or physical health or safety of another;
- (ii) 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;
- (iii) involves consumption of any food, alcoholic product, drug, or other substance or any other physical activity that endangers the mental or physical health and safety of an individual; or
- (iv) involves any activity that would subject the individual to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects another to extreme embarrassment, shame, or humiliation; and
- (b) (i) is for the purpose of initiation, admission into, affiliation with, holding office in, or as a condition for continued membership in any organization; or
- (ii) if the actor knew that the victim is a member of or candidate for membership with a school team or school organization to which the actor belongs or did belong within the preceding two years.

(2) It is not a defense to prosecution of hazing that a person under 21, against whom the hazing was directed, consented to or acquiesced in the hazing activity.

(3) An actor who hazes another is guilty of a:

- (a) class B misdemeanor except as provided in Subsection (3)(b), (c), (d), or (e);
- (b) class A misdemeanor if the act involves:
  - (i) the operation or other use of a motor vehicle;
  - (ii) the consumption of an alcoholic product as defined in Section 32B-1-102; or
  - (iii) the consumption of a drug or a substance as defined in Section 76-5-113;

- (c) third degree felony if the act involves the use of a dangerous weapon as defined in Section 76-1-601;
  - (d) third degree felony if the hazing results in serious bodily injury to a person; or
  - (e) second degree felony if hazing under Subsection (3)(d) involves the use of a dangerous weapon as defined in Section 76-1-601.
- (4) A person who in good faith reports or participates in reporting of an alleged hazing is not subject to any civil or criminal liability regarding the reporting.
- (5) (a) This section does not apply to military training or other official military activities.  
 (b) Military conduct is governed by Title 39, Chapter 6, Utah Code of Military Justice.
- (6) (a) A prosecution under this section does not bar a prosecution of the actor for:
- (i) any other offense for which the actor may be liable as a party for conduct committed by the person hazed; or
  - (ii) any offense, caused in the course of the hazing, that the actor commits against the person who is hazed.
- (b) Under Subsection (6)(a)(i) a person may be separately punished, both for the hazing offense and the conduct committed by the person hazed.
- (c) Under Subsection (6)(a)(ii) a person may not be punished both for hazing and for the other offense, but shall be punished for the offense carrying the greater maximum penalty.

## **REGULATIONS**

### **R277-609-4. LEA responsibility to develop plans.**

- (1) An LEA or school shall develop and implement a board approved comprehensive LEA plan or policy for student and classroom management, and school discipline.
- (3) A plan described in Subsection (1) shall include:
- (j) policies and procedures, consistent with requirements of Rule R277-613, related to:
    - (i) bullying;
    - (ii) cyber-bullying;
    - (iii) harassment;
    - (iv) hazing; and
    - (v) retaliation;
  - (l) direction for dealing with bullying and disruptive students;
  - (m) direction for schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address the behavior of habitually disruptive students;
  - (n) identification, by position, of an individual designated to issue notices of disruptive and bullying student behavior;
  - (o) identification of individuals who shall receive notices of disruptive and bullying student behavior;

### **R277-613-1. Authority and Purpose.**

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and

(b) Subsection ,53E-3-401(4)(a) which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of the rule is to:

(a) require LEAs to develop, update, and implement bullying, cyber-bullying, hazing, retaliation, and abusive conduct policies at the school district and school level;

(b) provide for regular and meaningful training of school employees and students;

(c) provide for enforcement of the policies in schools, at the state level and in public school athletic programs; and

(d) require an LEA to review allegations of bullying, cyber-bullying, hazing, retaliation, and abusive conduct.

### **R277-613-2. Definitions.**

(1) "Abusive conduct" means the same as that term is defined in Subsection 53G-9-601(1).

(2)(a) "Bullying" means the same as that term is defined in Subsection 53G-9-601(2).

(b) "Bullying" includes relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation.

(c) The conduct described in Subsection 53G-9-601(2) constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

(3) "Civil rights violations," for purposes of this rule, means bullying, cyber-bullying, hazing, or retaliation that is targeted at a federally protected class.

(4) "Cyber-bullying" means the same as that term is defined in Subsection 53G-9-601(4).

(5) "Disruptive student behavior" means the same as that term is defined in Subsection 53G-8-210(1)(a).

(6) "Federally protected class" means any group protected from discrimination under the following federal laws:

(a) Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin;

(b) Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex;

(c) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability; and

(d) other areas included under these acts described in Subsection (5)(a) through (c), which prohibit discrimination on the basis of religion.

(7) "Hazing" means the same as that term is defined in Subsection 53G-9-601(5).

(8) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(9) "Participant" means any student, employee or volunteer coach participating in a public school sponsored athletic program or activity, including a curricular, co-curricular, or extracurricular club or activity.

(10) "Policy" means standards and procedures that:

(a) are required in Section 53G-9-605;

(b) include the provisions of Section 53G-8-202; and

(c) provide additional standards, procedures, and training adopted in an open meeting by an LEA board that:

(i) define bullying, cyber-bullying, hazing, retaliation, and abusive conduct; and

(ii) prohibit bullying, cyber-bullying, hazing, retaliation, and abusive conduct;



(iii) require regular annual discussion and training designed to prevent bullying, cyber-bullying, hazing, and retaliation among school employees and students; and

(iv) provide for enforcement through employment action or student discipline.

(11) "Restorative justice practice" means a discipline practice that brings together students, school personnel, families, and community members to resolve conflicts, address disruptive behaviors, promote positive relationships, and healing.

(12) "Retaliate" or "retaliation" means the same as that term is defined in Subsection 53G-9-601(7).

(13) "School employee" means the same as that term is defined in Subsection 53G-9-601(10).

(14) "Trauma-Informed Care" means a strengths-based service delivery approach that is grounded in an understanding of and responsiveness to the impact of trauma, that emphasizes physical, psychological, and emotional safety for both the alleged targeted individual and the individual who is alleged to have engaged in prohibited conduct, and that creates opportunities for targets to rebuild a sense of control and empowerment.

### **R277-613-3. Superintendent Responsibilities.**

(1) Subject to availability of funds, the Superintendent shall provide:

(a) a model policy on bullying, cyber-bullying, hazing, and retaliation as required in Section 53G-9-606;

(b) model training and training opportunities on:

(i) the prevention and identification of bullying, cyber-bullying, hazing, and retaliation, that an LEA may use to train the LEA's employees, contract employees, and volunteers, including coaches; and

(ii) the reporting and review requirements in Section R277-613-5;

(c) evidence-based practices and policies related to the prevention of bullying, cyber-bullying, hazing, and retaliation.

(2) Although an LEA is required to have a policy on bullying, cyber-bullying, hazing, retaliation and abusive conduct as described in Section 53G-9-605 and this rule and provide training as described in Section 53G-9-607 and this rule, the LEA is not required to use the model policy or model training developed by the Superintendent described in Subsection (1).

(3) The Board may interrupt disbursements of funds consistent with Subsection 53E-3-401(8) and Rule R277-114 for failure of an LEA to comply with:

(a) Title 53G, Chapter 9, Bullying and Hazing; and

(b) this rule.

(4) In addition to the requirements of Title 53G, Chapter 9, Bullying and Hazing and this R277-613, LEAs are required to comply with applicable federal requirements.

### **R277-613-4. LEA Responsibility to Create or Update Bullying Policies.**

(1) In addition to the requirements of Subsection 53G-9-605(3), an LEA shall:

(a) develop, update, and implement policies as required by Subsection 53G-9-605 and this rule, which shall include a prohibition on:

(i) bullying;

(ii) cyber-bullying;

(iii) hazing;

(iv) retaliation; and

(v) making a false report.

(b) post a copy of the LEA's policy on the LEA website;

- (c) develop an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation; and
  - (d) provide a requirement for a signed statement that meets the requirements of Subsection 53G-9-605(3)(h) annually.
- (2)(a) As required by Section 53G-9-605, an LEA shall notify a parent of:
- (i) a parent's student's threat to commit suicide; or
  - (ii) an incident of bullying, cyber-bullying, hazing, or retaliation involving the parent's student as a targeted individual or an individual who is alleged to have engaged in prohibited conduct.
- (b) An LEA shall:
- (i) notify a parent described in Subsection (2)(a) in a timely manner;
  - (ii) designate the appropriate school employee to provide parental notification; and
  - (iii) designate the format in which notification is provided to parents and maintained by the LEA.
- (3) Subject to the parental consent requirements of Section 53E-9-203, if applicable, an LEA shall assess students about the prevalence of bullying, cyber-bullying, hazing, and retaliation in LEAs and schools, specifically locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, and lunch areas.
- (4) An LEA shall take strong responsive action against retaliation, including assistance to targeted individuals and their parents in reporting subsequent problems and new incidents.
- (5)(a) An LEA shall provide that students, school employees, coaches, and volunteers receive training on bullying, cyber-bullying, hazing, and retaliation, from individuals qualified to provide such training.
- (b) The training described in Subsection (5)(a) shall:
- (i) include information on various types of aggression and bullying, including:
    - (A) overt aggression that may include physical fighting such as punching, shoving, kicking, and verbal threatening behavior, such as name calling, or both physical and verbal aggression or threatening behavior;
    - (B) relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation;
    - (C) sexual aggression or acts of a sexual nature or with sexual overtones;
    - (D) cyber-bullying, including use of email, web pages, text messaging, instant messaging, social media, three-way calling or messaging or any other electronic means for aggression inside or outside of school; and
    - (E) civil rights violations, including bullying, cyber-bullying, hazing, and retaliation based upon the students' or employees' actual or perceived identities and conformance or failure to conform with stereotypes;
  - (ii) complement the suicide prevention program required for students under Rule R277-620 and the suicide prevention training required for licensed educators consistent with Subsection 53G-9-704(1); and
  - (iii) include information on when issues relating to this rule may lead to student or employee discipline.
- (6) The training described in Subsection (5) shall be offered to:
- (a) new school employees, coaches, and volunteers; and
  - (b) all school employees, coaches, and volunteers at least once every three years.

(7)(a) An LEA's policies developed under this section shall complement existing school policies and research-based school discipline plans.

(b) Consistent with Rule R277-609, the discipline plan shall provide direction for dealing with bullying, cyber-bullying, hazing, retaliation and disruptive students.

(c) An LEA shall ensure that a discipline plan required by Rule R277-609:

(i) directs schools to determine the range of behaviors and establish the continuum of administrative procedures to be used by school personnel to address the behavior of students;

(ii) provides for identification, by position, of individuals designated to issue notices of disruptive student behavior, bullying, cyber-bullying, hazing, and retaliation;

(iii) designates to whom notices shall be provided;

(iv) provides for documentation of disruptive student behavior in the LEA's student information system;

(v) includes strategies to provide for necessary adult supervision;

(vi) is clearly written and consistently enforced; and

(vii) includes administration, instruction and support staff, students, parents, community council and other community members in policy development, training and prevention implementation so as to create a community sense of participation, ownership, support and responsibility.

**R277-613-5. Reporting and Incident Review of Allegations of Bullying, Cyber-bullying, Hazing, and Retaliation.**

(1) In accordance with an action plan adopted in accordance with Subsection R277-613-4(1)(c), an LEA shall:

(a) review allegations of incidents of bullying, cyber-bullying, hazing, and retaliation in accordance with this section; and

(b) provide an individual who reviews allegations of incidents of bullying, cyber-bullying, hazing, and retaliation with adequate training on conducting a review.

(2)(a) An LEA shall review allegations of incidents described in Subsection (1)(a) by interviewing at least the alleged targeted individual and the individual who is alleged to have engaged in prohibited conduct.

(b) An LEA may also interview the following as part of a review:

(i) parents of the alleged targeted individual and the individual who is alleged to have engaged in prohibited conduct;

(ii) any witnesses;

(iii) school staff; and

(iv) other individuals who may provide additional information.

(c) An individual who reviews an allegation of an incident shall inform an individual being interviewed that:

(i) to the extent allowed by law, the individual is required to keep all details of the interview confidential; and

(ii) further reports of bullying will become part of the review.

(3) The confidentiality requirement in Subsection (2)(c) does not apply to:

(a) conversations with law enforcement professionals;

(b) requests for information pursuant to a warrant or subpoena;

(c) a state or federal reporting requirement; or

- (d) other reporting required by this rule.
- (4) In conducting a review under this section, an LEA may:
- (a) review disciplinary reports of involved students; and
  - (b) review physical evidence, which may include:
    - (i) video or audio;
    - (ii) notes;
    - (iii) email;
    - (iv) text messages;
    - (v) social media; or
    - (vi) graffiti.
- (5) An LEA shall adopt a policy outlining under what circumstances the LEA will report incidents of bullying, cyber-bullying, harassment, and retaliation to law enforcement.
- (6) Following a review of a confirmed allegation of an incident of bullying, cyber-bullying, hazing, or retaliation, if appropriate, an LEA may:
- (a) in accordance with the requirements in Subsection (6), take positive restorative justice practice action, in accordance with policies established by the LEA; and
  - (b) support involved students through trauma-informed practices, if appropriate.
- (6)(a) An alleged targeted individual is not required to participate in a restorative justice practice with an individual who is alleged to have engaged in prohibited conduct as described in Subsection (5)(a).
- (b) If an LEA would like an alleged targeted individual who is a student to participate in a restorative justice practice, the LEA shall notify the alleged targeted individual's parent of the restorative justice practice and obtain consent from the alleged targeted individual's parent before including the alleged targeted individual in the process.
- (7) A grievance process required under Subsection 53G-9-605(3)(f) shall be consistent with the LEA's established grievance process.
- (8) An LEA shall, as required by Subsection 53G-9-606(2), report the following annually, on or before June 30, to the Superintendent in accordance with the Superintendent's submission requirements:
- (a) a copy of LEA's policy required in Section R277-613-4;
  - (b) implementation of the signed statement requirement described in Subsection 53G-9-605(3)(h);
  - (c) verification of the LEA's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation described in Section 53G-9-607;
  - (d) incidents of bullying, cyber-bullying, hazing, and retaliation; and
  - (e) the number of incidents described in Subsection (8)(d) that included a student who:
    - (i) is part of a federally protected class; or
    - (ii) was bullied, cyber-bullied, hazed, or retaliated against because of the student's disability, race, national origin, religion, sex, gender identity, or sexual orientation.

**R277-613-6. Training by LEAs Specific to Participants in Public School Athletic Programs and School Clubs.**

- (1)(a) Prior to any student, employee or volunteer coach participating in a public school sponsored athletic program, both curricular and extracurricular, or extracurricular club or activity, the student, employee or coach shall participate in bullying, cyber-bullying, hazing, and retaliation prevention training.

(b) A training described in Subsection (1)(a) shall be offered to new participants on an annual basis and to all participants at least once every three years.

(2) An LEA shall inform student athletes and extracurricular club members of prohibited activities under this rule and potential consequences for violation of the law and the rule.

(3) An LEA shall maintain training participant lists or signatures, to be provided to the Board upon request.

**R277-613-7. Abusive Conduct.**

(1) An LEA shall prohibit abusive conduct.

(2) An LEA's bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy, required in Section 53G-9-605 and this rule, shall include a grievance process for a school employee who has experienced abusive conduct as described in Subsection 53G-9-605(3)(f).

## **Other special infractions or conditions**

### **LAWS**

**§ 53G-8-203. Conduct and discipline policies and procedures.**

(1) The conduct and discipline policies required under Section 53G-8-202 shall include:

(a) provisions governing student conduct, safety, and welfare;

(b) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;

(c) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection (1)(b);

(d) procedures for the use of reasonable and necessary physical restraint in dealing with students posing a danger to themselves or others, consistent with Section 53G-8-302;

(e) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:

(i) the school;

(ii) school property;

(iii) a person associated with the school; or

(iv) property associated with a person described in Subsection (1)(e)(iii);

(f) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;

(g) specific provisions, consistent with Section 53E-3-509, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events;

(h) standards and procedures for dealing with habitual disruptive or unsafe student behavior in accordance with the provisions of this part; and

(i) procedures for responding to reports received through the School Safety and Crisis Line under Subsection 53E-10-502(3).

(2)

(a) Each local school board shall establish a policy on detaining students after regular school hours as a part of the district-wide discipline plan required under Section 53G-8-202.

(b)

- (i) The policy described in Subsection (2)(a) shall apply to elementary school students, grades kindergarten through six.
  - (ii) The board shall receive input from teachers, school administrators, and parents and guardians of the affected students before adopting the policy.
- (c) The policy described in Subsection (2)(a) shall provide for:
- (i) notice to the parent or guardian of a student prior to holding the student after school on a particular day; and
  - (ii) exceptions to the notice provision if detention is necessary for the student's health or safety.

**§ 53G-8-209. Extracurricular activities — Prohibited conduct — Reporting of violations — Limitation of liability.**

- (1) The Legislature recognizes that:
- (a) participation in student government and extracurricular activities may confer important educational and lifetime benefits upon students, and encourages school districts and charter schools to provide a variety of opportunities for all students to participate in such activities in meaningful ways;
  - (b) there is no constitutional right to participate in these types of activities, and does not through this section or any other provision of law create such a right;
  - (c) students who participate in student government and extracurricular activities, particularly competitive athletics, and the adult coaches, advisors, and assistants who direct those activities, become role models for others in the school and community;
  - (d) these individuals often play major roles in establishing standards of acceptable behavior in the school and community, and establishing and maintaining the reputation of the school and the level of community confidence and support afforded the school; and
  - (e) it is of the utmost importance that those involved in student government, whether as officers or advisors, and those involved in competitive athletics and related activities, whether students or staff, comply with all applicable laws and rules of behavior and conduct themselves at all times in a manner befitting their positions and responsibilities.
- (2)
- (a) The State Board of Education may, and local boards of education and governing boards of charter schools shall, adopt rules implementing this section that apply to both students and staff.
  - (b) The rules described in Subsection (2)(a) shall include prohibitions against the following types of conduct in accordance with Section 53G-8-211, while in the classroom, on school property, during school sponsored activities, or regardless of the location or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i) through (iv):
    - (i) use of foul, abusive, or profane language while engaged in school related activities;
    - (ii) illicit use, possession, or distribution of controlled substances or drug paraphernalia, and the use, possession, or distribution of an electronic cigarette as defined in Section 76-10-101, tobacco, or alcoholic beverages contrary to law; and
    - (iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.
- (3)

(a) School employees who reasonably believe that a violation of this section may have occurred shall immediately report that belief to the school principal, district superintendent, or chief administrative officer of a charter school.

(b) Principals who receive a report under Subsection (3)(a) shall submit a report of the alleged incident, and actions taken in response, to the district superintendent or the superintendent's designee within 10 working days after receipt of the report.

(c) Failure of a person holding a professional certificate to report as required under this Subsection (3) constitutes an unprofessional practice.

(4) Limitations of liability set forth under Section 53G-8-405 apply to this section.

**§ 53G-8-212. Defacing or injuring school property — Student's liability — Voluntary work program alternative.**

(1) A student who willfully defaces or otherwise damages any school property may be suspended or otherwise disciplined.

(2)

(a) If a school's property has been lost or willfully cut, defaced, or otherwise damaged, the school may withhold the issuance of an official written grade report, diploma, or transcript of the student responsible for the damage or loss until the student or the student's parent or guardian has paid for the damages.

(b) The student's parent or guardian is liable for damages as otherwise provided in Section 78A-6-1113.

(3)

(a) If the student and the student's parent or guardian are unable to pay for the damages or if it is determined by the school in consultation with the student's parent or guardian that the student's interests would not be served if the parent or guardian were to pay for the damages, the school shall provide for a program of work the student may complete in lieu of the payment.

(b) The school shall release the official grades, diploma, and transcripts of the student upon completion of the work.

(4) Before any penalties are assessed under this section, the school shall adopt procedures to ensure that the student's right to due process is protected.

(5) No penalty may be assessed for damages which may be reasonably attributed to normal wear and tear.

(6) If the Department of Human Services or a licensed child-placing agency has been granted custody of the student, the student's records, if requested by the department or agency, may not be withheld from the department or agency for nonpayment of damages under this section.

**§ 53G-8-603. Criminal trespass upon school property -- Penalty.**

(1) A person is guilty of criminal trespass upon school property if the person does the following:

(a) enters or remains unlawfully upon school property, and:

(i) intends to cause annoyance or injury to a person or damage to property on the school property;

(ii) intends to commit a crime; or

(iii) is reckless as to whether the person's presence will cause fear for the safety of another; or

(b) enters or remains without authorization upon school property if notice against entry or remaining has been given by:

(i) personal communication to the person by a school official or an individual with apparent authority to act for a school official;

- (ii) the posting of signs reasonably likely to come to the attention of trespassers;
- (iii) fencing or other enclosure obviously designed to exclude trespassers; or
- (iv) a current order of suspension or expulsion.

(2) As used in this section:

- (a) "Enter" means intrusion of the entire body.
- (b) "School official" means a public or private school administrator or person in charge of a school program or activity.
- (c) "School property" means real property owned or occupied by a public or private school, including real property temporarily occupied for a school activity or program.

(3) Violation of this section is a class B misdemeanor.

**§ 53G-8-604. Traffic ordinances on school property -- Enforcement.**

(1) A local political subdivision in which real property is located that belongs to, or is controlled by, the State Board of Education, a local board of education, an area vocational center, or the Schools for the Deaf and the Blind may, at the request of the responsible board of education or institutional council, adopt ordinances for the control of vehicular traffic on that property.

(2) A law enforcement officer whose jurisdiction includes the property in question may enforce an ordinance adopted under Subsection (1).

**§ 76-5-102.3. Assault against school employees.**

(1) Any person who commits an assault as defined in Section 76-5-102 or commits a threat of violence as defined in Section 76-5-107, against an employee of a public or private school, with knowledge that the individual is an employee, and when the employee is acting within the scope of his authority as an employee, is guilty of a class A misdemeanor.

(2) As used in this section, "employee" includes a volunteer.

**§ 76-8-1402. Disruption of activities in or near school building -- Failure to leave -- Reentry -- Penalties.**

(1) In the absence of a local ordinance or other controlling law governing the conduct described in this Subsection (1), a person is guilty of an offense under Subsection (2) who, while on a street, sidewalk, or public way adjacent to any school building or ground:

- (a) by his or her presence or acts, materially disrupts the peaceful conduct of school activities; and
- (b) remains upon the place under Subsection (1)(a) after being asked to leave by the chief administrator of that school.

(2) (a) A violation of Subsection (1) is subject to the penalties under Subsection (2)(b) unless the violation constitutes another offense subject to a greater penalty.

(b) (i) The first and second violation of Subsection (1) are class B misdemeanors.

(ii) A third and any subsequent violations of Subsection (1) are class A misdemeanors.

**§ 76-9-106. Disrupting the operation of a school.**

(1) A person is guilty of disrupting the operation of a school if the person, after being asked to leave by a school official, remains on school property for the purpose of encouraging or creating an unreasonable and substantial disruption or risk of disruption of a class, activity, program, or other function of a public or private school.



(2) For purposes of this section, "school property" includes property being used by a public or private school for a school function.

(3) Disrupting the operation of a school is a class B misdemeanor.

**§ 76-9-107. Unauthorized entry of school bus -- Posting of warning on school buses.**

(1) As used in this section:

(a) "Driver" means the driver of the school bus.

(b) "School bus" means every publicly or privately owned motor vehicle designed for transporting 10 or more passengers and operated for the transportation of children to or from school or school activities.

(2) A person is guilty of a class B misdemeanor if the person:

(a) enters a school bus with the intent to commit a criminal offense;

(b) enters a school bus and disrupts or interferes with the driver; or

(c) enters a school bus and refuses to leave the bus after being ordered to leave by the driver and the person:

(i) is not a peace officer acting within the scope of his or her authority as a peace officer;

(ii) is not authorized by the school district to board the bus as a student or as an individual employed by the school district or volunteering as a participant in a school activity;

(iii) causes or attempts to cause a disruption or an annoyance to any passenger on the bus; or

(iv) is reckless as to whether the person's presence or behavior will cause fear on the part of any passenger on the bus.

(3) Each school district shall ensure that clearly legible signs be placed on each school bus, next to each entrance to the bus, warning that unauthorized entry of a school bus is a violation of state law.

**§ 76-10-1235. Accessing pornographic or indecent material on school property.**

(1) As used in this section:

(a) "Pornographic or indecent material" means any material:

(i) defined as harmful to minors in Section 76-10-1201;

(ii) described as pornographic in Section 76-10-1203; or

(iii) described in Section 76-10-1227.

(b) "School property" means property, including land and improvements, that a school district or charter school owns, leases, or occupies.

(2) Except as provided in Subsection (3), a person is guilty of accessing pornographic or indecent material on school property when the person willfully or knowingly creates, views, or otherwise gains access to pornographic or indecent material while present on school property, under circumstances not amounting to an attempted or actual violation of:

(a) distributing pornographic material as specified in Section 76-10-1204;

(b) inducing acceptance of pornographic material as specified in Section 76-10-1205;

(c) dealing in material harmful to a minor as specified in Section 76-10-1206; or

(d) indecent public displays as specified in Section 76-10-1228.

(3) This section does not apply to school or law enforcement personnel when the access to pornographic or indecent material on school property is limited to:

(a) investigation of a violation of this section; or

(b) enforcement of this section.

- (4) Each separate offense under this section is:
- (a) a class A misdemeanor if the person is 18 years of age or older; and
  - (b) a class B misdemeanor if the person is under 18 years of age.
- (5) This section does not prohibit disciplinary action for actions that violate this section.

## **REGULATIONS**

### **R277-495-1. Definitions.**

- A. "Board" means the Utah State Board of Education.
- B. "Electronic device" means a device that is used for audio, video, or text communication or any other type of computer or computer-like instrument.
- C. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.
- D. "LEA-owned electronic device" means any device that is used for audio, video, text communication or any other type of computer or computer-like instrument that is owned, provided, issued or lent by the LEA to a student or employee.
- E. "Privately-owned electronic device" means any device that is used for audio, video, text communication or any other type of computer or computer-like instrument that is not owned or issued by the LEA to a student or employee.
- F. "Public school" means all schools and public school programs, grades kindergarten through 12, that are part of the Utah Public School system, including charter schools, distance learning programs, and alternative programs.
- G. "Student," for purposes of this rule, means any individual enrolled as a student at the LEA regardless of the part-time nature of the enrollment or the age of the individual.
- H. "The Children's Internet Protection Act (CIPA)" means regulations enacted by the Federal Communications Commission (FCC) and administrated by the Schools and Libraries Division of the FCC. CIPA and companion laws, the Neighborhood Children's Internet Protection Act (NCIPA) and the Protecting Children in the 21st Century Act, require recipients of federal technology funds to comply with certain Internet filtering and policy requirements.
- I. "USOE" means the Utah State Office of Education.
- J. "Utah Education Network (UEN)" is a robust network that connects most Utah LEAs, schools, and higher education institutions to quality educational resources and services consistent with Section 53B-17-102.

### **R277-495-2. Authority and purpose.**

- A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, by 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and Section 53A-11-901(2)(c)(i) directs the State Superintendent of Public Instruction to develop a conduct and discipline policy model for elementary and secondary public schools, and 47 CFR, Part 54, Children's Internet Protection Act, which requires schools and libraries that have computers with Internet access to certify they have Internet safety policies and technology protection measures in place in order to receive discounted internet access and services.
- B. The purpose of this rule is to direct all LEAs or public schools to adopt policies, individually or collectively as school districts or consortia of charter schools, governing the possession and use of electronic devices, both LEA-owned and privately-owned, while on public school premises and, for LEA-owned devices, wherever the devices are used.

**R277-495-3. Local board and charter school responsibilities.**

A. LEAs shall require all schools under their supervision to have a policy or policies for students, employees and, where appropriate, for invitees, governing the use of electronic devices on school premises and at school sponsored activities.

B. LEAs shall review and approve policies regularly.

C. LEAs shall encourage schools to involve teachers, parents, students, school employees and community members in developing local policies; school community councils could provide helpful information and guidance within various school communities and neighborhoods.

D. LEAs shall provide copies of their policies or clear electronic links to policies at LEA offices, in schools and on the LEA website.

E. LEAs and schools within LEAs shall work together to ensure that all policies within a school or school district are consistent and understandable for parents.

F. LEAs shall provide reasonable public notice and at least one public hearing or meeting to address a proposed or revised Internet safety policy. LEAs shall retain documentation of the policy review and adoption actions.

**R277-495-4. Policy requirements.**

A. Local policies shall address the following minimum components:

(1) definitions of devices covered by policy;

(2) prohibitions on the use of electronic devices in ways that bully, humiliate, harass, or intimidate school-related individuals, including students, employees, and invitees, consistent with R277-609 and R277-613, or violate local, state, or federal laws; and

(3) the prohibition of access by students, LEA employees and invitees to inappropriate matter on the Internet and World Wide Web while using LEA equipment, services or connectivity whether on school property or while using school-owned or issued devices;

(4) the safety and security of students when using electronic mail, chat rooms, and other forms of direct electronic communications (including instant messaging);

(5) unauthorized access, including hacking and other unlawful activities by LEA electronic device users; and

(6) unauthorized disclosure, use and dissemination of personal student information under the Family Educational Rights and Privacy Act, 34 CFR, Part 99.

B. Additional requirements for student policies - In addition to the provisions of R277-495-4A, policies for student use of electronic devices shall include:

(1) prohibitions against use of electronic devices during standardized assessments unless specifically allowed by statute, regulation, student IEP, or assessment directions;

(2) provisions that inform students that there may be administrative and criminal penalties for misuse of electronic devices and that local law enforcement officers may be notified if school employees believe that a student has misused an electronic device in violation of the law;

(3) provisions that inform students that violation of LEA acceptable use policies may result in confiscation of LEA-owned devices which may result in missed assignments, inability to participate in required assessments and possible loss of credit or academic grade consequences;

(4) provisions that inform students that they are personally responsible for devices assigned or provided to them by the LEA, both for loss or damage of devices and use of devices consistent with LEA directives;

(5) provisions that inform students and parents that use of electronic devices in violation of LEA or teacher instructional policies may result in the confiscation of personal devices for a designated period; and

(6) provisions that inform students that use of privately-owned electronic devices to bully or harass other students or employees and result in disruption at school or school-sponsored activities may justify administrative penalties, including expulsion from school and notification to law enforcement.

C. Additional requirements for employee policies - In addition to the provisions of R277-495-4A, policies for employee use of electronic devices shall include:

(1) notice that use of electronic devices to access inappropriate or pornographic images on school premises is illegal, may have both criminal and employment consequences, and where appropriate, shall be reported to law enforcement;

(2) notice that employees are responsible for LEA-issued devices at all times and misuse of devices may have employment consequences, regardless of the user; and

(3) notice that employees may use privately-owned electronic devices on school premises or at school sponsored activities when the employee has supervisory duties only as directed by the employing LEA; and

(4) required staff responsibilities in educating minors on appropriate online activities and in supervising such activities.

D. Local policies may also include the following:

(1) prohibitions or restrictions on unauthorized audio recordings, capture of images, transmissions of recordings or images, or invasions of reasonable expectations of student and employee privacy;

(2) procedures to report the misuse of electronic devices;

(3) potential disciplinary actions toward students or employees or both for violation of local policies regarding the use of electronic devices;

(4) exceptions to the policy for special circumstances, health-related reasons and emergencies, if any; and

(5) strategies for use of technology that enhance instruction.

E. An LEA shall certify annually to the USOE and as required by the FCC, that the LEA has a CIPA-compliant Internet safety policy.

#### **R277-495-5. Board and USOE responsibilities.**

A. The Board and USOE shall provide resources, upon request, for LEAs and public schools as they develop and update electronic device policies, including sources for successful policies, assistance with reviewing draft policies and amendments, and information about bullying, harassing, and discrimination via electronic devices consistent with R277-613.

B. The Board and USOE shall develop or provide a model policy or a policy framework to assist LEAs and public schools in developing and implementing their policies.

C. The Board and USOE shall promote the use of effective strategies to enhance instruction and professional development through technology.

D. The Board and USOE shall ensure that parents and school employees are involved in the development and implementation of policies.

E. The Board and USOE shall work and cooperate with other education entities, such as the PTA, the Utah School Boards Association, the Utah Education Association, the State Charter School Board and the Utah High School Activities Association to provide consistent information to parents and community members about electronic device policies and to provide for appropriate and consistent penalties for

violation of policies, including violations that take place at public school extracurricular and athletic events.

## ***Prevention and Behavioral Interventions (Non-Punitive)***

### **Prevention**

#### **LAWS**

##### **§ 53F-5-206. Grant awards for elementary suicide prevention programs.**

- (1) To foster peer-to-peer suicide prevention, resiliency, and anti-bullying programs in elementary schools, the public education suicide prevention coordinator, described in Section 53G-9-702, shall, subject to legislative appropriations, award grants to elementary schools.
- (2) A grant award may not exceed \$500 per school per year.
- (3) The application for a grant shall contain:
  - (a) a requested award amount;
  - (b) a budget; and
  - (c) a narrative plan of the peer-to-peer suicide prevention, resiliency, or anti-bullying program.
- (4) When awarding a grant under this section, the public education suicide prevention coordinator shall consider:
  - (a) the content of a grant application; and
  - (b) whether an application is submitted in the manner and form prescribed.

##### **§ 53F-6-201. Firearm safety and violence prevention pilot program.**

- (1) As used in this section:
  - (a) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.
  - (b) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle, or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.
  - (c) "Pilot program" means the Firearm Safety and Violence Prevention Pilot Program created under Subsection (2).
- (2) There is created a Firearm Safety and Violence Prevention Pilot Program to provide instruction that a public school may offer to a student in any of grades 5 through 12 on:
  - (a) firearm safety, including:
    - (i) developing the knowledge, habits, skills, and attitudes necessary for the safe handling of firearms; and
    - (ii) teaching a student that to avoid injury when the student finds a firearm the student should:
      - (A) not touch the firearm;
      - (B) tell an adult about finding the firearm and the location of the firearm; and
      - (C) share the information described in Subsection (2)(a)(ii)(A) and (B) with any other minors who are with the student when the student finds the firearm; and
  - (b) what to do if the student becomes aware of a threat against the school.
- (3) The instruction described in Subsection (2):
  - (a) may be delivered:
    - (i) in a public school using live instruction or a video or online materials; or

(ii) at home using a video or online materials; and

(b) shall be neutral of political statements on guns.

(4) The Office of the Attorney General, in collaboration with the State Board of Education, shall select one or more providers, through the standard procurement process or an exception to the standard procurement process as described in Title 63G, Chapter 6a, Utah Procurement Code, to supply materials and curriculum for the pilot program.

(5)

(a) A district school or charter school may participate in the pilot program, subject to approval by the district school's local school board or charter school's charter school governing board.

(b) A district school or charter school that chooses to participate in the pilot program:

(i) shall use the materials and curriculum supplied by the provider selected under Subsection (4);

(ii) may permit the following to provide instruction on a voluntary basis:

(A) the Division of Wildlife Resources;

(B) a local law enforcement agency;

(C) a peace officer, as defined in Section 53-13-102; or

(D) another certified firearms safety instructor, as defined in rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) shall ensure that a firearm is not used in providing the instruction.

(c) A student may not be given the instruction described in Subsection (2) unless the student's parent or legal guardian has given prior written consent.

(6) The Office of the Attorney General, in collaboration with the State Board of Education, shall evaluate the pilot program and report to the Law Enforcement and Criminal Justice Interim Committee on or before December 1, 2018.

**§ 53G-4-402. Powers and duties generally.**

(18)

(a) A school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;

(iii) require inservice training for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent or guardian.

(c) The State Board of Education, through the state superintendent of public instruction, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(d) A local school board shall, by July 1 of each year, certify to the State Board of Education that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

**§ 53G-9-607. Training, education, and prevention.**

(1)

(a) A school board shall include in the training of a school employee training regarding bullying, cyberbullying, hazing, abusive conduct, and retaliation that meets the standards described in Subsection (4).

(b) A school board may offer voluntary training to parents and students regarding abusive conduct.

(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, abusive conduct, 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.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that establish standards for high quality training related to bullying, cyberbullying, hazing, abusive conduct, and retaliation.

**§ 53G-9-702. Youth suicide prevention programs required in secondary schools -- State Board of Education to develop model programs -- Reporting requirements.**

(1) As used in the section:

(a) "Board" means the State Board of Education.

(b) "Intervention" means an effort to prevent a student from attempting suicide.

(c) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

(d) "Program" means a youth suicide prevention program described in Subsection (2).

(e) "Secondary grades":

(i) means grades 7 through 12; and

(ii) if a middle or junior high school includes grade 6, includes grade 6.

(f) "State Office of Education suicide prevention coordinator" means a person designated by the board as described in Subsection (3).

(g) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 62A-15-1101.

(2)

(a) In collaboration with the State Office of Education suicide prevention coordinator, a school district or charter school shall implement a youth suicide prevention program in the secondary grades of the school district or charter school.

(b) A school district or charter school's program shall include the following components:



(i) in collaboration with the training, programs, and initiatives described in Section 53G-9-607, programs and training to address bullying and cyberbullying, as those terms are defined in Section 53G-9-601;

(ii) prevention of youth suicides;

(iii) youth suicide intervention; and

(iv) postvention for family, students, and faculty.

(3) The board shall:

(a) designate a State Office of Education suicide prevention coordinator; and

(b) in collaboration with the Department of Health and the state suicide prevention coordinator, develop model programs to provide to school districts and charter schools:

(i) program training; and

(ii) resources regarding the required components described in Subsection (2)(b).

(4) The State Office of Education suicide prevention coordinator shall:

(a) oversee the youth suicide prevention programs of school districts and charter schools; and

(b) coordinate prevention and postvention programs, services, and efforts with the state suicide prevention coordinator.

(5) A public school suicide prevention program may allow school personnel to ask a student questions related to youth suicide prevention, intervention, or postvention.

(6)

(a) Subject to legislative appropriation, the board may distribute money to a school district or charter school to be used to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide in the school district or charter school.

(b) The board shall distribute money under Subsection (6)(a) so that each school that enrolls students in grade 7 or a higher grade receives an allocation of at least \$500, or a lesser amount per school if the legislative appropriation is not sufficient to provide at least \$500 per school.

(c)

(i) A school shall use money allocated to the school under Subsection (6)(b) to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide.

(ii) Each school may select the evidence-based practices and programs, or emerging best practices and programs, for preventing suicide that the school implements.

(7)

(a) The board shall provide a written report, and shall orally report to the Legislature's Education Interim Committee, by the October 2015 meeting, jointly with the State Office of Education suicide prevention coordinator and the state suicide prevention coordinator, on:

(i) the progress of school district and charter school youth suicide prevention programs, including rates of participation by school districts, charter schools, and students;

(ii) the board's coordination efforts with the Department of Health and the state suicide prevention coordinator;

(iii) the State Office of Education suicide prevention coordinator's model program for training and resources related to youth suicide prevention, intervention, and postvention;

(iv) data measuring the effectiveness of youth suicide programs;

(v) funds appropriated to each school district and charter school for youth suicide prevention programs; and

(vi) five-year trends of youth suicides per school, school district, and charter school.

(b) School districts and charter schools shall provide to the board information that is necessary for the board's report to the Legislature's Education Interim Committee as required in Subsection (7)(a).

**§ 53G-9-703. Parent education—Mental health—Bullying—Safety.**

(1)

(a) Except as provided in Subsection (4), a school district shall offer a seminar for parents of students in the school district that:

- (i) is offered at no cost to parents;
- (ii) begins at or after 6 p.m.;
- (iii) is held in at least one school located in the school district; and
- (iv) covers the topics described in Subsection (2).

(b)

(i) A school district shall annually offer one parent seminar for each 11,000 students enrolled in the school district.

(ii) Notwithstanding Subsection (1)(b)(i), a school district may not be required to offer more than three seminars.

(c) A school district may:

- (i) develop its own curriculum for the seminar described in Subsection (1)(a); or
- (ii) use the curriculum developed by the State Board of Education under Subsection (2).

(d) A school district shall notify each charter school located in the attendance boundaries of the school district of the date and time of a parent seminar, so the charter school may inform parents of the seminar.

(2) The State Board of Education shall:

(a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:

- (i) substance abuse, including illegal drugs and prescription drugs and prevention;
- (ii) bullying;
- (iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means;
- (iv) Internet safety, including pornography addiction; and
- (v) the School Safety and Crisis Line established in Section 53E-10-502; and

(b) provide the curriculum, including resources and training, to school districts upon request.

(3) The State Board of Education shall report to the Legislature's Education Interim Committee, by the October 2015 meeting, on:

- (a) the progress of implementation of the parent seminar;
- (b) the number of parent seminars conducted in each school district;
- (c) the estimated attendance reported by each school district;
- (d) a recommendation of whether to continue the parent seminar program; and
- (e) if a local school board has opted out of providing the parent seminar, as described in Subsection (4), the reasons why a local school board opted out.

(4)

(a) A school district is not required to offer the parent seminar if the local school board determines that the topics described in Subsection (2) are not of significant interest or value to families in the school district.

(b) If a local school board chooses not to offer the parent seminar, the local school board shall notify the State Board of Education and provide the reasons why the local school board chose not to offer the parent seminar.

**§ 53G-10-405. Instruction on the harmful effects of alcohol, tobacco, and controlled substances -- Rulemaking authority -- Assistance from the Division of Substance Abuse and Mental Health.**

(1) The State Board of Education shall adopt rules providing for instruction at each grade level on the harmful effects of alcohol, tobacco, and controlled substances upon the human body and society. The rules shall require but are not limited to instruction on the following:

(a) teaching of skills needed to evaluate advertisements for, and media portrayal of, alcohol, tobacco, and controlled substances;

(b) directing students towards healthy and productive alternatives to the use of alcohol, tobacco, and controlled substances; and

(c) discouraging the use of alcohol, tobacco, and controlled substances.

(2) At the request of the board, the Division of Substance Abuse and Mental Health shall cooperate with the board in developing programs to provide this instruction.

(3) The board shall participate in efforts to enhance communication among community organizations and state agencies, and shall cooperate with those entities in efforts which are compatible with the purposes of this section.

**§ 53G-10-406. Underage drinking prevention program -- State Board of Education rules.**

(1) As used in this section:

(a) "Advisory council" means the Underage Drinking Prevention Program Advisory Council created in this section.

(b) "Board" means the State Board of Education.

(c) "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(d) "Program" means the Underage Drinking Prevention Program created in this section.

(e) "School-based prevention presentation" means an evidence-based program intended for students aged 13 and older that:

(i) is aimed at preventing underage consumption of alcohol;

(ii) is delivered by methods that engage students in storytelling and visualization;

(iii) addresses the behavioral risk factors associated with underage drinking; and

(iv) provides practical tools to address the dangers of underage drinking.

(2) There is created the Underage Drinking Prevention Program that consists of:

(a) a school-based prevention presentation for students in grade 8; and

(b) a school-based prevention presentation for students in grade 10 that increases awareness of the dangers of driving under the influence of alcohol.

(3)

- (a) Beginning with the 2018-19 school year, an LEA shall offer the program each school year to each student in grade 8 and grade 10.
  - (b) An LEA shall select from the providers qualified by the board under Subsection (6) to offer the program.
- (4) The board shall administer the program with input from the advisory council.
- (5) There is created the Underage Drinking Prevention Program Advisory Council comprised of the following members:
- (a) the executive director of the Department of Alcoholic Beverage Control or the executive director's designee;
  - (b) the executive director of the Department of Health or the executive director's designee;
  - (c) the director of the Division of Substance Abuse and Mental Health or the director's designee;
  - (d) the director of the Division of Child and Family Services or the director's designee;
  - (e) the director of the Division of Juvenile Justice Services or the director's designee;
  - (f) the state superintendent of public instruction or the state superintendent of public instruction's designee; and
  - (g) two members of the State Board of Education, appointed by the chair of the State Board of Education.
- (6)
- (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall qualify one or more providers to provide the program to an LEA.
  - (b) In selecting a provider described in Subsection (6)(a), the board shall consider:
    - (i) whether the provider's program complies with the requirements described in this section;
    - (ii) the extent to which the provider's underage drinking prevention program aligns with core standards for Utah public schools; and
    - (iii) the provider's experience in providing a program that is effective at reducing underage drinking.
- (7)
- (a) The board shall use money from the Underage Drinking Prevention Program Restricted Account described in Section 53F-9-304 for the program.
  - (b) The board may use money from the Underage Drinking Prevention Program Restricted Account to fund up to .5 of a full-time equivalent position to administer the program.
- (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that:
- (a) beginning with the 2018-19 school year, require an LEA to offer the Underage Drinking Prevention Program each school year to each student in grade 8 and grade 10; and
  - (b) establish criteria for the board to use in selecting a provider described in Subsection (6).

## **REGULATIONS**

### **R277-436-1. Definitions.**

- A. "Student at risk" means any student who because of his individual needs requires some kind of uniquely designed intervention in order to achieve literacy, graduate and be prepared for transition from school to post-school options.
- B. "Board" means the Utah State Board of Education.

C. "Gang" (as defined in this rule) means a group of three or more people who form an allegiance and engage in a range of anti-social behaviors that may include violent or unlawful activity or both. These groups may have a name, turf, colors, symbols, or distinct dress, or any combination of the preceding characteristics.

D. "Gang prevention" means instructional and support strategies, activities, programs, or curricula designed and implemented to provide successful experiences for youth and families. These components shall promote cultural and social competence, self-management skills, citizenship, preparation for life skills, academic achievement, literacy, and interpersonal relationship skills required for school completion and full participation in society.

E. "Gang intervention" means specially designed services required by an individual student experiencing difficulty in cultural and social competence, self-management skills, citizenship, preparation for life skills, academic achievement, literacy, and interpersonal relationships within or outside of the school which may impact the individual's susceptibility to gang membership or gang-like activities or both.

F. "Gang Prevention and Intervention Program" means specifically designed projects and activities to help at-risk students stay in school and enhance their cultural and social competence, self-management skills, citizenship, preparation for life skills, academic achievement, literacy, and interpersonal relationship skills required for school completion and full participation in society[...]

**R277-436-2. Authority and purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and authority over public education in the Board, by Section 53A-17a-166(1)(b) which appropriates funds to be used for Gang Prevention and Intervention Programs in the schools, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to establish standards and procedures for distributing funding for gang prevention and intervention programs in public schools.

**R277-436-3. Application, distribution of funds, and administrative support.**

A. Awards shall be made to individual schools and funds allocated to charter schools or to school districts to distribute to designated schools.

B. School districts may submit a single district-wide proposal for one or more schools within the district. The proposal shall:

- (1) provide for distribution of funds to individual schools; and
- (2) provide explanations of prevention and intervention activities and strategies planned for individual schools.

C. Charter schools may submit independent or joint proposals.

D. School districts or charter schools or charter consortia may utilize up to ten percent of their funding under the rule for the following specific purposes:

- (1) administrative oversight;
- (2) professional development for licensed and non-licensed employees who work directly in gang prevention/intervention activities; and
- (3) professional and technical services.

E. Proposals/applications shall be provided by the USOE.

F. Awards per school shall be based on funds available.

G. Priority shall be given to applications reflecting interagency and intra-agency collaboration.

H. Proposals receiving funding shall be notified by July 1.

I. Schools or joint school applications that were funded and complied with all requirements of law and rule may reapply in subsequent years using an abbreviated proposal form provided by the USOE.

J. The USOE may retain up to five percent of the annual legislative appropriation for the following specific purposes:

- (1) an amount not to exceed 2.5 percent for:
  - (a) site visits; and
  - (b) professional development, as determined and guided by the USOE.
- (2) an amount not to exceed 2.5 percent for:
  - (a) administrative oversight; and
  - (b) statewide coordination training.

**R277-436-4. Evaluation and reports.**

A. School districts and charter schools or consortia shall provide the USOE with a year-end evaluation report by June 30 for the previous fiscal year.

B. The year-end report shall include:

- (1) an expenditure report;
- (2) a narrative description of all activities funded;
- (3) copies of any and all products developed;
- (4) effectiveness report detailing evidence of individual and overall program impact on gang and gang-related activities and involvement; and
- (5) other information or data as required by the USOE.

C. The USOE may require additional evaluation or audit procedures from the grant recipient to demonstrate use of funds consistent with the law and Board rules.

**R277-436-5. Waivers.**

The superintendent may grant a written request for a waiver of a requirement or deadline which a district or school finds unduly restrictive.

**R277-460-1. Definitions.**

- A. "Board" means the Utah State Board of Education.
- B. "Educational materials" means visual and auditory media, curricula, textbooks, and other disposable or non-disposable items that enhance student understanding of the subject matter.
- C. "Evaluation" means a review by a person or group which assesses procedures, results and products specific to a program.
- D. "Local Substance Abuse Authority" means the person or group designated by the Legislature as the county authority to receive public funds for substance abuse prevention and treatment.
- E. "Prevention education" means proactive educational activities designed to eliminate any illegal use of controlled substances.
- F. "Superintendent" means the State Superintendent of Public Instruction.
- G. "USOE" means the Utah State Office of Education.
- H. "Utah Substance Abuse Prevention Guiding Principles" means criteria established by the Utah Division of Substance Abuse and Mental Health to be used in selecting or developing substance abuse prevention materials.

**R277-460-2. Authority and purpose.**

A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and authority over public education in the Board, by Section 53G-10-405 which directs the Board to adopt rules providing for instruction on the harmful effects of controlled substances and by Section 51-9-405 which provides for funds from the Substance Abuse Prevention Account to be allocated to the USOE for:

- (1) substance abuse prevention and education;
- (2) substance abuse prevention training for teachers and administrators; and
- (3) school district, charter school or consortia programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities.

B. The purpose of this rule is to provide for the distribution of the USOE's share of the Substance Abuse Prevention Account. [...]

**R277-609-4. LEA responsibility to develop plans.**

(3) A plan described in Subsection (1) shall include:

- (t) gang prevention and intervention policies in accordance with Subsection 53E-3-509 (1); and

**R277-613-6. Training by LEAs specific to participants in public school athletic programs and school clubs.**

(1)(a) Prior to any student, employee or volunteer coach participating in a public school sponsored athletic program, both curricular and extracurricular, or extracurricular club or activity, the student, employee or coach shall participate in bullying, cyber-bullying, hazing, and retaliation prevention training.

- (b) A training described in Subsection (1)(a) shall be offered to new participants on an annual basis and to all participants at least once every three years.

(2) An LEA shall inform student athletes and extracurricular club members of prohibited activities under this rule and potential consequences for violation of the law and the rule.

(3) An LEA shall maintain training participant lists or signatures, to be provided to the Board upon request.

## **Behavioral interventions and student support services**

### **LAWS**

**§ 53F-4-204. Student intervention early warning pilot program.**

(1) As used in this section:

- (a) "Board" means the State Board of Education.
- (b) "Digital program" means a program that provides information for student early intervention as described in this section.
- (c) "Local education agency" or "LEA" means:
  - (i) a district school;
  - (ii) a charter school; or
  - (iii) the Utah Schools for the Deaf and the Blind.
- (d) "Online data reporting tool" means a system described in Section 53E-4-311.

(2)

- (a) The board shall, subject to legislative appropriations:

- (i) enhance the online data reporting tool and provide additional formative actionable data on student outcomes subject to Subsection (2)(c); and
  - (ii) select through a competitive contract process a provider to provide to an LEA a digital program as described in this section.
- (b) The contract described in Subsection (2)(a)(ii) shall be for a two-year pilot program.
- (c) Information collected or used by the board for purposes of enhancing the online data reporting tool in accordance with this section may not identify a student individually.
- (3) The enhancement to the online data reporting tool and the digital program shall:
- (a) be designed with a user-appropriate interface for use by teachers, school administrators, and parents;
  - (b) provide reports on a student's results at the student level on:
    - (i) a national assessment;
    - (ii) a local assessment; and
    - (iii) a standards assessment described in Section 53E-4-303;
  - (c) have the ability to provide data from aggregate student reports based on a student's:
    - (i) teacher;
    - (ii) school;
    - (iii) school district, if applicable; or
    - (iv) ethnicity;
  - (d) provide a viewer with the ability to view the data described in Subsection (2)(c) on a single computer screen;
  - (e) have the ability to compare the performance of students, for each teacher, based on a student's:
    - (i) gender;
    - (ii) special needs, including primary exceptionality;
    - (iii) English proficiency;
    - (iv) economic status;
    - (v) migrant status;
    - (vi) ethnicity;
    - (vii) response to tiered intervention;
    - (viii) response to tiered-intervention enrollment date;
    - (ix) absence rate;
    - (x) feeder school;
    - (xi) type of school, including primary or secondary, public or private, Title I, or other general school-type category;
    - (xii) course failures; and
    - (xiii) other criteria, as determined by the board; and
  - (f) have the ability to load data from a local, national, or other assessment in the data's original format within a reasonable time.
- (4) Subject to legislative appropriations, the online data reporting tool and digital program shall:
- (a) integrate criteria for early warning indicators, including the following criteria:
    - (i) discipline;



- (ii) attendance;
- (iii) behavior;
- (iv) course failures; and
- (v) other criteria as determined by a local school board or charter school governing board; and

(b) provide a teacher or administrator the ability to view the early warning indicators described in Subsection (4)(a) with a student's assessment results described in Subsection (3)(b).

(5) Subject to legislative appropriations, the online data reporting tool and the digital program shall:

- (a) provide data on response to intervention using existing assessments or measures that are manually added, including assessment and nonacademic measures;
- (b) provide a user the ability to share interventions within a reporting environment and add comments to inform other teachers, administrators, and parents or guardians;
- (c) save and share reports among different teachers and school administrators, subject to the student population information a teacher or administrator has the rights to access;
- (d) automatically flag a student profile when early warning thresholds are met so that a teacher can easily identify a student who may be in need of intervention;
- (e) incorporate a variety of algorithms to support student learning outcomes and provide student growth reporting by teacher;
- (f) integrate response to intervention tiers and activities as filters for the reporting of individual student data and aggregated data, including by ethnicity, school, or teacher;
- (g) have the ability to generate student parent or guardian communication to alert the parent or guardian of academic plans or interventions; and
- (h) configure alerts based upon student academic results, including a student's performance on the previous year standards assessment described in Section 53E-4-303.

(6)

- (a) The board shall, subject to legislative appropriations, select an LEA to receive access to a digital program through a provider described in Subsection (2)(a)(ii).
- (b) An LEA that receives access to a digital program shall pay for 50% of the cost of the digital program.
- (c) An LEA that receives access to a digital program shall no later than one school year after accessing a digital program report to the board in a format required by the board on the effectiveness of the digital program, positive and negative attributes of the digital program, recommendations for improving the online data reporting tool, and any other information regarding a digital program requested by the board.
- (d) The board shall consider recommendations from an LEA for changes to the online data reporting tool.

(7) Information described in this section shall be used in accordance with and provided subject to:

- (a) Title 53E, Chapter 9, Student Privacy and Data Protection; and
- (b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

**§ 53G-6-209. Truancy support centers.**

(1) A school district may establish one or more truancy support centers for:

- (a) truant minors taken into custody under Section 53G-6-208; or
- (b) students suspended or expelled from school.

(2) A truancy support center shall provide services to the truant minor and the truant minor's family, including:

- (a) assessments of the truant minor's needs and abilities;
- (b) support for the parents and truant minor through counseling and community programs; and
- (c) tutoring for the truant minor during the time spent at the center.

(3) For the suspended or expelled student, the truancy support center shall provide an educational setting, staffed with certified teachers and aides, to provide the student with ongoing educational programming appropriate to the student's grade level.

(4) In a district with a truancy support center, all students suspended or expelled from school shall be referred to the center. A parent or guardian shall appear with the student at the center within 48 hours of the suspension or expulsion, not including weekends or holidays. The student shall register and attend classes at the truancy support center for the duration of the suspension or expulsion unless the parent or guardian demonstrates that alternative arrangements have been made for the education or supervision of the student during the time of suspension or expulsion.

(5) The truancy support center may provide counseling and other support programming for students suspended or expelled from school and their parents or guardian.

#### **Regulations § 53G-9-801. Definitions.**

As used in Section 53G-9-802:

(1) "Attainment goal" means earning:

- (a) a high school diploma;
- (b) a Utah High School Completion Diploma, as defined in State Board of Education rule;
- (c) an Adult Education Secondary Diploma, as defined in State Board of Education rule; or
- (d) an employer-recognized, industry-based certificate that is:
  - (i) likely to result in job placement; and
  - (ii) included in the State Board of Education's approved career and technical education industry certification list.

(2) "Cohort" means a group of students, defined by the year in which the group enters grade 9.

(3) "Designated student" means a student:

- (a)
  - (i) who has withdrawn from an LEA before earning a diploma;
  - (ii) who has been dropped from average daily membership; and
  - (iii) whose cohort has not yet graduated; or
- (b) who is at risk of meeting the criteria described in Subsection (3)(a), as determined by the student's LEA, using risk factors defined in rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) "Graduation rate" means:

- (a) for a school district or a charter school that includes grade 12, the graduation rate calculated by the State Board of Education for federal accountability and reporting purposes; or
- (b) for a charter school that does not include grade 12, a proxy graduation rate defined in rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

- (5) "Local education agency" or "LEA" means a school district or charter school that serves students in grade 9, 10, 11, or 12.
- (6) "Nontraditional program" means a program, as defined in rules made by the State Board of Education under Subsection 53E-3-501(1)(e), in which a student receives instruction through:
- (a) distance learning;
  - (b) online learning;
  - (c) blended learning; or
  - (d) competency-based learning.
- (7) "Statewide graduation rate" means:
- (a) for a school district or a charter school that includes grade 12, the statewide graduation rate, as annually calculated by the State Board of Education; or
  - (b) for a charter school that does not include grade 12, the average graduation rate for all charter schools that do not include grade 12.
- (8) "Third party" means:
- (a) a private provider; or
  - (b) an LEA that does not meet the criteria described in Subsection 53G-9-802(3).

**§ 53G-9-802. Dropout prevention and recovery -- Flexible enrollment options -- Contracting -- Reporting.**

- (1)
- (a) Subject to Subsection (1)(b), an LEA shall provide dropout prevention and recovery services to a designated student, including:
    - (i) engaging with or attempting to recover a designated student;
    - (ii) developing a learning plan, in consultation with a designated student, to identify:
      - (A) barriers to regular school attendance and achievement;
      - (B) an attainment goal; and
      - (C) a means for achieving the attainment goal through enrollment in one or more of the programs described in Subsection (2);
    - (iii) monitoring a designated student's progress toward reaching the designated student's attainment goal; and
    - (iv) providing tiered interventions for a designated student who is not making progress toward reaching the student's attainment goal.
  - (b) An LEA shall provide the dropout prevention and recovery services described in Subsection (1)(a):
    - (i) throughout the calendar year; and
    - (ii) except as provided in Subsection (1)(c)(i), for each designated student who becomes a designated student while enrolled in the LEA.
  - (c)
    - (i) A designated student's school district of residence shall provide dropout recovery services if the designated student:
      - (A) was enrolled in a charter school that does not include grade 12; and
      - (B) becomes a designated student in the summer after the student completes academic instruction at the charter school through the maximum grade level the charter school is eligible to serve under the charter school's charter agreement as described in Section 53G-5-303.

(ii) In accordance with Subsection (1)(c)(iii), a charter school that does not include grade 12 shall notify each of the charter school's student's district of residence, as determined under Section 53G-6-302, when the student completes academic instruction at the charter school as described in Subsection (1)(c)(i)(B).

(iii) The notification described in Subsection (1)(c)(ii) shall include the student's name, contact information, and student identification number.

(2)

(a) An LEA shall provide flexible enrollment options for a designated student that:

(i) are tailored to the designated student's learning plan developed under Subsection (1)(a)(ii); and

(ii) include two or more of the following:

(A) enrollment in the LEA in a traditional program;

(B) enrollment in the LEA in a nontraditional program;

(C) enrollment in a program offered by a private provider that has entered into a contract with the LEA to provide educational services; or

(D) enrollment in a program offered by another LEA.

(b) A designated student may enroll in:

(i) a program offered by the LEA under Subsection (2)(a), in accordance with this public education code, rules established by the State Board of Education, and policies established by the LEA;

(ii) the Electronic High School, in accordance with Title 53E, Chapter 10, Part 6, Electronic High School; or

(iii) the Statewide Online Education Program, in accordance with Title 53F, Chapter 4, Part 5, Statewide Online Education Program.

(c) An LEA shall make the LEA's best effort to accommodate a designated student's choice of enrollment under Subsection (2)(b).

(3) Beginning with the 2017-18 school year and except as provided in Subsection (4), an LEA shall enter into a contract with a third party to provide the dropout prevention and recovery services described in Subsection (1)(a) for any school year in which the LEA meets the following criteria:

(a) the LEA's graduation rate is lower than the statewide graduation rate; and

(b)

(i) the LEA's graduation rate has not increased by at least 1% on average over the previous three school years; or

(ii) during the previous calendar year, at least 10% of the LEA's designated students have not:

(A) reached the students' attainment goals; or

(B) made a year's worth of progress toward the students' attainment goals.

(4) An LEA that is in the LEA's first three years of operation is not subject to the requirement described in Subsection (3).

(5) An LEA described in Subsection (3) shall ensure that:

(a) a third party with whom the LEA enters into a contract under Subsection (3) has a demonstrated record of effectiveness engaging with and recovering designated students; and

(b) a contract with a third party requires the third party to:

(i) provide the services described in Subsection (1)(a); and

(ii) regularly report progress to the LEA.

(6) An LEA shall annually submit a report to the State Board of Education on dropout prevention and recovery services provided under this section, including:

- (a) the methods the LEA or third party uses to engage with or attempt to recover designated students under Subsection (1)(a)(i);
- (b) the number of designated students who enroll in a program described in Subsection (2) as a result of the efforts described in Subsection (6)(a);
- (c) the number of designated students who reach the designated students' attainment goals identified under Subsection (1)(a)(ii)(B); and
- (d) funding allocated to provide dropout prevention and recovery services.

(7) The State Board of Education shall:

- (a) ensure that an LEA described in Subsection (3) contracts with a third party to provide dropout prevention and recovery services in accordance with Subsections (3) and (5); and
- (b) on or before October 30, 2017, and each year thereafter, report to the Education Interim Committee on the provisions of this section, including a summary of the reports submitted under Subsection (6).

**§ 53G-9-803. Remediation programs for secondary students.**

(1) For purposes of this section:

- (a) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.
- (b) "Secondary school student":
  - (i) means a student enrolled in a secondary school; and
  - (ii) includes a student in grade 6 if the student attends a secondary school.

(2) A school district or charter school shall implement programs for secondary school students to attain the competency levels and graduation requirements established by the State Board of Education.

(3)

- (a) A school district or charter school shall establish remediation programs for secondary school students who do not meet competency levels in English, mathematics, science, or social studies.
- (b) Participation in the programs is mandatory for secondary school students who fail to meet the competency levels based on classroom performance.

(4) Secondary school students who require remediation under this section may not be advanced to the following class in subject sequences until they meet the required competency level for the subject or complete the required remediation program, except that a school district or charter school may allow secondary school students requiring remediation who would otherwise be scheduled to enter their first year of high school to complete their remediation program during that first year.

(5)

- (a) Remediation programs provided under this section should not be unnecessarily lengthy or repetitive.
- (b) A secondary school student need not repeat an entire class if remediation can reasonably be achieved through other means.

(6) A school district or charter school may charge secondary school students a fee to participate in the remediation programs.

**R277-606-1. Authority and purpose.**

(1) This rule is authorized by:

- (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and
  - (b) Section 53A-15-1903, which requires the Board to develop rules to set policies related to a dropout prevention and recovery program;
  - (c) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) The purpose of this rule is to:
- (a) develop policies related to an LEA's dropout prevention and recovery program; and
  - (b) set reporting requirements for LEAs with a dropout prevention and recovery program.

**R277-606-2. Definitions.**

For purposes of this rule:

- (1) "Attainment goal" has the same meaning as that term is defined in Section 53A-15-1902.
- (2) "Average daily membership" means the same as that term is defined in Section 53A-17a-103.
- (3) "Cohort" means the same as that term is defined in Section 53A-15-1902.
- (4) "College and career readiness work" means the same as that term is defined in Section 53A-15-1902.
- (5) "Designated student" means a student:
  - (a)
    - (i) who has withdrawn from a secondary school prior to earning a diploma;
    - (ii) who was dropped from average daily membership; and
    - (iii) whose cohort has not yet graduated; or
  - (b) who is at risk of meeting the criteria described in Subsection (5)(a), as determined by the student's LEA, using the risk factors described in Subsection (10).
- (6) "Graduation rate" means the same as that term is defined in Section 53A-15-1902.
- (7) "LEA" means the same as that term is defined in Section 53A-15-1902.
- (8) "Nontraditional program" means the same as that term is defined in Section 53A-15-1902.
- (9) "Proxy graduation rate" means a rate calculated:
  - (a) in a manner similar to the regular graduation rate for each year of grades 9 through 12;
  - (b) treating a student as having graduated if the student returned after each grade year; and
  - (c) treating a student as dropping out if the student:
    - (i) did not return after each year; or
    - (ii) the student did not have an acceptable exit code entered into the Board's UTREx system.
- (10) "Risk factors" means:
  - (a) low academic performance, as measured by grades, test scores, or course failure;
  - (b) poor behavior, as measured by office disciplinary referrals, suspensions, or expulsions; and
  - (c) absenteeism, whether excused or unexcused absences, and including days tardy and truant.
- (11) "Third party" means the same as that term is defined in Section 53A-15-1902.

**R277-606-3. LEA dropout prevention and recovery programs.**

(1) Beginning with the 2016-17 school year, an LEA that serves students in grades 9, 10, 11, or 12 shall provide a dropout prevention and recovery program for a designated student with the dropout prevention and recovery services described in Section 53A-15-1903.

(2) An LEA that enrolls a designated student in a dropout prevention and recovery program shall:

(a) develop a written policy that describes:

(i) how the LEA or the LEA's third party will measure and report if the designated student made a year's worth of progress toward an attainment goal as required in Section R277-606-4; and

(ii) how membership days will be determined for the designated student in accordance with the LEA's established school schedule and enrollment policies; and

(b) indicate that the designated student is enrolling in the LEA's dropout prevention and recovery program in accordance with current UTREx specifications.

(3)

(a) If a designated student chooses to enroll in a dropout prevention and recovery program, the LEA, in consultation with the designated student, shall prepare, in accordance with the LEA's written policy described in Subsection (2), a learning plan for the designated student that includes an attainment goal for the designated student

(b) If an LEA is required to contract with a third party to provide dropout prevention and recovery services, the third party shall:

(i) work with the LEA to prepare a learning plan for a designated student described in Subsection (3)(a);

(ii) regularly report a designated student's progress toward the designated student's attainment goal in accordance with the LEA's written policy described in Subsection (2); and

(iii) maintain documentation required by the LEA for the LEA to meet the requirements of Subsection R277-606-4(4).

(4)

(a) If a designated student is a student with a disability and an LEA provides dropout prevention and recovery services without using a third party, the LEA shall:

(i) prepare an IEP or Section 504 plan for the designated student; and

(ii) provide the dropout prevention and recovery services in accordance with the designated student's IEP or Section 504 plan.

(b) If a designated student is a student with a disability and an LEA contracts with a third party to provide dropout prevention and recovery services to the designated student:

(i) the LEA shall prepare an IEP or Section 504 plan for the designated student; and

(ii) the third party shall provide the dropout prevention and recovery services to the designated student in accordance with the designated student's IEP or Section 504 plan.

**R277-606-4. Reporting requirements and audits.**

(1)

(a) Beginning with the 2016-17 school year, on or before August 1, 2017 and on or before August 1 each year thereafter, an LEA shall submit a report to the Superintendent on the LEA's dropout prevention and recovery services.

(b) The report described in Subsection (1)(a) shall include:

(i) the information described in Section 53A-15-1903;

- (ii) the total number of designated students in the LEA; and
- (iii) if applicable, the name of a third party the LEA is contracting with to provide dropout prevention and recovery services.

(2) A third party working with an LEA on the LEA's dropout prevention and recovery program shall report any information requested by the LEA including any information required for the LEA to submit a report described in Subsection (1).

(3) The Superintendent shall:

- (a) review LEA reports described in Subsection (1);
- (b) by April 1 each year, inform an LEA that the LEA is required to enter into a contract with a third party as described in Subsection 53A-15-1903(3); and
- (c) ensure that an LEA described in Subsection 53A-15-1903(3) and Subsection R277-606-3(3) contracts with a third party as required in Section 53A-15-1903 and Section R277-606-3.

(4)

- (a) An LEA shall maintain documentation to comply with the requirements of Section 53A-15-1903 and this rule.
- (b) The Board or the Superintendent may request an audit of an LEA's dropout prevention and recovery program.

**R277-609-3. Incorporation of least restricted behavioral interventions (LRBI) technical assistance manual by reference.**

(1) This rule incorporates by reference the LRBI Technical Assistance Manual, dated September 2015, provides guidance and information in creating successful behavioral systems and supports within Utah's public schools that:

- (a) promote positive behaviors while preventing negative or risky behaviors; and
- (b) create a safe learning environment that enhances all student outcomes.

(2) A copy of the manual is located at:

- (a) <http://www.schools.utah.gov/sars/Behavior.aspx>; and
- (b) the Utah State Board of Education.

**R277-609-4. LEA responsibility to develop plans.**

(3) A plan described in Subsection (1) shall include:

- (t) gang prevention and intervention policies in accordance with Subsection 53E-3-509 (1); and

**R277-609-6. Implementation.**

(1) An LEA shall implement strategies and policies consistent with the LEA's plan required in Section R277-609-4.

(2) An LEA shall develop, use and monitor a continuum of intervention strategies to assist students, including students whose behavior in school falls repeatedly short of reasonable expectations, by teaching student behavior expectations, reinforcing student behavior expectations, re-teaching behavior expectations, followed by effective, evidence-based interventions matched to student needs prior to administrative referral.

(3) An LEA shall implement positive behavior interventions and supports as part of the LEA's continuum of behavior interventions strategies.



(4)(a) An LEA shall provide a formal written assessment of a habitually disruptive student as part of a student's suspension or expulsion process that results in court involvement, once an LEA receives information from the court that disruptive student behavior will result in court action.

(b) An LEA shall use assessment information to connect parents and students with supportive school and community resources.

## **Professional development**

### **LAWS**

#### **§ 53G-9-607. Training, education, and prevention.**

(1)

(a) A school board shall include in the training of a school employee training regarding bullying, cyber-bullying, hazing, abusive conduct, and retaliation that meets the standards described in Subsection (4).

(b) A school board may offer voluntary training to parents and students regarding abusive conduct.

(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, abusive conduct, 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.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that establish standards for high quality training related to bullying, cyber-bullying, hazing, abusive conduct, and retaliation.

#### **§ 53G-9-704. Youth suicide prevention training for employees.**

(1) A school district or charter school shall require a licensed employee to complete two hours of professional development training on youth suicide prevention within the employee's license cycle described in Section 53E-6-201.

(2) The board shall:

(a) develop or adopt sample materials to be used by a school district or charter school for professional development training on youth suicide prevention; and

(b) in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, incorporate the training described in Subsection (1) into professional development training described in Section 53E-6-201.

### **REGULATIONS**

#### **R277-609-4. LEA responsibility to develop plans.**

(2) An LEA shall include administration, instruction and support staff, students, parents, community council, and other community members in policy development, training, and prevention implementation so as to create a community sense of participation, ownership, support, and responsibility.

(3) A plan described in Subsection (1) shall include:

(g) an ongoing staff development program related to development of:

(i) student behavior expectations;

- (ii) effective instructional practices for teaching and reinforcing behavior expectations;
- (iii) effective intervention strategies; and
- (iv) effective strategies for evaluation of the efficiency and effectiveness of interventions;
- (h) procedures for ongoing training of appropriate school personnel in:
  - (i) crisis intervention training;
  - (ii) emergency safety intervention professional development; and
  - (iii) LEA policies related to emergency safety interventions consistent with evidence-based practice;

**R277-613-4. LEA responsibility to create or update bullying policies.**

(5)(a) An LEA shall provide that students, school employees, coaches, and volunteers receive training on bullying, cyber-bullying, hazing, and retaliation, from individuals qualified to provide such training.

(b) The training described in Subsection (5)(a) shall:

- (i) include information on various types of aggression and bullying, including:
  - (A) overt aggression that may include physical fighting such as punching, shoving, kicking, and verbal threatening behavior, such as name calling, or both physical and verbal aggression or threatening behavior;
  - (B) relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation;
  - (C) sexual aggression or acts of a sexual nature or with sexual overtones;
  - (D) cyber-bullying, including use of email, web pages, text messaging, instant messaging, social media, three-way calling or messaging or any other electronic means for aggression inside or outside of school; and
  - (E) civil rights violations, including bullying, cyber-bullying, hazing, and retaliation based upon the students' or employees' actual or perceived identities and conformance or failure to conform with stereotypes;
- (ii) complement the suicide prevention program required for students under Rule R277-620 and the suicide prevention training required for licensed educators consistent with Subsection 53G-9-704(1); and
- (iii) include information on when issues relating to this rule may lead to student or employee discipline.

(6) The training described in Subsection (5) shall be offered to:

- (a) new school employees, coaches, and volunteers; and
- (b) all school employees, coaches, and volunteers at least once every three years.

**R277-613-6. Training by LEAs specific to participants in public school athletic programs and school clubs.**

(1)(a) Prior to any student, employee or volunteer coach participating in a public school sponsored athletic program, both curricular and extracurricular, or extracurricular club or activity, the student, employee or coach shall participate in bullying, cyber-bullying, hazing, and retaliation prevention training.

(b) A training described in Subsection (1)(a) shall be offered to new participants on an annual basis and to all participants at least once every three years.

(2) An LEA shall inform student athletes and extracurricular club members of prohibited activities under this rule and potential consequences for violation of the law and the rule.

(3) An LEA shall maintain training participant lists or signatures, to be provided to the Board upon request.

## ***Monitoring and Accountability***

### **Formal incident reporting of conduct violations**

#### **LAWS**

#### **§ 53G-8-209. Extracurricular activities — Prohibited conduct — Reporting of violations — Limitation of liability.**

(1) The Legislature recognizes that:

- (a) participation in student government and extracurricular activities may confer important educational and lifetime benefits upon students, and encourages school districts and charter schools to provide a variety of opportunities for all students to participate in such activities in meaningful ways;
- (b) there is no constitutional right to participate in these types of activities, and does not through this section or any other provision of law create such a right;
- (c) students who participate in student government and extracurricular activities, particularly competitive athletics, and the adult coaches, advisors, and assistants who direct those activities, become role models for others in the school and community;
- (d) these individuals often play major roles in establishing standards of acceptable behavior in the school and community, and establishing and maintaining the reputation of the school and the level of community confidence and support afforded the school; and
- (e) it is of the utmost importance that those involved in student government, whether as officers or advisors, and those involved in competitive athletics and related activities, whether students or staff, comply with all applicable laws and rules of behavior and conduct themselves at all times in a manner befitting their positions and responsibilities.

(2)

- (a) The State Board of Education may, and local boards of education and governing boards of charter schools shall, adopt rules implementing this section that apply to both students and staff.
- (b) The rules described in Subsection (2)(a) shall include prohibitions against the following types of conduct in accordance with Section 53G-8-211, while in the classroom, on school property, during school sponsored activities, or regardless of the location or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i) through (iv):
  - (i) use of foul, abusive, or profane language while engaged in school related activities;
  - (ii) illicit use, possession, or distribution of controlled substances or drug paraphernalia, and the use, possession, or distribution of an electronic cigarette as defined in Section 76-10-101, tobacco, or alcoholic beverages contrary to law; and
  - (iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under Utah law.

(3)

- (a) School employees who reasonably believe that a violation of this section may have occurred shall immediately report that belief to the school principal, district superintendent, or chief administrative officer of a charter school.

(b) Principals who receive a report under Subsection (3)(a) shall submit a report of the alleged incident, and actions taken in response, to the district superintendent or the superintendent's designee within 10 working days after receipt of the report.

(c) Failure of a person holding a professional certificate to report as required under this Subsection (3) constitutes an unprofessional practice.

(4) Limitations of liability set forth under Section 53G-8-405 apply to this section.

#### **§ 53G-8-501. Definitions.**

For purposes of Sections 53G-8-502 through 53G-8-504:

(1) "Educator" means a person employed by a public school, but excludes those employed by institutions of higher education.

(2) "Prohibited act" means an act prohibited by Section 53G-4-402, relating to alcohol; Section 58-37-8, relating to controlled substances; or Section 58-37a-5, relating to drug paraphernalia.

#### **§ 53G-8-502. Mandatory reporting of prohibited acts.**

If an educator has reasonable cause to believe that a student at the public school where the educator is employed has committed a prohibited act, he shall immediately report that to the school's designated educator.

#### **§ 53G-8-503. Reporting procedure.**

(1) The principal of a public school affected by this chapter shall appoint one educator as the "designated educator" to make all reports required under Sections 53G-8-501 through 53G-8-504.

(2) The designated educator, upon receiving a report of a prohibited act from an educator under Section 53G-8-502, shall immediately report the violation to the student's parent or legal guardian, and may report the violation to an appropriate law enforcement agency or official, in accordance with Section 53G-8-211.

(3) The designated educator may not disclose to the student or to the student's parent or legal guardian the identity of the educator who made the initial report.

#### **§ 53G-8-506. Reporting of prohibited acts affecting a school — Confidentiality.**

(1) A person who has reasonable cause to believe that an individual has committed a prohibited act shall, in accordance with Section 53G-8-211, immediately notify:

- (a) the principal;
- (b) an administrator of the affected school;
- (c) the superintendent of the affected school district; or
- (d) an administrator of the affected school district.

(2) If notice is given to a school official, the official may authorize an investigation into allegations involving school property, students, or school district employees.

(3) A school official may only refer a complaint of an alleged prohibited act reported as occurring on school grounds or in connection with school-sponsored activities to an appropriate law enforcement agency in accordance with Section 53G-8-211.

(4) The identity of persons making reports pursuant to this section shall be kept confidential.

#### **§ 53E-10-502. School safety and crisis line established.**

The University Neuropsychiatric Institute shall:

(1) establish a School Safety and Crisis Line to provide:

- (a) a means for an individual to anonymously report:
    - (i) unsafe, violent, or criminal activities, or the threat of such activities at or near a public school;
    - (ii) incidents of bullying, cyber-bullying, harassment, or hazing; and
    - (iii) incidents of physical or sexual abuse committed by a school employee or school volunteer; and
  - (b) crisis intervention, including suicide prevention, to individuals experiencing emotional distress or psychiatric crisis;
- (2) provide the services described in Subsection (1) 24 hours a day, seven days a week; and
- (3) when necessary, or as required by law, promptly forward a report received under Subsection (1)(a) to appropriate:
- (a) school officials; and
  - (b) law enforcement officials.

## **REGULATIONS**

### **R277-608-3. Reporting requirements.**

- A. Each LEA shall incorporate in the LEA plan submitted to the USOE annually, the prohibition of corporal punishment consistent with the law.
- B. An LEA policy shall incorporate a prohibition of corporal punishment consistent with the law, appropriate sanctions and appeal procedures for LEA employees disciplined under this rule and the corresponding state statute.

## **Parental notification**

## **LAWS**

### **§ 53G-6-203. Truancy — Notice of truancy — Failure to cooperate with school authorities — Habitual truant citation.**

- (1) Except as provided in Section 53G-6-204 or 53G-6-702, a school-age minor who is enrolled in a public school shall attend the public school in which the school-age minor is enrolled.
- (2) A local school board, charter school governing board, or school district may impose administrative penalties on a school-age minor in accordance with Section 53G-8-211 who is truant.
- (3) A local school board or charter school governing board:
- (a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue notices of truancy to school-age minors who are at least 12 years old; and
  - (b) shall establish a procedure for a school-age minor, or the school-age minor's parents, to contest a notice of truancy.
- (4) The notice of truancy described in Subsection (3):
- (a) may not be issued until the school-age minor has been truant at least five times during the school year;
  - (b) may not be issued to a school-age minor who is less than 12 years old;
  - (c) may not be issued to a minor exempt from school attendance as provided in Section 53G-6-204 or 53G-6-702;
  - (d) shall direct the school-age minor and the parent of the school-age minor to:

- (i) meet with school authorities to discuss the school-age minor's truancies; and
- (ii) cooperate with the school board, local charter board, or school district in securing regular attendance by the school-age minor; and
- (e) shall be mailed to, or served on, the school-age minor's parent.

**§ 53G-8-204. Suspension and expulsion procedures — Notice to parents — Distribution of policies.**

- (1) (a) Policies required under this part shall include written procedures for the suspension and expulsion of, or denial of admission to, a student, consistent with due process and other provisions of law.
  - (b) (i) The policies required in Subsection (1)(a) shall include a procedure directing public schools to notify the custodial parent and, if requested in writing by a noncustodial parent, the noncustodial parent of the suspension and expulsion of, or denial of admission to, a student.
  - (ii) Subsection (1)(b)(i) does not apply to that portion of school records which would disclose any information protected under a court order.
  - (iii) The custodial parent is responsible for providing to the school a certified copy of the court order under Subsection (1)(b)(ii) through a procedure adopted by the local school board or the governing board of a charter school.
- (2) (a) Each local school board or governing board of a charter school shall provide for the distribution of a copy of a school's discipline and conduct policy to each student upon enrollment in the school.
  - (b) A copy of the policy shall be posted in a prominent location in each school.
  - (c) Any significant change in a school's conduct and discipline policy shall be distributed to students in the school and posted in the school in a prominent location.

**§ 53G-6-208. Taking custody of a person believed to be a truant minor — Disposition — Receiving centers — Reports — Immunity from liability.**

- (1) A peace officer or public school administrator may take a minor into temporary custody if there is reason to believe the minor is a truant minor.
- (2) An individual taking a school-age minor into custody under Subsection (1) shall, without unnecessary delay, release the minor to:
  - (a) the principal of the minor's school;
  - (b) a person who has been designated by the local school board or local charter board to receive and return the minor to school; or
  - (c) a receiving center established under Subsection (5).
- (3) If the minor refuses to return to school or go to the receiving center, the officer or administrator shall, without unnecessary delay, notify the minor's parents and release the minor to their custody.
- (4) If the parents cannot be reached or are unable or unwilling to accept custody, the minor shall be referred to the Division of Child and Family Services.
- (5) (a) A local school board or local charter board, singly or jointly with another school board, may establish or designate receiving centers within existing school buildings and staff the centers with existing teachers or staff to provide educational guidance and counseling for truant minors. Upon receipt of a truant minor, the center shall, without unnecessary delay, notify and direct the minor's parents to come to the center, pick up the minor, and return the minor to the school in which the minor is enrolled.
  - (b) If the parents cannot be reached or are unable or unwilling to comply with the request within a reasonable time, the center shall take such steps as are reasonably necessary to insure the safety and well being of the minor, including, when appropriate, returning the minor to school or referring the minor

to the Division of Child and Family Services. A minor taken into custody under this section may not be placed in a detention center or other secure confinement facility.

(6) Action taken under this section shall be reported to the appropriate school district. The district shall promptly notify the minor's parents of the action taken [...]

**§ 53G-8-210. Disruptive student behavior.**

(1) As used in this section:

(a) "Disruptive student behavior" includes:

- (i) the grounds for suspension or expulsion described in Section 53G-8-205; and
- (ii) the conduct described in Subsection 53G-8-209(2)(b).

(b) "Parent" includes:

- (i) a custodial parent of a school-age minor;
- (ii) a legally appointed guardian of a school-age minor; or
- (iii) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection (1)(b)(i) or (ii).

(c) "Qualifying minor" means a school-age minor who:

- (i) is at least nine years old; or
- (ii) turns nine years old at any time during the school year.

(d) "School year" means the period of time designated by a local school board or local charter board as the school year for the school where the school-age minor is enrolled.

(2) A local school board, school district, governing board of a charter school, or charter school may impose administrative penalties in accordance with Section 53G-8-211 on a school-age minor who violates this part.

(3)

(a) A local school board or governing board of a charter school shall:

- (i) authorize a school administrator or a designee of a school administrator to issue notices of disruptive student behavior to qualifying minors; and
- (ii) establish a procedure for a qualifying minor, or a qualifying minor's parent, to contest a notice of disruptive student behavior.

(b) A school representative shall provide to a parent of a school-age minor, a list of resources available to assist the parent in resolving the school-age minor's disruptive student behavior problem.

(c) A local school board or governing board of a charter school shall establish procedures for a school counselor or other designated school representative to work with a qualifying minor who engages in disruptive student behavior in order to attempt to resolve the minor's disruptive student behavior problems.

(4) The notice of disruptive student behavior described in Subsection (3)(a):

(a) shall be issued to a qualifying minor who:

- (i) engages in disruptive student behavior, that does not result in suspension or expulsion, three times during the school year; or
- (ii) engages in disruptive student behavior, that results in suspension or expulsion, once during the school year;

(b) shall require that the qualifying minor and a parent of the qualifying minor:

- (i) meet with school authorities to discuss the qualifying minor's disruptive student behavior; and



(ii) cooperate with the local school board or governing board of a charter school in correcting the school-age minor's disruptive student behavior; and

(c) shall be mailed by certified mail to, or served on, a parent of the qualifying minor.

(5) A habitual disruptive student behavior notice:

(a) may only be issued to a qualifying minor who:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, at least six times during the school year;

(ii)

(A) engages in disruptive student behavior, that does not result in suspension or expulsion, at least three times during the school year; and

(B) engages in disruptive student behavior, that results in suspension or expulsion, at least once during the school year; or

(iii) engages in disruptive student behavior, that results in suspension or expulsion, at least twice during the school year; and

(b) may only be issued by a school administrator, a designee of a school administrator, or a truancy specialist, who is authorized by a local school board or governing board of a local charter school to issue a habitual disruptive student behavior notice.

(6)

(a) A qualifying minor to whom a habitual disruptive student behavior notice is issued under Subsection (5) may not be referred to the juvenile court.

(b) Within five days after the day on which a habitual disruptive student behavior notice is issued, a representative of the school district or charter school shall provide documentation, to a parent of the qualifying minor who receives the notice, of the efforts made by a school counselor or representative under Subsection (3)(c).

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

(1) For purposes of this section, "parent" includes a student's guardian.

(2) 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.

(3)

(a) If a school notifies a parent of an incident or threat required to be reported under Subsection (2), the school shall produce and maintain a record that verifies that the parent was notified of the incident or threat.

(b) A school shall maintain a record described in Subsection (3)(a) 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.

(4) 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 (2); and

- (b) producing and retaining a record that verifies that a parent was notified of an incident or threat as required in Subsection (3).
- (5) At the request of a parent, a school may provide information and make recommendations related to an incident or threat described in Subsection (2).
- (6) 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.

**§ 53G-9-605. Bullying, cyber-bullying, harassment, hazing, and retaliation policy.**

- (1) On or before September 1, 2018, a school board shall update the school board's bullying, cyber-bullying, hazing, and retaliation policy to include abusive conduct.
- (3) The policy shall include the following components:
  - (e) as required in Section 53G-9-604, parental notification of:
    - (i) a student's threat to commit suicide; and
    - (ii) an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation, involving the parent's student;

**REGULATIONS**

**R277-607-4. LEA responsibilities.**

A. LEAs shall:

- (1) establish definitions not provided in law or this rule necessary to implement a compulsory attendance policy;
- (2) include definitions of approved school activity under Section 53G-6-201 (9)(c) and excused absence to be provided locally under Section 53G-6-201 (9)(e);
- (3) include criteria and procedures for preapproval of extended absences consistent with Section 53A-11-101.3; and
- (4) establish programs and meaningful incentives which promote regular, punctual student attendance.

B. LEAs shall include in their policies provisions for:

- (1) notice to parents of the policy;
- (2) notice to parents as discipline or consequences progress; and
- (3) the opportunity to appeal disciplinary measures.

C. LEAs shall establish and publish procedures for use by school-age minors or their parents to contest notices of truancy.

**R277-609-4. LEA responsibility to develop plans.**

- (2) An LEA shall include administration, instruction and support staff, students, parents, community council, and other community members in policy development, training, and prevention implementation so as to create a community sense of participation, ownership, support, and responsibility.
- (3) A plan described in Subsection (1) shall include:
  - (u) provisions that account for an individual LEA's or school's unique needs or circumstances, including:

(iii) a provision for publication of notice to parents and school employees of policies by reasonable means.

**R277-609-5. Physical restraint and seclusionary time out.**

(2) If a public education employee physically restrains a student, the school or the public education employee shall immediately notify:

- (a) the student's parent or guardian; and
- (b) school administration.

(4) In addition to the notice described in Subsection (2), if a public education employee physically restrains a student for more than fifteen minutes, the school or the public education employee shall immediately notify:

- (a) the student's parent or guardian; and
- (b) school administration.

(7) If a student is placed in seclusionary time out, the school or the public education employee shall immediately notify:

- (a) the student's parent or guardian; and
- (b) school administration.

(9) In addition to the notice described in Subsection (7), if a public education employee places a student in seclusionary time out for more than fifteen minutes, the school or the public education employee shall immediately notify:

- (a) the student's parent or guardian; and
- (b) school administration.

**R277-609-8. Parent/Guardian notification and court referral.**

(1) Through school administrative and juvenile court referral consequences, LEA policies shall provide procedures for qualifying minors and their parents to participate in decisions regarding consequences for disruptive student behavior.

(2) An LEA shall establish policies that:

(a) provide notice to parents and information about resources available to assist a parent in resolving the parent's school-age minors' disruptive behavior;

(b) provide for notices of disruptive behavior to be issued by schools to qualifying minors and parents consistent with:

- (i) numbers of disruptions and timelines in accordance with Section 53G-8-210;
- (ii) school resources available;
- (iii) cooperation from the appropriate juvenile court in accessing student school records, including:
  - (A) attendance;
  - (B) grades;
  - (C) behavioral reports; and
  - (D) other available student school data; and

(iv) provide due process procedures for minors and parents to contest allegations and citations of disruptive student behavior.

(3)(a) When a crisis situation occurs that requires the use of an emergency safety intervention to protect the student or others from harm, a school shall notify the LEA and the student's parent or guardian as soon as possible and no later than the end of the school day.

(b) In addition to the notice described in Subsection (3)(a), if a crisis situation occurs for more than fifteen minutes, the school shall immediately notify:

- (i) the student's parent or guardian; and
- (ii) school administration.

(d) A notice described in Subsection (3)(a) shall be documented within student information systems (SIS) records.

(4)(a) A school shall provide a parent or guardian with a copy of any notes or additional documentation taken during a crisis situation upon request of the parent or guardian.

(b) Within 24 hours of a crisis situation, a school shall notify a parent or guardian that the parent or guardian may request a copy of any notes or additional documentation taken during a crisis situation.

(c) A parent or guardian may request a time to meet with school staff and administration to discuss a crisis situation.

#### **R277-613-4. LEA responsibility to create or update bullying policies.**

(2)(a) As required by Section 53G-9-605, an LEA shall notify a parent of:

- (i) a parent's student's threat to commit suicide; or
- (ii) an incident of bullying, cyber-bullying, hazing, or retaliation involving the parent's student as a targeted individual or an individual who is alleged to have engaged in prohibited conduct.

(b) An LEA shall:

- (i) notify a parent described in Subsection (2)(a) in a timely manner;
- (ii) designate the appropriate school employee to provide parental notification; and
- (iii) designate the format in which notification is provided to parents and maintained by the LEA.

(3) Subject to the parental consent requirements of Section 53E-9-203, if applicable, an LEA shall assess students about the prevalence of bullying, cyber-bullying, hazing, and retaliation in LEAs and schools, specifically locations where students are unsafe and additional adult supervision may be required, such as playgrounds, hallways, and lunch areas.

(4) An LEA shall take strong responsive action against retaliation, including assistance to targeted individuals and their parents in reporting subsequent problems and new incidents.

#### **R277-613-5. Reporting and Incident Review of Allegations of Bullying, Cyber-bullying, Hazing, and Retaliation.**

(6)(a) An alleged targeted individual is not required to participate in a restorative justice practice with an individual who is alleged to have engaged in prohibited conduct as described in Subsection (5)(a).

(b) If an LEA would like an alleged targeted individual who is a student to participate in a restorative justice practice, the LEA shall notify the alleged targeted individual's parent of the restorative justice practice and obtain consent from the alleged targeted individual's parent before including the alleged targeted individual in the process.

# Reporting and referrals between schools and law enforcement

## LAWS

### § 53F-6-201. Firearm safety and violence prevention pilot program.

(1) As used in this section:

(a) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(b) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle, or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(c) "Pilot program" means the Firearm Safety and Violence Prevention Pilot Program created under Subsection (2).

(2) There is created a Firearm Safety and Violence Prevention Pilot Program to provide instruction that a public school may offer to a student in any of grades 5 through 12 on:

(a) firearm safety, including:

(i) developing the knowledge, habits, skills, and attitudes necessary for the safe handling of firearms; and

(ii) teaching a student that to avoid injury when the student finds a firearm the student should:

(A) not touch the firearm;

(B) tell an adult about finding the firearm and the location of the firearm; and

(C) share the information described in Subsection (2)(a)(ii)(A) and (B) with any other minors who are with the student when the student finds the firearm; and

(b) what to do if the student becomes aware of a threat against the school.

(3) The instruction described in Subsection (2):

(a) may be delivered:

(i) in a public school using live instruction or a video or online materials; or

(ii) at home using a video or online materials; and

(b) shall be neutral of political statements on guns.

(4) The Office of the Attorney General, in collaboration with the State Board of Education, shall select one or more providers, through the standard procurement process or an exception to the standard procurement process as described in Title 63G, Chapter 6a, Utah Procurement Code, to supply materials and curriculum for the pilot program.

(5)

(a) A district school or charter school may participate in the pilot program, subject to approval by the district school's local school board or charter school's charter school governing board.

(b) A district school or charter school that chooses to participate in the pilot program:

(i) shall use the materials and curriculum supplied by the provider selected under Subsection (4);

(ii) may permit the following to provide instruction on a voluntary basis:

(A) the Division of Wildlife Resources;

(B) a local law enforcement agency;

(C) a peace officer, as defined in Section 53-13-102; or

(D) another certified firearms safety instructor, as defined in rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) shall ensure that a firearm is not used in providing the instruction.

(c) A student may not be given the instruction described in Subsection (2) unless the student's parent or legal guardian has given prior written consent.

(6) The Office of the Attorney General, in collaboration with the State Board of Education, shall evaluate the pilot program and report to the Law Enforcement and Criminal Justice Interim Committee on or before December 1, 2018.

**§ 53G-4-402. Powers and duties generally.**

(23) A board may establish or partner with a certified youth court program, in accordance with Section 78A-6-1203, or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

**§ 53G-8-210. Disruptive student behavior.**

(1) As used in this section:

(a) "Disruptive student behavior" includes:

- (i) the grounds for suspension or expulsion described in Section 53G-8-205; and
- (ii) the conduct described in Subsection 53G-8-209(2)(b).

(b) "Parent" includes:

- (i) a custodial parent of a school-age minor;
- (ii) a legally appointed guardian of a school-age minor; or
- (iii) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection (1)(b)(i) or (ii).

(c) "Qualifying minor" means a school-age minor who:

- (i) is at least nine years old; or
- (ii) turns nine years old at any time during the school year.

(d) "School year" means the period of time designated by a local school board or local charter board as the school year for the school where the school-age minor is enrolled.

(2) A local school board, school district, governing board of a charter school, or charter school may impose administrative penalties in accordance with Section 53G-8-211 on a school-age minor who violates this part.

(3)

(a) A local school board or governing board of a charter school shall:

- (i) authorize a school administrator or a designee of a school administrator to issue notices of disruptive student behavior to qualifying minors; and
- (ii) establish a procedure for a qualifying minor, or a qualifying minor's parent, to contest a notice of disruptive student behavior.

(b) A school representative shall provide to a parent of a school-age minor, a list of resources available to assist the parent in resolving the school-age minor's disruptive student behavior problem.

(c) A local school board or governing board of a charter school shall establish procedures for a school counselor or other designated school representative to work with a qualifying minor who engages in

disruptive student behavior in order to attempt to resolve the minor's disruptive student behavior problems.

(4) The notice of disruptive student behavior described in Subsection (3)(a):

(a) shall be issued to a qualifying minor who:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, three times during the school year; or

(ii) engages in disruptive student behavior, that results in suspension or expulsion, once during the school year;

(b) shall require that the qualifying minor and a parent of the qualifying minor:

(i) meet with school authorities to discuss the qualifying minor's disruptive student behavior; and

(ii) cooperate with the local school board or governing board of a charter school in correcting the school-age minor's disruptive student behavior; and

(c) shall be mailed by certified mail to, or served on, a parent of the qualifying minor.

(5) A habitual disruptive student behavior notice:

(a) may only be issued to a qualifying minor who:

(i) engages in disruptive student behavior, that does not result in suspension or expulsion, at least six times during the school year;

(ii)

(A) engages in disruptive student behavior, that does not result in suspension or expulsion, at least three times during the school year; and

(B) engages in disruptive student behavior, that results in suspension or expulsion, at least once during the school year; or

(iii) engages in disruptive student behavior, that results in suspension or expulsion, at least twice during the school year; and

(b) may only be issued by a school administrator, a designee of a school administrator, or a truancy specialist, who is authorized by a local school board or governing board of a local charter school to issue a habitual disruptive student behavior notice.

(6)

(a) A qualifying minor to whom a habitual disruptive student behavior notice is issued under Subsection (5) may not be referred to the juvenile court.

(b) Within five days after the day on which a habitual disruptive student behavior notice is issued, a representative of the school district or charter school shall provide documentation, to a parent of the qualifying minor who receives the notice, of the efforts made by a school counselor or representative under Subsection (3)(c).

**§ 53G-8-211. Responses to school-based behavior.**

(1) As used in this section:

(a) "Class A misdemeanor person offense" means a class A misdemeanor described in Title 76, Chapter 5, Offenses Against the Person, or Title 76, Chapter 5b, Sexual Exploitation Act.

(b) "Mobile crisis outreach team" means the same as that term is defined in Section 78A-6-105.

(c) "Nonperson class A misdemeanor" means a class A misdemeanor that is not a class A misdemeanor person offense.

(d) "Restorative justice program" means a school-based program that is designed to enhance school safety, reduce school suspensions, and limit referrals to court, and is designed to help minors take responsibility for and repair the harm of behavior that occurs in school.

(2) This section applies to a minor enrolled in school who is alleged to have committed an offense:

(a) on school property; or

(b) that is truancy.

(3) If the alleged offense is a class C misdemeanor, an infraction, a status offense on school property, or truancy, the minor may not be referred to law enforcement or court but may be referred to alternative school-related interventions, including:

(a) a mobile crisis outreach team, as defined in Section 78A-6-105;

(b) a receiving center operated by the Division of Juvenile Justice Services in accordance with Section 62A-7-104; and

(c) a youth court or comparable restorative justice program.

(4) If the alleged offense is a class B misdemeanor or a nonperson class A misdemeanor, the minor may be referred directly to the juvenile court by the school administrator or the school administrator's designee, or the minor may be referred to the alternative interventions in Subsection (3).

**§ 53G-8-402. Notification by juvenile court and law enforcement agencies.**

(1) Notifications received from the juvenile court or law enforcement agencies by the school district pursuant to Subsections 78A-6-112(3)(b) and 78A-6-117(1)(b) are governed by this part.

(2) School districts may enter into agreements with law enforcement agencies for notification under Subsection (1).

**§ 53G-8-403. Superintendent required to notify school.**

(1) Within three days of receiving the information from the juvenile court or a law enforcement agency, the district superintendent shall notify the principal of the school the juvenile attends or last attended.

(2) Upon receipt of the information, the principal shall:

(a) make a notation in a secure file other than the student's permanent file; and

(b) if the student is still enrolled in the school, notify staff members who, in his opinion, should know of the adjudication.

(3) A person receiving information pursuant to this part may only disclose the information to other persons having both a right and a current need to know.

(4) Access to secure files shall be limited to persons authorized to receive information under this part.

**§ 53G-8-506. Reporting of prohibited acts affecting a school — Confidentiality.**

(1) A person who has reasonable cause to believe that an individual has committed a prohibited act shall, in accordance with Section 53G-8-211, immediately notify:

(a) the principal;

(b) an administrator of the affected school;

(c) the superintendent of the affected school district; or

(d) an administrator of the affected school district.

(2) If notice is given to a school official, the official may authorize an investigation into allegations involving school property, students, or school district employees.



(3) A school official may only refer a complaint of an alleged prohibited act reported as occurring on school grounds or in connection with school-sponsored activities to an appropriate law enforcement agency in accordance with Section 53G-8-211.

(4) The identity of persons making reports pursuant to this section shall be kept confidential.

**§ 76-5-102.3. Assault against school employees.**

(1) Any person who commits an assault as defined in Section 76-5-102 or commits a threat of violence as defined in Section 76-5-107, against an employee of a public or private school, with knowledge that the individual is an employee, and when the employee is acting within the scope of his authority as an employee, is guilty of a class A misdemeanor.

(2) As used in this section, "employee" includes a volunteer.

**§ 76-5-107.5. Prohibition of "hazing" -- Definitions -- Penalties.**

(1) A person is guilty of hazing if that person intentionally, knowingly, or recklessly commits an act or causes another to commit an act that:

- (a) (i) endangers the mental or physical health or safety of another;
  - (ii) 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;
  - (iii) involves consumption of any food, alcoholic product, drug, or other substance or any other physical activity that endangers the mental or physical health and safety of an individual; or
  - (iv) involves any activity that would subject the individual to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects another to extreme embarrassment, shame, or humiliation; and
- (b) (i) is for the purpose of initiation, admission into, affiliation with, holding office in, or as a condition for continued membership in any organization; or
- (ii) if the actor knew that the victim is a member of or candidate for membership with a school team or school organization to which the actor belongs or did belong within the preceding two years.

(2) It is not a defense to prosecution of hazing that a person under 21, against whom the hazing was directed, consented to or acquiesced in the hazing activity.

(3) An actor who hazes another is guilty of a:

- (a) class B misdemeanor except as provided in Subsection (3)(b), (c), (d), or (e);
- (b) class A misdemeanor if the act involves:
  - (i) the operation or other use of a motor vehicle;
  - (ii) the consumption of an alcoholic product as defined in Section 32B-1-102; or
  - (iii) the consumption of a drug or a substance as defined in Section 76-5-113;
- (c) third degree felony if the act involves the use of a dangerous weapon as defined in Section 76-1-601;
- (d) third degree felony if the hazing results in serious bodily injury to a person; or
- (e) second degree felony if hazing under Subsection (3)(d) involves the use of a dangerous weapon as defined in Section 76-1-601.

(4) A person who in good faith reports or participates in reporting of an alleged hazing is not subject to any civil or criminal liability regarding the reporting.

(5) (a) This section does not apply to military training or other official military activities.

(b) Military conduct is governed by Title 39, Chapter 6, Utah Code of Military Justice.

- (6) (a) A prosecution under this section does not bar a prosecution of the actor for:
- (i) any other offense for which the actor may be liable as a party for conduct committed by the person hazed; or
  - (ii) any offense, caused in the course of the hazing, that the actor commits against the person who is hazed.
- (b) Under Subsection (6)(a)(i) a person may be separately punished, both for the hazing offense and the conduct committed by the person hazed.
- (c) Under Subsection (6)(a)(ii) a person may not be punished both for hazing and for the other offense, but shall be punished for the offense carrying the greater maximum penalty.

**§ 76-8-1402. Disruption of activities in or near school building -- Failure to leave -- Reentry -- Penalties.**

- (1) In the absence of a local ordinance or other controlling law governing the conduct described in this Subsection (1), a person is guilty of an offense under Subsection (2) who, while on a street, sidewalk, or public way adjacent to any school building or ground:
- (a) by his or her presence or acts, materially disrupts the peaceful conduct of school activities; and
  - (b) remains upon the place under Subsection (1)(a) after being asked to leave by the chief administrator of that school.
- (2) (a) A violation of Subsection (1) is subject to the penalties under Subsection (2)(b) unless the violation constitutes another offense subject to a greater penalty.
- (b) (i) The first and second violation of Subsection (1) are class B misdemeanors.
  - (ii) A third and any subsequent violations of Subsection (1) are class A misdemeanors.

**§ 76-9-106. Disrupting the operation of a school.**

- (1) A person is guilty of disrupting the operation of a school if the person, after being asked to leave by a school official, remains on school property for the purpose of encouraging or creating an unreasonable and substantial disruption or risk of disruption of a class, activity, program, or other function of a public or private school.
- (2) For purposes of this section, "school property" includes property being used by a public or private school for a school function.
- (3) Disrupting the operation of a school is a class B misdemeanor.

**§ 76-9-107. Unauthorized entry of school bus -- Posting of warning on school buses.**

- (1) As used in this section:
- (a) "Driver" means the driver of the school bus.
  - (b) "School bus" means every publicly or privately owned motor vehicle designed for transporting 10 or more passengers and operated for the transportation of children to or from school or school activities.
- (2) A person is guilty of a class B misdemeanor if the person:
- (a) enters a school bus with the intent to commit a criminal offense;
  - (b) enters a school bus and disrupts or interferes with the driver; or
  - (c) enters a school bus and refuses to leave the bus after being ordered to leave by the driver and the person:
    - (i) is not a peace officer acting within the scope of his or her authority as a peace officer;

(ii) is not authorized by the school district to board the bus as a student or as an individual employed by the school district or volunteering as a participant in a school activity;

(iii) causes or attempts to cause a disruption or an annoyance to any passenger on the bus; or

(iv) is reckless as to whether the person's presence or behavior will cause fear on the part of any passenger on the bus.

(3) Each school district shall ensure that clearly legible signs be placed on each school bus, next to each entrance to the bus, warning that unauthorized entry of a school bus is a violation of state law.

**§ 76-10-505.5. Possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises -- Penalties.**

(1) As used in this section, "on or about school premises" means:

(a) (i) in a public or private elementary or secondary school; or

(ii) on the grounds of any of those schools;

(b) (i) in a public or private institution of higher education; or

(ii) on the grounds of a public or private institution of higher education; and

(iii) (A) inside the building where a preschool or child care is being held, if the entire building is being used for the operation of the preschool or child care; or

(B) if only a portion of a building is being used to operate a preschool or child care, in that room or rooms where the preschool or child care operation is being held.

(2) A person may not possess any dangerous weapon, firearm, or short barreled shotgun, as those terms are defined in Section 76-10-501, at a place that the person knows, or has reasonable cause to believe, is on or about school premises as defined in this section.

(3) (a) Possession of a dangerous weapon on or about school premises is a class B misdemeanor.

(b) Possession of a firearm or short barreled shotgun on or about school premises is a class A misdemeanor.

(4) This section does not apply if:

(a) the person is authorized to possess a firearm as provided under Section 53-5-704, 53-5-705, 76-10-511, or 76-10-523, or as otherwise authorized by law;

(b) the possession is approved by the responsible school administrator;

(c) the item is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the person responsible for its possession or use; or

(d) the possession is:

(i) at the person's place of residence or on the person's property; or

(ii) in any vehicle lawfully under the person's control, other than a vehicle owned by the school or used by the school to transport students.

(5) This section does not prohibit prosecution of a more serious weapons offense that may occur on or about school premises.

**§ 76-10-1235. Accessing pornographic or indecent material on school property.**

(1) As used in this section:

(a) "Pornographic or indecent material" means any material:

(i) defined as harmful to minors in Section 76-10-1201;

(ii) described as pornographic in Section 76-10-1203; or

(iii) described in Section 76-10-1227.

(b) "School property" means property, including land and improvements, that a school district or charter school owns, leases, or occupies.

(2) Except as provided in Subsection (3), a person is guilty of accessing pornographic or indecent material on school property when the person willfully or knowingly creates, views, or otherwise gains access to pornographic or indecent material while present on school property, under circumstances not amounting to an attempted or actual violation of:

(a) distributing pornographic material as specified in Section 76-10-1204;

(b) inducing acceptance of pornographic material as specified in Section 76-10-1205;

(c) dealing in material harmful to a minor as specified in Section 76-10-1206; or

(d) indecent public displays as specified in Section 76-10-1228.

(3) This section does not apply to school or law enforcement personnel when the access to pornographic or indecent material on school property is limited to:

(a) investigation of a violation of this section; or

(b) enforcement of this section.

(4) Each separate offense under this section is:

(a) a class A misdemeanor if the person is 18 years of age or older; and

(b) a class B misdemeanor if the person is under 18 years of age.

(5) This section does not prohibit disciplinary action for actions that violate this section.

## **REGULATIONS**

### **R277-609-4. LEA responsibility to develop plans.**

(3) A plan described in Subsection (1) shall include:

(p) a requirement to provide for documentation of disruptive student behavior prior to referral of disruptive students to juvenile court;

(u) provisions that account for an individual LEA's or school's unique needs or circumstances, including:

(i) the role of law enforcement; and

### **R277-609-8. Parent/Guardian notification and court referral.**

(1) Through school administrative and juvenile court referral consequences, LEA policies shall provide procedures for qualifying minors and their parents to participate in decisions regarding consequences for disruptive student behavior.

### **R277-714-2. Authority and purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision over public schools in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and Section 53G-8-404 which directs the Board to adopt rules governing the dissemination of information about juvenile offenders in the public schools.

B. The purpose of this rule is to provide procedures for LEAs to follow in notifying school personnel of offenders in their schools and for protecting the confidentiality of the information.

### **R277-714-3. Dissemination of information.**

A. The dissemination of any information about students among agencies and LEAs shall be consistent with FERPA and GRAMA, including applicable time periods and protection of confidential information.

B. Each LEA shall establish by written policy which staff members have authority to receive confidential information about students, depending upon the offense and the circumstances. This policy shall be approved by the LEA and available to parents and students upon request.

C. A dispute regarding the dissemination of information shall be decided in favor of a student's rights to privacy, except in the event of apparent imminent danger to persons or property.

## **Disclosure of school records**

### **LAWS**

#### **§ 53E-9-202. Application of state and federal law to the administration and operation of public schools -- Local school board and charter school governing board policies.**

(1) As used in this section "education entity" means:

- (a) the State Board of Education;
- (b) a local school board or charter school governing board;
- (c) a school district;
- (d) a public school; or
- (e) the Utah Schools for the Deaf and the Blind.

(2) An education entity and an employee, student aide, volunteer, third party contractor, or other agent of an education entity shall protect the privacy of a student, the student's parents, and the student's family and support parental involvement in the education of their children through compliance with the protections provided for family and student privacy under this part and the Family Educational Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h, in the administration and operation of all public-school programs, regardless of the source of funding.

(3) A local school board or charter school governing board shall enact policies governing the protection of family and student privacy as required by this part.

#### **§ 53E-9-203. Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.**

(1) Except as provided in Subsection (7), Section 53G-9-604, and Section 53G-9-702, policies adopted by a school district or charter school under Section 53E-9-202 shall include prohibitions on the administration to a student of any psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the student's parent or legal guardian, in which the purpose or evident intended effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:

- (a) political affiliations or, except as provided under Section 53G-10-202 or rules of the State Board of Education, political philosophies;
- (b) mental or psychological problems;
- (c) sexual behavior, orientation, or attitudes;
- (d) illegal, anti-social, self-incriminating, or demeaning behavior;
- (e) critical appraisals of individuals with whom the student or family member has close family relationships;
- (f) religious affiliations or beliefs;
- (g) legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and

- (h) income, except as required by law.
- (2) Prior written consent under Subsection (1) is required in all grades, kindergarten through grade 12.
- (3) Except as provided in Subsection (7), Section 53G-9-604, and Section 53G-9-702, the prohibitions under Subsection (1) shall also apply within the curriculum and other school activities unless prior written consent of the student's parent or legal guardian has been obtained.
- (4)
  - (a) Written parental consent is valid only if a parent or legal guardian has been first given written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available at the school, and a reasonable opportunity to obtain written information concerning:
    - (i) records or information, including information about relationships, that may be examined or requested;
    - (ii) the means by which the records or information shall be examined or reviewed;
    - (iii) the means by which the information is to be obtained;
    - (iv) the purposes for which the records or information are needed;
    - (v) the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and
    - (vi) a method by which a parent of a student can grant permission to access or examine the personally identifiable information.
  - (b) For a survey described in Subsection (1), written notice described in Subsection (4)(a) shall include an Internet address where a parent or legal guardian can view the exact survey to be administered to the parent or legal guardian's student.
- (5)
  - (a) Except in response to a situation which a school employee reasonably believes to be an emergency, or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, or by order of a court, disclosure to a parent or legal guardian must be given at least two weeks before information protected under this section is sought.
  - (b) Following disclosure, a parent or guardian may waive the two week minimum notification period.
  - (c) Unless otherwise agreed to by a student's parent or legal guardian and the person requesting written consent, the authorization is valid only for the activity for which it was granted.
  - (d) A written withdrawal of authorization submitted to the school principal by the authorizing parent or guardian terminates the authorization.
  - (e) A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.
- (6)
  - (a) This section does not limit the ability of a student under Section 53G-10-203 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.
  - (b)
    - (i) If a school employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that employee or agent shall notify the student's parent or guardian without delay.
    - (ii) If, however, the matter has been reported to the Division of Child and Family Services within the Department of Human Services, it is the responsibility of the division to notify the student's parent or guardian of any possible investigation, prior to the student's return home from school.

(iii) The division may be exempted from the notification requirements described in this Subsection (6)(b)(ii) only if it determines that the student would be endangered by notification of his parent or guardian, or if that notification is otherwise prohibited by state or federal law.

(7)

(a) If a school employee, agent, or school resource officer believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or school resource officer may intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of:

- (i) referring the student to appropriate prevention services; and
- (ii) informing the student's parent or legal guardian.

(b) On or before September 1, 2014, a school district or charter school shall develop and adopt a policy regarding intervention measures consistent with Subsection (7)(a) while requiring the minimum degree of intervention to accomplish the goals of this section.

(8) Local school boards and charter school governing boards shall provide inservice for teachers and administrators on the implementation of this section.

(9) The board shall provide procedures for disciplinary action for violations of this section.

**§ 53E-9-204. Access to education records -- Training requirement -- Certification.**

(1) As used in this section, "education record" means the same as that term is defined in the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

(2) A local school board or charter school governing board shall require each public school to:

- (a) create and maintain a list that includes the name and position of each school employee who the public school authorizes, in accordance with Subsection (4), to have access to an education record; and
- (b) provide the list described in Subsection (2)(a) to the school's local school board or charter school governing board.

(3) A local school board or charter school governing board shall:

- (a) provide training on student privacy laws; and
- (b) require a school employee on the list described in Subsection (2) to:
  - (i) complete the training described in Subsection (3)(a); and
  - (ii) provide to the local school board or charter school governing board a certified statement, signed by the school employee, that certifies that the school employee completed the training described in Subsection (3)(a) and that the school employee understands student privacy requirements.

(4)

(a) Except as provided in Subsection (4)(b), a local school board, charter school governing board, public school, or school employee may only share an education record with a school employee if:

- (i) that school employee's name is on the list described in Subsection (2); and
- (ii) federal and state privacy laws authorize the education record to be shared with that school employee.

(b) A local school board, charter school governing board, public school, or school employee may share an education record with a school employee if the board, school, or employee obtains written consent from:

- (i) the parent or legal guardian of the student to whom the education record relates, if the student is younger than 18 years old; or
- (ii) the student to whom the education record relates, if the student is 18 years old or older.

**§ 53G-8-404. Board to set procedures.**

The State Board of Education shall make rules governing the dissemination of the information.

**§ 53G-8-405. Liability for release of information.**

(1) The district superintendent, principal, and any staff member notified by the principal may not be held liable for information which may become public knowledge unless it can be shown by clear and convincing evidence that the information became public knowledge through an intentional act of the superintendent, principal, or a staff member.

(2) A person receiving information under Subsection 78A-6-112(3)(b), 78A-6-117(1)(b), or Section 53G-8-403 is immune from any liability, civil or criminal, for acting or failing to act in response to the information unless the person acts or fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

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

(1) For purposes of this section, "parent" includes a student's guardian.

(2) 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.

(3)

(a) If a school notifies a parent of an incident or threat required to be reported under Subsection (2), the school shall produce and maintain a record that verifies that the parent was notified of the incident or threat.

(b) A school shall maintain a record described in Subsection (3)(a) 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.

(4) 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 (2); and

(b) producing and retaining a record that verifies that a parent was notified of an incident or threat as required in Subsection (3).

(5) At the request of a parent, a school may provide information and make recommendations related to an incident or threat described in Subsection (2).

(6) 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.



## REGULATIONS

### **R277-709-10. Confidentiality.**

- (1) An LEA shall issue transcripts and diplomas prepared for youth in custody in the name of an existing LEA which also serves non-custodial youth and shall not bear references to custodial status.
- (2) School records which refer to custodial status, juvenile court records, and related matters shall be kept separate from permanent school records, but are nonetheless student records if retained by the LEA.
- (3)(a) Members of the interagency team which design and oversee student education plans shall have access, through team member representatives of the participating agencies, to relevant records of the various agencies.
  - (b) The records and information obtained from the records remain the property of the supplying agency and shall not be transferred or shared with other persons or agencies without the permission of the supplying agency, the student's legal guardian, or the eligible student as defined under 20 U.S.C. 1232g(d).
- (4) Youth in custody programs shall comply with all state and federal privacy requirements for student records.

### **R277-714-3. Dissemination of information.**

- A. The dissemination of any information about students among agencies and LEAs shall be consistent with FERPA and GRAMA, including applicable time periods and protection of confidential information.
- B. Each LEA shall establish by written policy which staff members have authority to receive confidential information about students, depending upon the offense and the circumstances. This policy shall be approved by the LEA and available to parents and students upon request.
- C. A dispute regarding the dissemination of information shall be decided in favor of a student's rights to privacy, except in the event of apparent imminent danger to persons or property.

## **Data collection, review, and reporting of disciplinary policies and actions**

## LAWS

### **§ 53E-3-301. Appointment -- Qualifications -- Duties.**

- (3) The state superintendent shall perform duties assigned by the State Board of Education, including:
  - (d) presenting to the governor and the Legislature each December a report of the public school system for the preceding year that includes: (vii) statistical information regarding incidents of delinquent activity in the schools or at school-related activities with separate categories for:
    - (A) alcohol and drug abuse;
    - (B) weapon possession;
    - (C) assaults; and
    - (D) arson;

### **§ 53E-9-301. Definitions.**

As used in this part:

- (1) "Adult student" means a student who:
  - (a) is at least 18 years old;

- (b) is an emancipated student; or
  - (c) qualifies under the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, 42 U.S.C. Sec. 11431 et seq.
- (2) "Aggregate data" means data that:
- (a) are totaled and reported at the group, cohort, school, school district, region, or state level with at least 10 individuals in the level;
  - (b) do not reveal personally identifiable student data; and
  - (c) are collected in accordance with board rule.
- (3)
- (a) "Biometric identifier" means a:
    - (i) retina or iris scan;
    - (ii) fingerprint;
    - (iii) human biological sample used for valid scientific testing or screening; or
    - (iv) scan of hand or face geometry.
  - (b) "Biometric identifier" does not include:
    - (i) a writing sample;
    - (ii) a written signature;
    - (iii) a voiceprint;
    - (iv) a photograph;
    - (v) demographic data; or
    - (vi) a physical description, such as height, weight, hair color, or eye color.
- (4) "Biometric information" means information, regardless of how the information is collected, converted, stored, or shared:
- (a) based on an individual's biometric identifier; and
  - (b) used to identify the individual.
- (5) "Board" means the State Board of Education.
- (6) "Cumulative disciplinary record" means disciplinary student data that is part of a cumulative record.
- (7) "Cumulative record" means physical or electronic information that the education entity intends:
- (a) to store in a centralized location for 12 months or more; and
  - (b) for the information to follow the student through the public education system.
- (8) "Data authorization" means written authorization to collect or share a student's student data, from:
- (a) the student's parent, if the student is not an adult student; or
  - (b) the student, if the student is an adult student.
- (9) "Data governance plan" means an education entity's comprehensive plan for managing education data that:
- (a) incorporates reasonable data industry best practices to maintain and protect student data and other education-related data;
  - (b) provides for necessary technical assistance, training, support, and auditing;
  - (c) describes the process for sharing student data between an education entity and another person;
  - (d) describes the process for an adult student or parent to request that data be expunged; and
  - (e) is published annually and available on the education entity's website.

- (10) "Education entity" means:
- (a) the board;
  - (b) a local school board;
  - (c) a charter school governing board;
  - (d) a school district;
  - (e) a charter school;
  - (f) the Utah Schools for the Deaf and the Blind; or
  - (g) for purposes of implementing the School Readiness Initiative described in Title 53F, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section 53F-6-302.
- (11) "Expunge" means to seal or permanently delete data, as described in board rule made under Section 53E-9-306.
- (12) "External application" means a general audience:
- (a) application;
  - (b) piece of software;
  - (c) website; or
  - (d) service.
- (13) "Individualized education program" or "IEP" means a written statement:
- (a) for a student with a disability; and
  - (b) that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- (14) "Internal application" means an Internet website, online service, online application, mobile application, or software, if the Internet website, online service, online application, mobile application, or software is subject to a third-party contractor's contract with an education entity.
- (15) "Local education agency" or "LEA" means:
- (a) a school district;
  - (b) a charter school;
  - (c) the Utah Schools for the Deaf and the Blind; or
  - (d) for purposes of implementing the School Readiness Initiative described in Title 53F, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section 53F-6-302.
- (16) "Metadata dictionary" means a complete list of an education entity's student data elements and other education-related data elements, that:
- (a) defines and discloses all data collected, used, stored, and shared by the education entity, including:
    - (i) who uses a data element within an education entity and how a data element is used within an education entity;
    - (ii) if a data element is shared externally, who uses the data element externally and how a data element is shared externally;
    - (iii) restrictions on the use of a data element; and
    - (iv) parent and student rights to a data element;
  - (b) designates student data elements as:
    - (i) necessary student data; or
    - (ii) optional student data;

- (c) designates student data elements as required by state or federal law; and
- (d) without disclosing student data or security information, is displayed on the education entity's website.

(17) "Necessary student data" means data required by state statute or federal law to conduct the regular activities of an education entity, including:

- (a) name;
- (b) date of birth;
- (c) sex;
- (d) parent contact information;
- (e) custodial parent information;
- (f) contact information;
- (g) a student identification number;
- (h) local, state, and national assessment results or an exception from taking a local, state, or national assessment;
- (i) courses taken and completed, credits earned, and other transcript information;
- (j) course grades and grade point average;
- (k) grade level and expected graduation date or graduation cohort;
- (l) degree, diploma, credential attainment, and other school exit information;
- (m) attendance and mobility;
- (n) drop-out data;
- (o) immunization record or an exception from an immunization record;
- (p) race;
- (q) ethnicity;
- (r) tribal affiliation;
- (s) remediation efforts;
- (t) an exception from a vision screening required under Section 53G-9-404 or information collected from a vision screening required under Section 53G-9-404;
- (u) information related to the Utah Registry of Autism and Developmental Disabilities, described in Section 26-7-4;
- (v) student injury information;
- (w) a cumulative disciplinary record created and maintained as described in Section 53E-9-306;
- (x) juvenile delinquency records;
- (y) English language learner status; and
- (z) child find and special education evaluation data related to initiation of an IEP.

(18)

- (a) "Optional student data" means student data that is not:
  - (i) necessary student data; or
  - (ii) student data that an education entity may not collect under Section 53E-9-305.
- (b) "Optional student data" includes:
  - (i) information that is:
    - (A) related to an IEP or needed to provide special needs services; and

- (B) not necessary student data;
- (ii) biometric information; and
- (iii) information that is not necessary student data and that is required for a student to participate in a federal or other program.

(19) "Parent" means a student's parent or legal guardian.

(20)

(a) "Personally identifiable student data" means student data that identifies or is used by the holder to identify a student.

(b) "Personally identifiable student data" includes:

- (i) a student's first and last name;
- (ii) the first and last name of a student's family member;
- (iii) a student's or a student's family's home or physical address;
- (iv) a student's email address or other online contact information;
- (v) a student's telephone number;
- (vi) a student's social security number;
- (vii) a student's biometric identifier;
- (viii) a student's health or disability data;
- (ix) a student's education entity student identification number;
- (x) a student's social media user name and password or alias;
- (xi) if associated with personally identifiable student data, the student's persistent identifier, including:
  - (A) a customer number held in a cookie; or
  - (B) a processor serial number;
- (xii) a combination of a student's last name or photograph with other information that together permits a person to contact the student online;
- (xiii) information about a student or a student's family that a person collects online and combines with other personally identifiable student data to identify the student; and
- (xiv) other information that is linked to a specific student that would allow a reasonable person in the school community, who does not have first-hand knowledge of the student, to identify the student with reasonable certainty.

(21) "School official" means an employee or agent of an education entity, if the education entity has authorized the employee or agent to request or receive student data on behalf of the education entity.

(22)

(a) "Student data" means information about a student at the individual student level.

(b) "Student data" does not include aggregate or de-identified data.

(23) "Student data disclosure statement" means a student data disclosure statement described in Section 53E-9-305.

(24) "Student data manager" means:

(a) the state student data officer; or

(b) an individual designated as a student data manager by an education entity under Section 53E-9-303.

(25)

(a) "Targeted advertising" means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student's online behavior, usage of applications, or student data.

(b) "Targeted advertising" does not include advertising to a student:

(i) at an online location based upon that student's current visit to that location; or

(ii) in response to that student's request for information or feedback, without retention of that student's online activities or requests over time for the purpose of targeting subsequent ads.

(26) "Third-party contractor" means a person who:

(a) is not an education entity; and

(b) pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.

**§ 53E-9-302. State student data protection governance.**

(1)

(a) An education entity or a third-party contractor who collects, uses, stores, shares, or deletes student data shall protect student data as described in this part.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to administer this part, including student data protection standards for public education employees, student aides, and volunteers.

(2) The board shall oversee the preparation and maintenance of:

(a) a statewide data governance plan; and

(b) a state-level metadata dictionary.

(3) As described in this Subsection (3), the board shall establish advisory groups to oversee student data protection in the state and make recommendations to the board regarding student data protection.

(a) The board shall establish a student data policy advisory group:

(i) composed of members from:

(A) the Legislature;

(B) the board and board employees; and

(C) one or more LEAs;

(ii) to discuss and make recommendations to the board regarding:

(A) enacted or proposed legislation; and

(B) state and local student data protection policies across the state;

(iii) that reviews and monitors the state student data governance plan; and

(iv) that performs other tasks related to student data protection as designated by the board.

(b) The board shall establish a student data governance advisory group:

(i) composed of the state student data officer and other board employees; and

(ii) that performs duties related to state and local student data protection, including:

(A) overseeing data collection and usage by board program offices; and

(B) preparing and maintaining the board's student data governance plan under the direction of the student data policy advisory group.

(c) The board shall establish a student data users advisory group:

- (i) composed of members who use student data at the local level; and
- (ii) that provides feedback and suggestions on the practicality of actions proposed by the student data policy advisory group and the student data governance advisory group.

(4)

- (a) The board shall designate a state student data officer.
- (b) The state student data officer shall:
  - (i) act as the primary point of contact for state student data protection administration in assisting the board to administer this part;
  - (ii) ensure compliance with student privacy laws throughout the public education system, including:
    - (A) providing training and support to applicable board and LEA employees; and
    - (B) producing resource materials, model plans, and model forms for local student data protection governance, including a model student data disclosure statement;
  - (iii) investigate complaints of alleged violations of this part;
  - (iv) report violations of this part to:
    - (A) the board;
    - (B) an applicable education entity; and
    - (C) the student data policy advisory group; and
  - (v) act as a state level student data manager.

(5) The board shall designate:

- (a) at least one support manager to assist the state student data officer; and
- (b) a student data protection auditor to assist the state student data officer.

(6) The board shall establish an external research review process for a request for data for the purpose of external research or evaluation.

**§ 53E-9-303. Local student data protection governance.**

(1) An LEA shall adopt policies to protect student data in accordance with this part and board rule, taking into account the specific needs and priorities of the LEA.

(2)

- (a) An LEA shall designate an individual to act as a student data manager to fulfill the responsibilities of a student data manager described in Section 53E-9-308.
- (b) If possible, an LEA shall designate the LEA's records officer as defined in Section 63G-2-103, as the student data manager.

(3) An LEA shall create and maintain an LEA:

- (a) data governance plan; and
- (b) metadata dictionary.

(4) An LEA shall establish an external research review process for a request for data for the purpose of external research or evaluation.

**§ 53E-9-304. Student data ownership -- Notification in case of breach.**

(1)

- (a) A student owns the student's personally identifiable student data.
- (b) A student may download, export, transfer, save, or maintain the student's student data, including a document.

(2) If there is a release of a student's personally identifiable student data due to a security breach, an education entity shall notify:

- (a) the student, if the student is an adult student; or
- (b) the student's parent or legal guardian, if the student is not an adult student.

**§ 53E-9-305. Collecting student data -- Prohibition -- Student data disclosure statement -- Authorization.**

(1) An education entity shall comply with this section beginning with the 2017-18 school year.

(2) An education entity may not collect a student's:

- (a) social security number; or
- (b) except as required in Section 78A-6-112, criminal record.

(3) An education entity that collects student data into a cumulative record shall, in accordance with this section, prepare and distribute to parents and students a student data disclosure statement that:

- (a) is a prominent, stand-alone document;
- (b) is annually updated and published on the education entity's website;
- (c) states the necessary and optional student data the education entity collects;
- (d) states that the education entity will not collect the student data described in Subsection (2);
- (e) states the student data described in Section 53E-9-308 that the education entity may not share without a data authorization;
- (f) describes how the education entity may collect, use, and share student data;
- (g) includes the following statement: "The collection, use, and sharing of student data has both benefits and risks. Parents and students should learn about these benefits and risks and make choices regarding student data accordingly.";
- (h) describes in general terms how the education entity stores and protects student data; and
- (i) states a student's rights under this part.

(4) An education entity may collect the necessary student data of a student into a cumulative record if the education entity provides a student data disclosure statement to:

- (a) the student, if the student is an adult student; or
- (b) the student's parent, if the student is not an adult student.

(5) An education entity may collect optional student data into a cumulative record if the education entity:

- (a) provides, to an individual described in Subsection (4), a student data disclosure statement that includes a description of:
  - (i) the optional student data to be collected; and
  - (ii) how the education entity will use the optional student data; and
- (b) obtains a data authorization to collect the optional student data from an individual described in Subsection (4).

(6) An education entity may collect a student's biometric identifier or biometric information into a cumulative record if the education entity:

- (a) provides, to an individual described in Subsection (4), a biometric information disclosure statement that is separate from a student data disclosure statement, which states:
  - (i) the biometric identifier or biometric information to be collected;
  - (ii) the purpose of collecting the biometric identifier or biometric information; and



- (iii) how the education entity will use and store the biometric identifier or biometric information; and
- (b) obtains a data authorization to collect the biometric identifier or biometric information from an individual described in Subsection (4).

**§ 53E-9-306. Using and deleting student data -- Rulemaking -- Cumulative disciplinary record.**

(1) In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules regarding using and expunging student data, including:

- (a) a categorization of cumulative disciplinary records that includes the following levels of maintenance:
  - (i) one year;
  - (ii) three years; and
  - (iii) except as required in Subsection (3), as determined by the education entity;
- (b) the types of student data that may be expunged, including:
  - (i) medical records; and
  - (ii) behavioral test assessments; and
- (c) the types of student data that may not be expunged, including:
  - (i) grades;
  - (ii) transcripts;
  - (iii) a record of the student's enrollment; and
  - (iv) assessment information.

(2) In accordance with board rule, an education entity may create and maintain a cumulative disciplinary record for a student.

(3)

- (a) An education entity shall, in accordance with board rule, expunge a student's student data that is stored by the education entity if:
  - (i) the student is at least 23 years old; and
  - (ii) the student requests that the education entity expunge the student data.
- (b) An education entity shall retain and dispose of records in accordance with Section 63G-2-604 and board rule.

**§ 53E-9-307. Securing and cataloguing student data.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that:

- (1) using reasonable data industry best practices, prescribe the maintenance and protection of stored student data by:
  - (a) an education entity; and
  - (b) a third-party contractor; and
- (2) state requirements for an education entity's metadata dictionary.

**§ 53E-9-308. Sharing student data -- Prohibition -- Requirements for student data manager.**

- (1) An education entity shall comply with this section beginning with the 2017-18 school year.
- (2) An education entity may not share a student's personally identifiable student data if the personally identifiable student data is not shared in accordance with:

- (a) the Family Education Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h; and
  - (b) this part.
- (3) A student data manager shall:
- (a) authorize and manage the sharing, outside of the education entity, of personally identifiable student data from a cumulative record for the education entity as described in this section; and
  - (b) act as the primary local point of contact for the state student data officer described in Section 53E-9-302.
- (4)
- (a) Except as provided in this section or required by federal law, a student data manager may not share, outside of the education entity, personally identifiable student data from a cumulative record without a data authorization.
  - (b) A student data manager may share the personally identifiable student data of a student with the student and the student's parent.
- (5) A student data manager may share a student's personally identifiable student data from a cumulative record with:
- (a) a school official;
  - (b) as described in Subsection (6), an authorized caseworker or other representative of the Department of Human Services; or
  - (c) a person to whom the student data manager's education entity has outsourced a service or function:
    - (i) to research the effectiveness of a program's implementation; or
    - (ii) that the education entity's employees would typically perform.
- (6) A student data manager may share a student's personally identifiable student data from a cumulative record with a caseworker or representative of the Department of Human Services if:
- (a) the Department of Human Services is:
    - (i) legally responsible for the care and protection of the student; or
    - (ii) providing services to the student;
  - (b) the student's personally identifiable student data is not shared with a person who is not authorized:
    - (i) to address the student's education needs; or
    - (ii) by the Department of Human Services to receive the student's personally identifiable student data;and
  - (c) the Department of Human Services maintains and protects the student's personally identifiable student data.
- (7) The Department of Human Services, a school official, or the Utah Juvenile Court may share education information, including a student's personally identifiable student data, to improve education outcomes for youth:
- (a) in the custody of, or under the guardianship of, the Department of Human Services;
  - (b) receiving services from the Division of Juvenile Justice Services;
  - (c) in the custody of the Division of Child and Family Services;
  - (d) receiving services from the Division of Services for People with Disabilities; or
  - (e) under the jurisdiction of the Utah Juvenile Court.
- (8) Subject to Subsection (9), a student data manager may share aggregate data.

(9)

(a) If a student data manager receives a request to share data for the purpose of external research or evaluation, the student data manager shall:

- (i) submit the request to the education entity's external research review process; and
- (ii) fulfill the instructions that result from the review process.

(b) A student data manager may not share personally identifiable student data for the purpose of external research or evaluation.

(10)

(a) A student data manager may share personally identifiable student data in response to a subpoena issued by a court.

(b) A person who receives personally identifiable student data under Subsection (10)(a) may not use the personally identifiable student data outside of the use described in the subpoena.

(11)

(a) In accordance with board rule, a student data manager may share personally identifiable information that is directory information.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to:

- (i) define directory information; and
- (ii) determine how a student data manager may share personally identifiable information that is directory information.

**§ 53E-9-309. Third-party contractors -- Use and protection of student data -- Contract requirements -- Completion of contract -- Required and allowed uses of student data -- Restrictions on the use of student data -- Exceptions.**

(1) A third-party contractor shall use personally identifiable student data received under a contract with an education entity strictly for the purpose of providing the contracted product or service within the negotiated contract terms.

(2) When contracting with a third-party contractor, an education entity shall require the following provisions in the contract:

- (a) requirements and restrictions related to the collection, use, storage, or sharing of student data by the third-party contractor that are necessary for the education entity to ensure compliance with the provisions of this part and board rule;
- (b) a description of a person, or type of person, including an affiliate of the third-party contractor, with whom the third-party contractor may share student data;
- (c) provisions that, at the request of the education entity, govern the deletion of the student data received by the third-party contractor;
- (d) except as provided in Subsection (4) and if required by the education entity, provisions that prohibit the secondary use of personally identifiable student data by the third-party contractor; and
- (e) an agreement by the third-party contractor that, at the request of the education entity that is a party to the contract, the education entity or the education entity's designee may audit the third-party contractor to verify compliance with the contract.

(3) As authorized by law or court order, a third-party contractor shall share student data as requested by law enforcement.

(4) A third-party contractor may:

- (a) use student data for adaptive learning or customized student learning purposes;
  - (b) market an educational application or product to a parent or legal guardian of a student if the third-party contractor did not use student data, shared by or collected on behalf of an education entity, to market the educational application or product;
  - (c) use a recommendation engine to recommend to a student:
    - (i) content that relates to learning or employment, within the third-party contractor's internal application, if the recommendation is not motivated by payment or other consideration from another party; or
    - (ii) services that relate to learning or employment, within the third-party contractor's internal application, if the recommendation is not motivated by payment or other consideration from another party;
  - (d) respond to a student request for information or feedback, if the content of the response is not motivated by payment or other consideration from another party;
  - (e) use student data to allow or improve operability and functionality of the third-party contractor's internal application; or
  - (f) identify for a student nonprofit institutions of higher education or scholarship providers that are seeking students who meet specific criteria:
    - (i) regardless of whether the identified nonprofit institutions of higher education or scholarship providers provide payment or other consideration to the third-party contractor; and
    - (ii) except as provided in Subsection (5), only if the third-party contractor obtains written consent:
      - (A) of a student's parent or legal guardian through the student's school or LEA; or
      - (B) for a student who is age 18 or older or an emancipated minor, from the student.
- (5) A third-party contractor is not required to obtain written consent under Subsection (4)(f)(ii) if the third-party contractor:
- (a) is a national assessment provider; and
  - (b)
    - (i) secures the express written consent of the student or the student's parent; and
    - (ii) the express written consent is given in response to clear and conspicuous notice that the national assessment provider requests consent solely to provide access to information on employment, educational scholarships, financial aid, or postsecondary educational opportunities.
- (6) At the completion of a contract with an education entity, if the contract has not been renewed, a third-party contractor shall return or delete upon the education entity's request all personally identifiable student data under the control of the education entity unless a student or the student's parent consents to the maintenance of the personally identifiable student data.
- (7)
- (a) A third-party contractor may not:
    - (i) except as provided in Subsections (5) and (7)(b), sell student data;
    - (ii) collect, use, or share student data, if the collection, use, or sharing of the student data is inconsistent with the third-party contractor's contract with the education entity; or
    - (iii) use student data for targeted advertising.
  - (b) A person may obtain student data through the purchase of, merger with, or otherwise acquiring a third-party contractor if the third-party contractor remains in compliance with this section.

(8) A provider of an electronic store, gateway, marketplace, or other means of purchasing an external application is not required to ensure that the external application obtained through the provider complies with this section.

(9) The provisions of this section do not:

- (a) apply to the use of an external application, including the access of an external application with login credentials created by a third-party contractor's internal application;
- (b) apply to the providing of Internet service; or
- (c) impose a duty on a provider of an interactive computer service, as defined in 47 U.S.C. Sec. 230, to review or enforce compliance with this section.

**§ 53E-9-310. Penalties.**

(1)

(a) A third-party contractor that knowingly or recklessly permits unauthorized collecting, sharing, or use of student data under this part:

(i) except as provided in Subsection (1)(b), may not enter into a future contract with an education entity;

(ii) may be required by the board to pay a civil penalty of up to \$25,000; and

(iii) may be required to pay:

(A) the education entity's cost of notifying parents and students of the unauthorized sharing or use of student data; and

(B) expenses incurred by the education entity as a result of the unauthorized sharing or use of student data.

(b) An education entity may enter into a contract with a third-party contractor that knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:

(i) the board or education entity determines that the third-party contractor has corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and

(ii) the third-party contractor demonstrates:

(A) if the third-party contractor is under contract with an education entity, current compliance with this part; or

(B) an ability to comply with the requirements of this part.

(c) The board may assess the civil penalty described in Subsection (1)(a)(ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) The board may bring an action in the district court of the county in which the office of the board is located, if necessary, to enforce payment of the civil penalty described in Subsection (1)(a)(ii).

(e) An individual who knowingly or intentionally permits unauthorized collecting, sharing, or use of student data may be found guilty of a class A misdemeanor.

(2)

(a) A parent or student may bring an action in a court of competent jurisdiction for damages caused by a knowing or reckless violation of Section 53E-9-309 by a third-party contractor.

(b) If the court finds that a third-party contractor has violated Section 53E-9-309, the court may award to the parent or student:

(i) damages; and

(ii) costs.

**§ 53G-8-202. Public school discipline policies -- Basis of the policies -- Enforcement.**

(1) The Legislature recognizes that every student in the public schools should have the opportunity to learn in an environment which is safe, conducive to the learning process, and free from unnecessary disruption.

(2)

(a) To foster such an environment, each local school board or governing board of a charter school, with input from school employees, parents and guardians of students, students, and the community at large, shall adopt conduct and discipline policies for the public schools in accordance with Section 53G-8-211.

(b) A district or charter school shall base its policies on the principle that every student is expected:

(i) to follow accepted rules of conduct; and

(ii) to show respect for other people and to obey persons in authority at the school.

(c)

(i) On or before September 1, 2015, the State Board of Education shall revise the conduct and discipline policy models for elementary and secondary public schools to include procedures for responding to reports received through the School Safety and Crisis Line under Subsection 53E-10-502(3).

(ii) Each district or charter school shall use the models, where appropriate, in developing its conduct and discipline policies under this chapter.

(d) The policies shall emphasize that certain behavior, most particularly behavior which disrupts, is unacceptable and may result in disciplinary action.

(3) The local superintendent and designated employees of the district or charter school shall enforce the policies so that students demonstrating unacceptable behavior and their parents or guardians understand that such behavior will not be tolerated and will be dealt with in accordance with the district's conduct and discipline policies.

**§ 53G-8-205. Grounds for suspension or expulsion from a public school.**

(5) Each local school board and governing board of a charter school shall prepare an annual report for the State Board of Education on:

(a) each violation committed under this section; and

(b) each action taken by the school district against a student who committed the violation.

**§ 53E-10-505. State Board of Education and local boards of education to update policies and promote awareness.**

(1) The State Board of Education shall:

(a) revise the conduct and discipline policy models, described in Section 53A-11-901, to include procedures for responding to reports received under Subsection 53E-10-502 (3); and

(b) revise the curriculum developed by the State Board of Education for the parent seminar, described in Section 53G-9-703, to include information about the School Safety and Crisis Line.

(2) A local school board or charter school governing board shall:

(a) revise the conduct and discipline policies, described in Section 53G-8-203, to include procedures for responding to reports received under Subsection 53E-10-502 (3); and

(b) inform students, parents, and school personnel about the School Safety and Crisis Line.

## **REGULATIONS**

### **R277-606-4. Reporting requirements and audits.**

(1)

(a) Beginning with the 2016-17 school year, on or before August 1, 2017 and on or before August 1 each year thereafter, an LEA shall submit a report to the Superintendent on the LEA's dropout prevention and recovery services.

(b) The report described in Subsection (1)(a) shall include:

- (i) the information described in Section 53A-15-1903;
- (ii) the total number of designated students in the LEA; and
- (iii) if applicable, the name of a third party the LEA is contracting with to provide dropout prevention and recovery services.

(2) A third party working with an LEA on the LEA's dropout prevention and recovery program shall report any information requested by the LEA including any information required for the LEA to submit a report described in Subsection (1).

(3) The Superintendent shall:

- (a) review LEA reports described in Subsection (1);
- (b) by April 1 each year, inform an LEA that the LEA is required to enter into a contract with a third party as described in Subsection 53A-15-1903(3); and
- (c) ensure that an LEA described in Subsection 53A-15-1903(3) and Subsection R277-606-3(3) contracts with a third party as required in Section 53A-15-1903 and Section R277-606-3.

(4)

(a) An LEA shall maintain documentation to comply with the requirements of Section 53A-15-1903 and this rule.

(b) The Board or the Superintendent may request an audit of an LEA's dropout prevention and recovery program.

### **R277-607-3. General provisions.**

A. Each LEA board shall develop a truancy policy that encourages regular, punctual attendance of students, consistent with this rule and 53G-6-201 through 53G-6-208, and shall review the policy annually.

B. LEA boards shall annually review attendance data and consider revisions to policies to encourage student attendance.

C. LEAs shall make truancy policies available for review by parents or interested parties.

D. LEAs may issue habitual truant citations to students consistent with Section 53G-6-203.

### **R277-609-4. LEA responsibility to develop plans.**

(3) A plan described in Subsection (1) shall include:

- (f) uniform methods for at least annual school level data-based evaluations of efficiency and effectiveness;

### **R277-609-6. Implementation.**

(8) An LEA shall have procedures for the collection, maintenance, and periodic review of documentation or records of the use of emergency safety interventions at schools within the LEA.

(9) The Superintendent shall define the procedures for the collection, maintenance, and review of records described in Subsection (8).

(10) An LEA shall provide documentation of any school, program or LEA's use of emergency safety interventions to the Superintendent annually.

**R277-613-3. Superintendent Responsibilities.**

(1) Subject to availability of funds, the Superintendent shall provide:

- (ii) the reporting and review requirements in Section R277-613-5;

**R277-613-5. Reporting and Incident Review of Allegations of Bullying, Cyber-bullying, Hazing, and Retaliation.**

(1) In accordance with an action plan adopted in accordance with Subsection R277-613-4(1)(c), an LEA shall:

- (a) review allegations of incidents of bullying, cyber-bullying, hazing, and retaliation in accordance with this section; and
- (b) provide an individual who reviews allegations of incidents of bullying, cyber-bullying, hazing, and retaliation with adequate training on conducting a review.

(2)(a) An LEA shall review allegations of incidents described in Subsection (1)(a) by interviewing at least the alleged targeted individual and the individual who is alleged to have engaged in prohibited conduct.

(b) An LEA may also interview the following as part of a review:

- (i) parents of the alleged targeted individual and the individual who is alleged to have engaged in prohibited conduct;
- (ii) any witnesses;
- (iii) school staff; and
- (iv) other individuals who may provide additional information.

(c) An individual who reviews an allegation of an incident shall inform an individual being interviewed that:

- (i) to the extent allowed by law, the individual is required to keep all details of the interview confidential; and
- (ii) further reports of bullying will become part of the review.

(3) The confidentiality requirement in Subsection (2)(c) does not apply to:

- (a) conversations with law enforcement professionals;
- (b) requests for information pursuant to a warrant or subpoena;
- (c) a state or federal reporting requirement; or
- (d) other reporting required by this rule.

(4) In conducting a review under this section, an LEA may:

- (a) review disciplinary reports of involved students; and
- (b) review physical evidence, which may include:
  - (i) video or audio;
  - (ii) notes;
  - (iii) email;
  - (iv) text messages;
  - (v) social media; or



(vi) graffiti.

(5) An LEA shall adopt a policy outlining under what circumstances the LEA will report incidents of bullying, cyber-bullying, harassment, and retaliation to law enforcement.

(6) Following a review of a confirmed allegation of an incident of bullying, cyber-bullying, hazing, or retaliation, if appropriate, an LEA may:

(a) in accordance with the requirements in Subsection (6), take positive restorative justice practice action, in accordance with policies established by the LEA; and

(b) support involved students through trauma-informed practices, if appropriate.

(6)(a) An alleged targeted individual is not required to participate in a restorative justice practice with an individual who is alleged to have engaged in prohibited conduct as described in Subsection (5)(a).

(b) If an LEA would like an alleged targeted individual who is a student to participate in a restorative justice practice, the LEA shall notify the alleged targeted individual's parent of the restorative justice practice and obtain consent from the alleged targeted individual's parent before including the alleged targeted individual in the process.

(7) A grievance process required under Subsection 53G-9-605(3)(f) shall be consistent with the LEA's established grievance process.

(8) An LEA shall, as required by Subsection 53G-9-606(2), report the following annually, on or before June 30, to the Superintendent in accordance with the Superintendent's submission requirements:

(a) a copy of LEA's policy required in Section R277-613-4;

(b) implementation of the signed statement requirement described in Subsection 53G-9-605(3)(h);

(c) verification of the LEA's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation described in Section 53G-9-607;

(d) incidents of bullying, cyber-bullying, hazing, and retaliation; and

(e) the number of incidents described in Subsection (8)(d) that included a student who:

(i) is part of a federally protected class; or

(ii) was bullied, cyber-bullied, hazed, or retaliated against because of the student's disability, race, national origin, religion, sex, gender identity, or sexual orientation.

## ***School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers***

### **Authority and power to implement school arrest**

#### **LAWS**

#### **§ 53G-6-208. Taking custody of a person believed to be a truant minor — Disposition — Receiving centers — Reports — Immunity from liability.**

- (1) A peace officer or public-school administrator may take a minor into temporary custody if there is reason to believe the minor is a truant minor.
- (2) An individual taking a school-age minor into custody under Subsection (1) shall, without unnecessary delay, release the minor to:
  - (a) the principal of the minor's school;
  - (b) a person who has been designated by the local school board or local charter board to receive and return the minor to school; or
  - (c) a truancy center established under Subsection (5).
- (3) If the minor refuses to return to school or go to the truancy center, the officer or administrator shall, without unnecessary delay, notify the minor's parents and release the minor to their custody.
- (4) If the parents cannot be reached or are unable or unwilling to accept custody and none of the options in Subsection (2) are available, the minor shall be referred to the Division of Child and Family Services.
- (5)
  - (a) A local school board or local charter board, singly or jointly with another school board, may establish or designate truancy centers within existing school buildings and staff the centers with existing teachers or staff to provide educational guidance and counseling for truant minors. Upon receipt of a truant minor, the center shall, without unnecessary delay, notify and direct the minor's parents to come to the center, pick up the minor, and return the minor to the school in which the minor is enrolled.
  - (b) If the parents cannot be reached or are unable or unwilling to comply with the request within a reasonable time, the center shall take such steps as are reasonably necessary to insure the safety and well being of the minor, including, when appropriate, returning the minor to school or referring the minor to the Division of Child and Family Services. A minor taken into custody under this section may not be placed in a detention center or other secure confinement facility.
- (6) Action taken under this section shall be reported to the appropriate school district. The district shall promptly notify the minor's parents of the action taken.
- (7) The Utah Governmental Immunity Act applies to all actions taken under this section.
- (8) Nothing in this section may be construed to grant authority to a public school administrator to place a minor in the custody of the Division of Child and Family Services, without complying with Title 62A, Chapter 4a, Part 2, Child Welfare Services, and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

#### **REGULATIONS**

No relevant regulations found.

## Certification or training

### LAWS

#### **§ 53G-8-702. School resource officer training -- Curriculum.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that prepare and make available a training program for school principals and school resource officers to attend.

(2) To create the curriculum and materials for the training program described in Subsection (1), the State Board of Education shall:

(a) work in conjunction with the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201;

(b) solicit input from local school boards, charter school governing boards, and the Utah Schools for the Deaf and the Blind;

(c) solicit input from local law enforcement and other interested community stakeholders; and

(d) consider the current United States Department of Education recommendations on school discipline and the role of a school resource officer.

(3) The training program described in Subsection (1) may include training on the following:

(a) childhood and adolescent development;

(b) responding age-appropriately to students;

(c) working with disabled students;

(d) techniques to de-escalate and resolve conflict;

(e) cultural awareness;

(f) restorative justice practices;

(g) identifying a student exposed to violence or trauma and referring the student to appropriate resources;

(h) student privacy rights;

(i) negative consequences associated with youth involvement in the juvenile and criminal justice systems;

(j) strategies to reduce juvenile justice involvement; and

(k) roles of and distinctions between a school resource officer and other school staff who help keep a school secure.

#### **§ 53G-8-703. Contracts between an LEA and law enforcement for school resource officer services -- Requirements.**

(2) If an LEA contracts with a law enforcement agency or an individual to provide SRO services at the LEA, the LEA's governing authority shall require in the contract:

(f) a detailed description of:

(i) job duties;

(ii) training requirements; and

(iii) other expectations of the SRO and school administration in relation to law enforcement at the LEA;

(g) that an SRO who is hired under the contract and the principal at the school where an SRO will be working, or the principal's designee, will jointly complete the SRO training described in Section 53G-8-702;

## REGULATIONS

No relevant regulations found.

## MOUs, authorization, and/or funding

## LAWS

### **§ 53G-6-202. Compulsory education.**

(3) A school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist may issue a notice of compulsory education violation to a parent of a school-age child if the school-age child is absent without a valid excuse at least five times during the school year [...]

### **§ 53G-6-203. Truancy — Notice of truancy — Failure to cooperate with school authorities — Habitual truant citation.**

(1) Except as provided in Section 53G-6-204 or 53G-6-702, a school-age minor who is enrolled in a public school shall attend the public school in which the school-age minor is enrolled.

(2) A local school board, charter school governing board, or school district may impose administrative penalties on a school-age minor in accordance with Section 53G-8-211 who is truant.

(3) A local school board or charter school governing board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue notices of truancy to school-age minors who are at least 12 years old; and

(b) shall establish a procedure for a school-age minor, or the school-age minor's parents, to contest a notice of truancy.

(4) The notice of truancy described in Subsection (3):

(a) may not be issued until the school-age minor has been truant at least five times during the school year;

(b) may not be issued to a school-age minor who is less than 12 years old;

(c) may not be issued to a minor exempt from school attendance as provided in Section 53G-6-204 or 53G-6-702;

(d) shall direct the school-age minor and the parent of the school-age minor to:

(i) meet with school authorities to discuss the school-age minor's trancies; and

(ii) cooperate with the school board, local charter board, or school district in securing regular attendance by the school-age minor; and

(e) shall be mailed to, or served on, the school-age minor's parent.

### **§ 53G-6-207. Truancy specialists.**

A local school board or local charter board may appoint and fix the compensation of a truancy specialist to assist in enforcing laws related to school attendance and to perform other duties prescribed by law or the board.

**§ 53G-8-701. Definitions.**

As used in this section:

- (1) "Governing authority" means:
  - (a) for a school district, the local school board;
  - (b) for a charter school, the governing board; or
  - (c) for the Utah Schools for the Deaf and the Blind, the State Board of Education.
- (2) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.
- (3) "Local education agency" or "LEA" means:
  - (a) a school district;
  - (b) a charter school; or
  - (c) the Utah Schools for the Deaf and the Blind.
- (4) "School resource officer" or "SRO" means a law enforcement officer, as defined in Section 53-13-103, who contracts with or whose law enforcement agency contracts with an LEA to provide law enforcement services for the LEA.

**§ 53G-8-703. Contracts between an LEA and law enforcement for school resource officer services -- Requirements.**

- (1) An LEA may contract with a law enforcement agency or an individual to provide school resource officer services at the LEA if the LEA's governing authority reviews and approves the contract.
- (2) If an LEA contracts with a law enforcement agency or an individual to provide SRO services at the LEA, the LEA's governing authority shall require in the contract:
  - (a) an acknowledgment by the law enforcement agency or the individual that an SRO hired under the contract shall:
    - (i) provide for and maintain a safe, healthy, and productive learning environment in a school;
    - (ii) act as a positive role model to students;
    - (iii) work to create a cooperative, proactive, and problem-solving partnership between law enforcement and the LEA;
    - (iv) emphasize the use of restorative approaches to address negative behavior; and
    - (v) at the request of the LEA, teach a vocational law enforcement class;
  - (b) a description of the shared understanding of the LEA and the law enforcement agency or individual regarding the roles and responsibilities of law enforcement and the LEA to:
    - (i) maintain safe schools;
    - (ii) improve school climate; and
    - (iii) support educational opportunities for students;
  - (c) a designation of student offenses that the SRO shall confer with the LEA to resolve, including an offense that:
    - (i) is a minor violation of the law; and
    - (ii) would not violate the law if the offense was committed by an adult;
  - (d) a designation of student offenses that are administrative issues that an SRO shall refer to a school administrator for resolution in accordance with Section 53G-8-211;
  - (e) a detailed description of the rights of a student under state and federal law with regard to:
    - (i) searches;

- (ii) questioning; and
- (iii) information privacy;
- (f) a detailed description of:
  - (i) job duties;
  - (ii) training requirements; and
  - (iii) other expectations of the SRO and school administration in relation to law enforcement at the LEA;
- (g) that an SRO who is hired under the contract and the principal at the school where an SRO will be working, or the principal's designee, will jointly complete the SRO training described in Section 53G-8-702; and
- (h) if the contract is between an LEA and a law enforcement agency, that:
  - (i) both parties agree to jointly discuss SRO applicants; and
  - (ii) the law enforcement agency will accept feedback from an LEA about an SRO's performance.

## **REGULATIONS**

No relevant regulations found.

## ***State Education Agency Support***

### **State model policies and implementation support**

#### **LAWS**

##### **§ 53E-3-509. Gang prevention and intervention policies.**

(1)

(a) The State Board of Education shall adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction.

(b) The rules described in Subsection (1)(a) shall provide that the gang prevention and intervention policies of a local school board or charter school governing board may include provisions that reflect the individual school district's or charter school's unique needs or circumstances.

(2) The rules described in Subsection (1) may include the following provisions:

(a) school faculty and personnel shall report suspected gang activities relating to the school and its students to a school administrator and law enforcement;

(b) a student who participates in gang activities may be excluded from participation in extracurricular activities, including interscholastic athletics, as determined by the school administration after consultation with law enforcement;

(c) gang-related graffiti or damage to school property shall result in parent or guardian notification and appropriate administrative and law enforcement actions, which may include obtaining restitution from those responsible for the damage;

(d) if a serious gang-related incident, as determined by the school administrator in consultation with local law enforcement, occurs on school property, at school related activities, or on a site that is normally considered to be under school control, notification shall be provided to parents and guardians of students in the school:

(i) informing them, in general terms, about the incident, but removing all personally identifiable information about students from the notice;

(ii) emphasizing the school's concern for safety; and

(iii) outlining the action taken at the school regarding the incident;

(e) school faculty and personnel shall be trained by experienced evidence based trainers that may include community gang specialists and law enforcement as part of comprehensive strategies to recognize early warning signs for youth in trouble and help students resist serious involvement in undesirable activity, including joining gangs or mimicking gang behavior;

(f) prohibitions on the following behavior:

(i) advocating or promoting a gang or any gang-related activities;

(ii) marking school property, books, or school work with gang names, slogans, or signs;

(iii) conducting gang initiations;

(iv) threatening another person with bodily injury or inflicting bodily injury on another in connection with a gang or gang-related activity;

(v) aiding or abetting an activity described under Subsections (2)(f)(i) through (iv) by a person's presence or support;

- (vi) displaying or wearing common gang apparel, common dress, or identifying signs or symbols on one's clothing, person, or personal property that is disruptive to the school environment; and
- (vii) communicating in any method, including verbal, non-verbal, and electronic means, designed to convey gang membership or affiliation.

(3) The rules described in Subsection (1) may require a local school board or governing board of a charter school to publicize the policies enacted by the local school board or governing board of a charter school in accordance with the rules described in Subsection (1) to all students, parents, guardians, and faculty through school websites, handbooks, letters to parents and guardians, or other reasonable means of communication.

(4) The State Board of Education may consult with appropriate committees, including committees that provide opportunities for the input of parents, law enforcement, and community agencies, as it develops, enacts, and administers the rules described in Subsection (1).

**§ 53G-9-605. Bullying, cyber-bullying, harassment, hazing, and retaliation policy.**

(1) On or before September 1, 2018, a school board shall update the school board's bullying, cyber-bullying, hazing, and retaliation policy to include abusive conduct.

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

(3) A policy shall include the following components:

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

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

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

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

(e) as required in Section 53G-9-604, parental notification of:

- (i) a student's threat to commit suicide; and
- (ii) an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation, involving the parent's student;

(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; and

(h) a requirement for a signed statement annually, indicating that the individual signing the statement has received the school board's policy, from each:

- (i) school employee;
- (ii) student who is at least eight years old; and
- (iii) parent or guardian of a student enrolled in the charter school or school district.



- (4) A copy of a policy shall be:
- (a) included in student conduct handbooks;
  - (b) included in employee handbooks;
  - (c) provided to a parent or a guardian of a student enrolled in the charter school or school district; and
  - (d) distributed to parents.
- (5) A policy may not permit formal disciplinary action that is based solely on an anonymous report of bullying, cyber-bullying, hazing, 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.

**§ 53G-9-606. Model policy and State Board of Education duties.**

- (1) On or before September 1, 2018, the State Board of Education shall:
- (a) update the State Board of Education's model policy on bullying, cyber-bullying, hazing, and retaliation to include abusive conduct; and
  - (b) post the model policy described in Subsection (1)(a) on the State Board of Education's website.
- (2) The State Board of Education shall require a school board to report annually to the State Board of Education on:
- (a) the school board's policy, including implementation of the signed statement requirement described in Subsection 53G-9-605(3)(g);
  - (b) the school board's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation described in Section 53G-9-607; and
  - (c) other information related to this part, as determined by the State Board of Education.

**REGULATIONS**

**R277-609-9. Model policies.**

- (1) The Superintendent shall develop, review regularly, and provide to LEA boards model policies to address disruptive student behavior and appropriate consequences.
- (2) The Superintendent shall provide technical assistance to LEAs in developing and implementing policies and training employees in the appropriate use of physical force and emergency safety interventions to the extent of resources available.

**Funding appropriations**

**LAWS**

**§ 53F-5-206. Grant awards for elementary suicide prevention programs.**

- (1) To foster peer-to-peer suicide prevention, resiliency, and anti-bullying programs in elementary schools, the public education suicide prevention coordinator, described in Section 53G-9-702, shall, subject to legislative appropriations, award grants to elementary schools.
- (2) A grant award may not exceed \$500 per school per year.
- (3) The application for a grant shall contain:
- (a) a requested award amount;
  - (b) a budget; and

- (c) a narrative plan of the peer-to-peer suicide prevention, resiliency, or anti-bullying program.
- (4) When awarding a grant under this section, the public education suicide prevention coordinator shall consider:
  - (a) the content of a grant application; and
  - (b) whether an application is submitted in the manner and form prescribed.

**§ 53G-9-702. Youth suicide prevention programs required in secondary schools -- State Board of Education to develop model programs -- Reporting requirements.**

- (6)
  - (a) Subject to legislative appropriation, the board may distribute money to a school district or charter school to be used to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide in the school district or charter school.
  - (b) The board shall distribute money under Subsection (6)(a) so that each school that enrolls students in grade 7 or a higher grade receives an allocation of at least \$500, or a lesser amount per school if the legislative appropriation is not sufficient to provide at least \$500 per school.
  - (c)
    - (i) A school shall use money allocated to the school under Subsection (6)(b) to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide.
    - (ii) Each school may select the evidence-based practices and programs, or emerging best practices and programs, for preventing suicide that the school implements.

**REGULATIONS**

**R277-436-3. Application, distribution of funds, and administrative support.**

- A. Awards shall be made to individual schools and funds allocated to charter schools or to school districts to distribute to designated schools.
- B. School districts may submit a single district-wide proposal for one or more schools within the district. The proposal shall:
  - (1) provide for distribution of funds to individual schools; and
  - (2) provide explanations of prevention and intervention activities and strategies planned for individual schools.
- C. Charter schools may submit independent or joint proposals.
- D. School districts or charter schools or charter consortia may utilize up to ten percent of their funding under the rule for the following specific purposes:
  - (1) administrative oversight;
  - (2) professional development for licensed and non-licensed employees who work directly in gang prevention/intervention activities; and
  - (3) professional and technical services.
- E. Proposals/applications shall be provided by the USOE.
- F. Awards per school shall be based on funds available.
- G. Priority shall be given to applications reflecting interagency and intra-agency collaboration.
- H. Proposals receiving funding shall be notified by July 1.
- I. Schools or joint school applications that were funded and complied with all requirements of law and rule may reapply in subsequent years using an abbreviated proposal form provided by the USOE.

J. The USOE may retain up to five percent of the annual legislative appropriation for the following specific purposes:

- (1) an amount not to exceed 2.5 percent for:
  - (a) site visits; and
  - (b) professional development, as determined and guided by the USOE.
- (2) an amount not to exceed 2.5 percent for:
  - (a) administrative oversight; and
  - (b) statewide coordination training.

**R277-460-2. Authority and purpose.**

A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and authority over public education in the Board, by Section 53G-10-405 which directs the Board to adopt rules providing for instruction on the harmful effects of controlled substances and by Section 51-9-405 which provides for funds from the Substance Abuse Prevention Account to be allocated to the USOE for:

- (1) substance abuse prevention and education;
- (2) substance abuse prevention training for teachers and administrators; and
- (3) school district, charter school or consortia programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities.

B. The purpose of this rule is to provide for the distribution of the USOE's share of the Substance Abuse Prevention Account.

**R277-460-3. Fund allocations.**

A. The USOE shall retain sufficient funds to pay for the salary, benefits and indirect costs of a .5 FTE Program Administrator at a salary level to be determined by the Board.

B. The remaining funds shall be allocated as follows:

- (1) An amount not to exceed fifteen percent shall remain at the USOE to purchase educational materials to support and supplement existing Utah's Substance Abuse Prevention Program, Prevention Dimensions.
- (2) An amount not to exceed fifteen percent shall remain at the USOE to encourage and support statewide substance abuse prevention training for school district/charter school teachers and administrators.
- (3) An amount not to exceed fifteen percent shall remain at the USOE to promote Utah's Substance Abuse Prevention Program and encourage its classroom use by Utah educators.
- (4) A minimum of fifty-five percent shall be distributed to school districts, charter schools or consortia for use by the school district, individual schools, charter schools or consortia in a cooperative substance abuse prevention effort based on application.

**R277-460-4. Applications.**

A. Applications shall be provided by the USOE.

B. School districts, charter schools or consortia shall submit applications to the specialist designated by the USOE.

C. The USOE specialist shall make funding recommendations to the USOE Finance Committee as soon as reasonably possible after the application deadline.

D. Awards per school districts, charter schools or consortia shall be based on funds available and specific funding amounts shall be provided in the USOE application.

E. Only applications for funding that propose projects or programs consistent with the Utah Substance Abuse Prevention Guiding Principles shall be considered for funding.

(1) Applications shall address the following:

- (a) the applicant's intention to collaborate with the local substance abuse authority and community groups within the school district, including shared plans and strategies for activities and intervention;
- (b) the applicant's plan for professional development and teachers' use of Prevention Dimensions materials within their classrooms;
- (c) the use of funds to implement applicant's plan;
- (d) teacher reports of classroom implementation and plans for classroom monitoring visits;
- (e) applicant's enhancement of Prevention Dimensions with additional substance abuse activities and strategies; and
- (f) applicant's implementation of Prevention Dimensions with school-based behavioral/health or coordinated school health initiatives.

F. Projects receiving funding shall be notified of funding approval by the USOE Finance Committee.

**R277-460-5. Limitations on funds.**

A. Funds shall be used by the USOE, school districts, charter schools and consortia exclusively for purposes set forth in Section 51-9-405.

B. Transfer of funds between line items or the extension of project completion dates may be made only with prior written approval of the USOE.

C. Funds received by school districts, charter schools or consortia shall not be used to supplant either currently available school district or charter school funds or funds available from other state or local sources.

**R277-460-6. Evaluation and reports.**

A. An applicant that accepts a USOE Substance Abuse Prevention award shall provide the USOE with a year-end evaluation report before July 1 of the fiscal year in which the award was made.

B. The year-end report shall include:

- (1) an expenditure report;
- (2) a narrative description of activities funded; and
- (3) copies of all products and materials developed with USOE Substance Abuse Prevention funds.

C. The USOE may require additional evaluation or audit procedures from an award recipient to demonstrate the use of funds consistent with the law and Board rules.

**R277-460-7. Waivers.**

The Superintendent may grant a written request for a waiver of a requirement or deadline which a school district, charter school or consortia finds unduly restrictive.

**R277-609-10. LEA compliance.**

If an LEA fails to comply with this rule, the Superintendent may withhold funds in accordance with Rule R277-114 or impose any other sanction authorized by law.

**R277-613-3. Superintendent Responsibilities.**

(1) Subject to availability of funds, the Superintendent shall provide:

- (a) a model policy on bullying, cyber-bullying, hazing, and retaliation as required in Section 53G-9-606;

(b) model training and training opportunities on:

- (i) the prevention and identification of bullying, cyber-bullying, hazing, and retaliation, that an LEA may use to train the LEA's employees, contract employees, and volunteers, including coaches; and
- (ii) the reporting and review requirements in Section R277-613-5;

(c) evidence-based practices and policies related to the prevention of bullying, cyber-bullying, hazing, and retaliation.

(2) Although an LEA is required to have a policy on bullying, cyber-bullying, hazing, retaliation and abusive conduct as described in Section 53G-9-605 and this rule and provide training as described in Section 53G-9-607 and this rule, the LEA is not required to use the model policy or model training developed by the Superintendent described in Subsection (1).

(3) The Board may interrupt disbursements of funds consistent with Subsection 53E-3-401(8) and Rule R277-114 for failure of an LEA to comply with:

- (a) Title 53G, Chapter 9, Bullying and Hazing; and
- (b) this rule.

(4) In addition to the requirements of Title 53G, Chapter 9, Bullying and Hazing and this R277-613, LEAs are required to comply with applicable federal requirements.

**R277-709-4. Program fiscal and accountability procedures.**

(1) The Superintendent shall allocate state funds appropriated for youth in custody, including the Utah State Hospital, in accordance with Section 53E-3-503 and Section 62A-15-609.

(2) Funds appropriated for youth in custody programs shall be subject to Board accounting, auditing, and budgeting rules and policies.

(3) The Superintendent shall, through an annually submitted and approved state application and plan, contract with LEAs to provide educational services for youth in custody.

(a) A contract required by Subsection (3) shall include the respective responsibilities of the Board, LEAs, and other local service providers for education

(b) An LEA may subcontract with local non-district educational service providers for the provision of educational services.

(4) The Superintendent may only contract through an RFP process with an appropriate entity if the Board Superintendent determines that the LEA where the facility is located is unable or unwilling to provide adequate education services.

(5) Youth in custody students receiving education services by or through an LEA are students of that LEA.

(6) Notwithstanding the procedures for determining an alternative district of residency in Rule R277-621, an LEA may not create an alternative district of residency for a student who has been placed in custody primarily in an attempt to receive services in a state funded youth in custody program.

(7) The Superintendent shall allocate state funds appropriated for youth in custody on the basis of an annually submitted and approved application made by the LEA where a youth in custody program resides.

(8) The Superintendent shall base the share of funds distributed to an LEA upon criteria which include:

- (a) the number of youth in custody served by the LEA;
- (b) the type of program required for the youth;
- (c) the setting for providing services; and
- (d) the length of the program.

9. A youth in custody program shall expend funds approved for youth in custody projects solely for the purposes described in the respective funding application.

(10) The Superintendent may retain no more than five percent of the total youth in custody annual legislative appropriation for administration, oversight, monitoring, and evaluation of youth in custody programs and their compliance with law and this rule.

(11) Up to three percent of the five percent of administrative funds allowed under Subsection (9) may be withheld by the Superintendent and directed to students attending youth in custody programs for short periods of time or to new or beginning youth in custody programs or initiatives benefitting youth in custody students.

(12) The Superintendent may withhold federal or state funds for noncompliance with state policy and procedures and associated reporting timelines in accordance with Rule R277-114.

(13) The Superintendent or its designee shall develop uniform forms, deadlines, reporting and accounting procedures and guidelines to govern the youth in custody school-based programs and Utah State Hospital funded programs.

#### **R277-709-6. Youth in custody program staffing and monitoring.**

(1) Education staff assigned to youth in custody shall be qualified and appropriate for their assignments as defined in R277-503, Licensing Routes in accordance with Board licensing rules.

(2) Youth in custody programs shall maintain accreditation as part of the LEA where the programs are located consistent with Rule R277-410, Accreditation of Schools.

(3) The Superintendent shall evaluate youth in custody programs through regular site monitoring visits and monthly desk monitoring.

(4) Monitored programs shall prepare and submit to the Superintendent a written corrective action plan for each monitoring finding as requested by the Superintendent.

(5) A youth in custody program's failure to resolve monitoring findings as soon as possible, and, in no case, later than one calendar year from date of notice, may result in the termination of state funding as provided in Rule R277-114.

(6) The Superintendent may review LEA or State Hospital records and practices for compliance with the law and this rule.

#### **R277-709-7. Utah state hospital.**

(1) Funding for the education programs at the Utah State Hospital shall be contingent upon a legislative appropriation.

(2)(a) State education contract funds appropriated for State Hospital youth in custody are allocated to the LEA on a reimbursement basis.

(b) The State Hospital shall annually submit requests for reimbursement.

(3) Funding shall be distributed to the LEA on a reimbursement basis subject to required documentation that supports expenditures.

(4) Funds may be withheld or terminated for noncompliance with state and federal policies and procedures and associated reporting requirements and timelines as defined by the Superintendent and in accordance with Rule R277-114.

(5) The Utah State Hospital shall serve all students qualifying for special education services in accordance with the special education standards adopted in the Special Education Rules and [in] Rule R277-750.

**R277-709-8. Youth in custody/LEA fiscal procedures.**

(1) Ten percent or \$50,000, whichever is less, of state youth in custody funds or educational contract funds not expended in the current fiscal year may be carried over by eligible LEAs and spent in the next fiscal year with written approval of the Superintendent.

(2) An LEA shall submit a request to carry over funds for approval by August 1. Approved carry over amounts shall be detailed in a revised budget submitted to the Superintendent no later than October 1 in the year requested.

(4) The Superintendent may consider excess funds in determining the LEA's allocation for the next fiscal year.

(5)(a) The Superintendent shall annually recapture fund balances in excess of ten percent or \$50,000 no later than February 1

(b) The Superintendent shall reallocate funds recaptured in accordance with Subsection (5)(a) to the youth in custody programs based on the criteria and procedures provided by this rule.

## ***Other or Uncategorized***

### **Professional immunity or liability**

#### **LAWS**

#### **§ 53G-6-206. Duties of a school board, local charter board, or school district in resolving attendance problems — Parental involvement — Liability not imposed.**

- (1) Except as provided in Section 53G-6-204 or 53G-6-702, a school-age minor who is enrolled in a public school shall attend the public school in which the school-age minor is enrolled.
- (2) A local school board, charter school governing board, or school district may impose administrative penalties on a school-age minor in accordance with Section 53G-8-211 who is truant.
- (3) A local school board or charter school governing board:
  - (a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue notices of truancy to school-age minors who are at least 12 years old; and
  - (b) shall establish a procedure for a school-age minor, or the school-age minor's parents, to contest a notice of truancy.
- (4) The notice of truancy described in Subsection (3):
  - (a) may not be issued until the school-age minor has been truant at least five times during the school year;
  - (b) may not be issued to a school-age minor who is less than 12 years old;
  - (c) may not be issued to a minor exempt from school attendance as provided in Section 53G-6-204 or 53G-6-702;
  - (d) shall direct the school-age minor and the parent of the school-age minor to:
    - (i) meet with school authorities to discuss the school-age minor's trancies; and
    - (ii) cooperate with the school board, local charter board, or school district in securing regular attendance by the school-age minor; and
  - (e) shall be mailed to, or served on, the school-age minor's parent.

#### **§ 53G-8-303. Investigation of complaint — Confidentiality — Immunity.**

- (1)
  - (a) The reporting and investigation requirements of Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, apply to complaints on corporal punishment.
  - (b) If a violation is confirmed, school authorities shall take prompt and appropriate action, including in-service training and other administrative action, to ensure against a repetition of the violation.
- (2) Reports made on violations of this part are subject to the same requirements of confidentiality as provided under Section 62A-4a-412.
- (3) Any school or individual who in good faith makes a report or cooperates in an investigation by a school or authorized public agency concerning a violation of this part is immune from any civil or criminal liability that might otherwise result by reason of those actions.

#### **§ 53G-8-304. Liability.**

- (1)



(a) Corporal punishment which would, but for this part, be considered to be reasonable discipline of a minor under Section 76-2-401 may not be used as a basis for any civil or criminal action.

(b) A court of competent jurisdiction may take appropriate action against any employing entity if the court finds that the employing entity has not taken reasonable steps to enforce the provisions of this part.

(2) Civil or criminal action may proceed without hindrance in the case of corporal punishment which would not be reasonable discipline under Sections 53G-8-305 and 76-2-401.

**§ 53G-8-405. Liability for release of information.**

(1) The district superintendent, principal, and any staff member notified by the principal may not be held liable for information which may become public knowledge unless it can be shown by clear and convincing evidence that the information became public knowledge through an intentional act of the superintendent, principal, or a staff member.

(2) A person receiving information under Subsection 78A-6-112(3)(b), 78A-6-117(1)(b), or Section 53G-8-403 is immune from any liability, civil or criminal, for acting or failing to act in response to the information unless the person acts or fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

**§ 53G-8-501. Definitions.**

For purposes of Sections 53G-8-502 through 53G-8-504:

(1) "Educator" means a person employed by a public school, but excludes those employed by institutions of higher education.

(2) "Prohibited act" means an act prohibited by Section 53G-4-402, relating to alcohol; Section 58-37-8, relating to controlled substances; or Section 58-37a-5, relating to drug paraphernalia.

**§ 53G-8-502. Mandatory reporting of prohibited acts.**

If an educator has reasonable cause to believe that a student at the public school where the educator is employed has committed a prohibited act, he shall immediately report that to the school's designated educator.

**§ 53G-8-503. Reporting procedure.**

(1) The principal of a public school affected by this chapter shall appoint one educator as the "designated educator" to make all reports required under Sections 53G-8-501 through 53G-8-504.

(2) The designated educator, upon receiving a report of a prohibited act from an educator under Section 53G-8-502, shall immediately report the violation to the student's parent or legal guardian, and may report the violation to an appropriate law enforcement agency or official, in accordance with Section 53G-8-211.

(3) The designated educator may not disclose to the student or to the student's parent or legal guardian the identity of the educator who made the initial report.

**§ 53G-8-504. Immunity from civil or criminal liability.**

An educator who in good faith makes a report under Sections 53G-8-502 and 53G-8-503 is immune from any liability, civil or criminal, that might otherwise result from that action.

**§ 53G-8-507. Immunity from civil or criminal liability.**

Any person, official, or institution, other than a law enforcement officer or law enforcement agency, participating in good faith in making a report or conducting an investigation under the direction of school

or law enforcement authorities under this part, is immune from any liability, civil or criminal, that otherwise might result by reason of that action.

**§ 53G-8-510. Notification of teachers of weapons on school property — Immunity from civil and criminal liability.**

(1) Whenever a student is found on school property during school hours or at a school-sponsored activity in possession of a dangerous weapon and that information is reported to or known by the principal, the principal shall notify law enforcement personnel and school or district personnel who, in the opinion of the principal, should be informed.

(2) A person who in good faith reports information under Subsection (1) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

**REGULATIONS**

No relevant regulations found.

## **Community input or involvement**

**LAWS**

**§ 53E-3-509. Gang prevention and intervention policies.**

(2) The rules described in Subsection (1) may include the following provisions:

(e) school faculty and personnel shall be trained by experienced evidence based trainers that may include community gang specialists and law enforcement as part of comprehensive strategies to recognize early warning signs for youth in trouble and help students resist serious involvement in undesirable activity, including joining gangs or mimicking gang behavior;

(4) The State Board of Education may consult with appropriate committees, including committees that provide opportunities for the input of parents, law enforcement, and community agencies, as it develops, enacts, and administers the rules described in Subsection (1).

**§ 53E-10-502. School safety and crisis line established.**

The University Neuropsychiatric Institute shall:

(1) establish a School Safety and Crisis Line to provide:

(a) a means for an individual to anonymously report:

- (i) unsafe, violent, or criminal activities, or the threat of such activities at or near a public school;
- (ii) incidents of bullying, cyber-bullying, harassment, or hazing; and
- (iii) incidents of physical or sexual abuse committed by a school employee or school volunteer; and

(b) crisis intervention, including suicide prevention, to individuals experiencing emotional distress or psychiatric crisis;

(2) provide the services described in Subsection (1) 24 hours a day, seven days a week; and

(3) when necessary, or as required by law, promptly forward a report received under Subsection (1)(a) to appropriate:

- (a) school officials; and
- (b) law enforcement officials.

**§ 53E-10-503. School safety and crisis line commission established -- Members.**

- (1) There is created the School Safety and Crisis Line Commission composed of the following members:
  - (a) one member who represents the Office of the Attorney General, appointed by the attorney general;
  - (b) one member who represents the Utah Public Education System, appointed by the State Board of Education;
  - (c) one member who represents the Utah System of Higher Education, appointed by the State Board of Regents;
  - (d) one member who represents the Utah Department of Health, appointed by the executive director of the Department of Health;
  - (e) one member of the House of Representatives, appointed by the speaker of the House of Representatives;
  - (f) one member of the Senate, appointed by the president of the Senate;
  - (g) one member who represents the University Neuropsychiatric Institute, appointed by the chair of the commission;
  - (h) one member who represents law enforcement who has extensive experience in emergency response, appointed by the chair of the commission;
  - (i) one member who represents the Utah Department of Human Services who has experience in youth services or treatment services, appointed by the executive director of the Department of Human Services; and
  - (j) two members of the public, appointed by the chair of the commission.
- (2)
  - (a) Except as provided in Subsection (2)(b), members of the commission shall be appointed to four-year terms.
  - (b) The length of the terms of the members shall be staggered so that approximately half of the committee is appointed every two years.
  - (c) When a vacancy occurs in the membership of the commission, the replacement shall be appointed for the unexpired term.
- (3)
  - (a) The attorney general's designee shall serve as chair of the commission.
  - (b) The chair shall set the agenda for commission meetings.
- (4) Attendance of a simple majority of the members constitutes a quorum for the transaction of official commission business.
- (5) Formal action by the commission requires a majority vote of a quorum.
- (6)
  - (a) Except as provided in Subsection (6)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service.
  - (b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- (7) The Office of the Attorney General shall provide staff support to the commission.

**§ 53E-10-504. School safety and crisis line commission duties.**

The commission shall coordinate:

- (1) statewide efforts related to the School Safety and Crisis Line; and

(2) with the State Board of Education and the State Board of Regents to promote awareness of the services available through the School Safety and Crisis Line.

**§ 53E-10-505. State Board of Education and local boards of education to update policies and promote awareness.**

(1) The State Board of Education shall:

(a) revise the conduct and discipline policy models, described in Section 53A-11-901, to include procedures for responding to reports received under Subsection 53E-10-502 (3); and

(b) revise the curriculum developed by the State Board of Education for the parent seminar, described in Section 53G-9-703, to include information about the School Safety and Crisis Line.

(2) A local school board or charter school governing board shall:

(a) revise the conduct and discipline policies, described in Section 53G-8-203, to include procedures for responding to reports received under Subsection 53E-10-502 (3); and

(b) inform students, parents, and school personnel about the School Safety and Crisis Line.

**§ 53F-6-201. Firearm safety and violence prevention pilot program.**

(1) As used in this section:

(a) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(b) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle, or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(c) "Pilot program" means the Firearm Safety and Violence Prevention Pilot Program created under Subsection (2).

(2) There is created a Firearm Safety and Violence Prevention Pilot Program to provide instruction that a public school may offer to a student in any of grades 5 through 12 on:

(a) firearm safety, including:

(i) developing the knowledge, habits, skills, and attitudes necessary for the safe handling of firearms; and

(ii) teaching a student that to avoid injury when the student finds a firearm the student should:

(A) not touch the firearm;

(B) tell an adult about finding the firearm and the location of the firearm; and

(C) share the information described in Subsection (2)(a)(ii)(A) and (B) with any other minors who are with the student when the student finds the firearm; and

(b) what to do if the student becomes aware of a threat against the school.

(3) The instruction described in Subsection (2):

(a) may be delivered:

(i) in a public school using live instruction or a video or online materials; or

(ii) at home using a video or online materials; and

(b) shall be neutral of political statements on guns.

(4) The Office of the Attorney General, in collaboration with the State Board of Education, shall select one or more providers, through the standard procurement process or an exception to the standard procurement process as described in Title 63G, Chapter 6a, Utah Procurement Code, to supply materials and curriculum for the pilot program.

(5)

(a) A district school or charter school may participate in the pilot program, subject to approval by the district school's local school board or charter school's charter school governing board.

(b) A district school or charter school that chooses to participate in the pilot program:

(i) shall use the materials and curriculum supplied by the provider selected under Subsection (4);

(ii) may permit the following to provide instruction on a voluntary basis:

(A) the Division of Wildlife Resources;

(B) a local law enforcement agency;

(C) a peace officer, as defined in Section 53-13-102; or

(D) another certified firearms safety instructor, as defined in rules made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iii) shall ensure that a firearm is not used in providing the instruction.

(c) A student may not be given the instruction described in Subsection (2) unless the student's parent or legal guardian has given prior written consent.

(6) The Office of the Attorney General, in collaboration with the State Board of Education, shall evaluate the pilot program and report to the Law Enforcement and Criminal Justice Interim Committee on or before December 1, 2018.

**§ 53G-8-202. Public school discipline policies -- Basis of the policies -- Enforcement.**

(1) The Legislature recognizes that every student in the public schools should have the opportunity to learn in an environment which is safe, conducive to the learning process, and free from unnecessary disruption.

(2)

(a) To foster such an environment, each local school board or governing board of a charter school, with input from school employees, parents and guardians of students, students, and the community at large, shall adopt conduct and discipline policies for the public schools in accordance with Section 53G-8-211.

(b) A district or charter school shall base its policies on the principle that every student is expected:

(i) to follow accepted rules of conduct; and

(ii) to show respect for other people and to obey persons in authority at the school.

(c)

(i) On or before September 1, 2015, the State Board of Education shall revise the conduct and discipline policy models for elementary and secondary public schools to include procedures for responding to reports received through the School Safety and Crisis Line under Subsection 53E-10-502(3).

(ii) Each district or charter school shall use the models, where appropriate, in developing its conduct and discipline policies under this chapter.

(d) The policies shall emphasize that certain behavior, most particularly behavior which disrupts, is unacceptable and may result in disciplinary action.

(3) The local superintendent and designated employees of the district or charter school shall enforce the policies so that students demonstrating unacceptable behavior and their parents or guardians understand that such behavior will not be tolerated and will be dealt with in accordance with the district's conduct and discipline policies.

**§ 53G-9-605. Bullying, cyber-bullying, harassment, hazing, and retaliation policy.**

- (1) On or before September 1, 2018, a school board shall update the school board's bullying, cyber-bullying, hazing, and retaliation policy to include abusive conduct.
- (2) A 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) provide protection to a student, regardless of the student's legal status.
- (3) A policy shall include the following components:
  - (a) definitions of bullying, cyber-bullying, hazing, and abusive conduct that are consistent with this part;
  - (b) language prohibiting bullying, cyber-bullying, hazing, and abusive conduct;
  - (c) language prohibiting retaliation against an individual who reports conduct that is prohibited under this part;
  - (d) language prohibiting making a false report of bullying, cyber-bullying, hazing, abusive conduct, or retaliation;
  - (e) as required in Section 53G-9-604, parental notification of:
    - (i) a student's threat to commit suicide; and
    - (ii) an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation, involving the parent's student;
  - (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; and
  - (h) a requirement for a signed statement annually, indicating that the individual signing the statement has received the school board's policy, from each:
    - (i) school employee;
    - (ii) student who is at least eight years old; and
    - (iii) parent or guardian of a student enrolled in the charter school or school district.
- (4) A copy of a policy shall be:
  - (a) included in student conduct handbooks;
  - (b) included in employee handbooks;
  - (c) provided to a parent or a guardian of a student enrolled in the charter school or school district; and
  - (d) distributed to parents.
- (5) A policy may not permit formal disciplinary action that is based solely on an anonymous report of bullying, cyber-bullying, hazing, 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.

**§ 53G-10-405. Instruction on the harmful effects of alcohol, tobacco, and controlled substances -- Rulemaking authority -- Assistance from the Division of Substance Abuse and Mental Health.**

(2) At the request of the board, the Division of Substance Abuse and Mental Health shall cooperate with the board in developing programs to provide this instruction.

(3) The board shall participate in efforts to enhance communication among community organizations and state agencies, and shall cooperate with those entities in efforts which are compatible with the purposes of this section.

**REGULATIONS**

**R277-609-4. LEA responsibility to develop plans.**

(2) An LEA shall include administration, instruction and support staff, students, parents, community council, and other community members in policy development, training, and prevention implementation so as to create a community sense of participation, ownership, support, and responsibility.

**R277-609-6. Implementation.**

(4)(b) An LEA shall use assessment information to connect parents and students with supportive school and community resources.

(6) An LEA shall establish an Emergency Safety Intervention (ESI) Committee before September 1, 2015.

(7) The LEA ESI Committee:

(a) shall include:

(i) at least two administrators;

(ii) at least one parent or guardian of a student enrolled in the LEA, appointed by the LEA; and

(iii) at least two certified educational professionals with behavior training and knowledge in both state rules and LEA discipline policies;

(b) shall meet often enough to monitor the use of emergency safety intervention in the LEA;

(c) shall determine and recommend professional development needs; and

(d) shall develop policies for local dispute resolution processes to address concerns regarding disciplinary actions.

**R277-709-11. Coordinating council.**

(1)(a) The Department of Human Services and the Board shall appoint a coordinating council in accordance with Subsection 53E-3-503(6)(a) to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice Services and the Division of Child and Family Services.

(b) The coordinating council shall operate under guidelines developed and approved by the Department of Human Services and the Board.

(2) Coordinating council membership shall include a representative of the following:

(a) the Department of Human Services;

(b) the Division of Substance Abuse and Mental Health;

(c) the Division of Juvenile Justice Services;

(d) the Division of Child and Family Services;

(e) the Board;

(f) the Administrative Office of the Courts;

- (g) school district superintendents; and
- (h) a Native American tribe.

**R277-709-12. Advisory councils.**

(1)(a) Each LEA serving youth in custody shall establish a local interagency advisory council which shall be responsible for advising member agencies concerning coordination of youth in custody programs.

(b) Members of council required under Subsection (1)(a) shall include, if applicable to the LEA, the following:

- (i) a representative of the Division of Child and Family Services;
- (ii) a representative of the Division of Juvenile Justice Services;
- (iii) directors of agencies located in an LEA such as detention centers, secure lockup facilities, observation and assessment units, and the Utah State Hospital;
- (iv) a representative of community-based alternative programs for custodial juveniles; and
- (v) a representative of the LEA.

(2) A local interagency advisory council required under Subsection (1)(a) shall

- (a) adopt by-laws for its operation; and
- (b) meet at least quarterly.

## **Other or Uncategorized**

### **LAWS**

**§ 53E-10-502. School safety and crisis line established.**

The University Neuropsychiatric Institute shall:

(1) establish a School Safety and Crisis Line to provide:

- (a) a means for an individual to anonymously report:
  - (i) unsafe, violent, or criminal activities, or the threat of such activities at or near a public school;
  - (ii) incidents of bullying, cyber-bullying, harassment, or hazing; and
  - (iii) incidents of physical or sexual abuse committed by a school employee or school volunteer; and
- (b) crisis intervention, including suicide prevention, to individuals experiencing emotional distress or psychiatric crisis;

(2) provide the services described in Subsection (1) 24 hours a day, seven days a week; and

(3) when necessary, or as required by law, promptly forward a report received under Subsection (1)(a) to appropriate:

- (a) school officials; and
- (b) law enforcement officials.

**§ 53E-10-503. School safety and crisis line commission established -- Members.**

(1) There is created the School Safety and Crisis Line Commission composed of the following members:

- (a) one member who represents the Office of the Attorney General, appointed by the attorney general;
- (b) one member who represents the Utah Public Education System, appointed by the State Board of Education;



- (c) one member who represents the Utah System of Higher Education, appointed by the State Board of Regents;
  - (d) one member who represents the Utah Department of Health, appointed by the executive director of the Department of Health;
  - (e) one member of the House of Representatives, appointed by the speaker of the House of Representatives;
  - (f) one member of the Senate, appointed by the president of the Senate;
  - (g) one member who represents the University Neuropsychiatric Institute, appointed by the chair of the commission;
  - (h) one member who represents law enforcement who has extensive experience in emergency response, appointed by the chair of the commission;
  - (i) one member who represents the Utah Department of Human Services who has experience in youth services or treatment services, appointed by the executive director of the Department of Human Services; and
  - (j) two members of the public, appointed by the chair of the commission.
- (2)
- (a) Except as provided in Subsection (2)(b), members of the commission shall be appointed to four-year terms.
  - (b) The length of the terms of the members shall be staggered so that approximately half of the committee is appointed every two years.
  - (c) When a vacancy occurs in the membership of the commission, the replacement shall be appointed for the unexpired term.
- (3)
- (a) The attorney general's designee shall serve as chair of the commission.
  - (b) The chair shall set the agenda for commission meetings.
- (4) Attendance of a simple majority of the members constitutes a quorum for the transaction of official commission business.
- (5) Formal action by the commission requires a majority vote of a quorum.
- (6)
- (a) Except as provided in Subsection (6)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service.
  - (b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- (7) The Office of the Attorney General shall provide staff support to the commission.

**§ 53E-10-504. School safety and crisis line commission duties.**

The commission shall coordinate:

- (1) statewide efforts related to the School Safety and Crisis Line; and
- (2) with the State Board of Education and the State Board of Regents to promote awareness of the services available through the School Safety and Crisis Line.

**§ 53E-10-505. State Board of Education and local boards of education to update policies and promote awareness.**

- (1) The State Board of Education shall:

- (a) revise the conduct and discipline policy models, described in Section 53A-11-901, to include procedures for responding to reports received under Subsection 53E-10-502 (3); and
  - (b) revise the curriculum developed by the State Board of Education for the parent seminar, described in Section 53G-9-703, to include information about the School Safety and Crisis Line.
- (2) A local school board or charter school governing board shall:
- (a) revise the conduct and discipline policies, described in Section 53G-8-203, to include procedures for responding to reports received under Subsection 53E-10-502 (3); and
  - (b) inform students, parents, and school personnel about the School Safety and Crisis Line.

## **REGULATIONS**

### **R277-515-2. Definitions.**

- (1) "Core Standard" means a statement:
- (a) of what a student enrolled in a public school is expected to know and be able to do at a specific grade level or following completion of an identified course; and
  - (b) established by the Board in Rule R277-700 as required by Section 53A-1-402.
- (2) "Diversion agreement" means an agreement between a prosecutor and defendant entered into prior to a conviction delaying prosecution of a criminal charge for a specified period of time and contingent upon the defendant satisfying certain conditions.
- (3)
- (a) "Educator" or "professional educator" means a person who currently holds a Utah educator license, held a license at the time of an alleged offense, is an applicant for a license, or is a person in training to obtain a license.
  - (b) "Professional educator" does not include a paraprofessional, a volunteer, or an unlicensed teacher in a classroom.
- (4) "Felony offense" means any offense for which an individual is charged with a first, second, or third degree felony under:
- (a) Title 76, Utah Criminal Code;
  - (b) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;
  - (c) Title 58, Chapter 37d, Clandestine Drug Lab Act;
  - (d) Title 63G, Chapter 6a, Utah Procurement Code; or
  - (e) any other statute in the Utah Code establishing a felony.
- (5) "Illegal drug" means a substance included in:
- (a) Schedules I, II, III, IV, or V established in Section 58-37-4;
  - (b) Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, Pub. L. No. 91-513; or
  - (c) any controlled substance analog.
- (6) "LEA" or "local education agency" for purposes of this rule includes the Utah Schools for the Deaf and the Blind.
- (7) "Licensing discipline" means a sanction, including an admonition, a letter of warning, a written reprimand, suspension of license, and revocation of license, or other appropriate disciplinary measure, for violation of a professional educator standard.
- (8) "Misdemeanor offense" means any offense for which an individual is charged with a Class A, B, or C misdemeanor under:

- (a) Title 76, Utah Criminal Code;
  - (b) Title 67, Chapter 16, Utah Officers' and Public Employees' Ethics Act;
  - (c) Title 58, Chapter 37d, Clandestine Drug Lab Act;
  - (d) Title 63G, Chapter 6a, Utah Procurement Code; or
  - (e) any other statute in the Utah Code establishing a misdemeanor.
- (9) "Plea in abeyance" means a plea of guilty or no contest that is not entered as a judgment or conviction but is held by a court in abeyance for a specified period of time.
- (10) "School-related activity" means any event, activity, or program:
- (a) occurring at the school before, during, or after school hours; or
  - (b) that a student attends at a remote location as a representative of the school or with the school's authorization, or both.
- (11) "Stalking" means the act of intentionally or knowingly engaging in a course of conduct directed at a specific person as defined in Section 76-5-106.5.
- (12) "Utah Professional Practices Advisory Commission" or "UPPAC" means an advisory commission established to assist and advise the Board in matters relating to the professional practices of educators, as established by Section 53A-6-301.
- (13) "Weapon" means any item that in the manner of its use or intended use is capable of causing death or serious bodily injury.

**R277-515-3. Educator as a role model of civic and societal responsibility.**

- (1) The professional educator is responsible for compliance with federal, state, and local laws.
- (2) The professional educator shall familiarize himself or herself with professional ethics and is responsible for compliance with applicable professional standards.
- (3) Failing to strictly adhere to Subsection (4) shall result in licensing discipline.
- (4) The professional educator, upon receiving a Utah educator license:
  - (a) may not be convicted of any felony or misdemeanor offense that adversely affects the individual's ability to perform an assigned duty and carry out the responsibilities of the profession, including role model responsibility;
  - (b) may not be convicted of or commit any act of violence or abuse, including physical, sexual, or emotional abuse of any person;
  - (c) may not commit any act of cruelty to a child or any criminal offense involving a child;
  - (d) may not be convicted of a stalking crime;
  - (e) may not possess or distribute an illegal drug or be convicted of any crime related to an illegal drug, including a prescription drug not specifically prescribed for the individual;
  - (f) may not engage in conduct of a sexual nature described in Section 53A-6-405;
  - (g) may not be subject to a diversion agreement specific to a sex-related or drug-related offense, plea in abeyance, court-imposed probation, or court supervision related to a criminal charge that could adversely impact the educator's ability to perform the duties and responsibilities of the profession;
  - (h) may not provide to a student or allow a student under the educator's supervision or control to consume an alcoholic beverage or unauthorized drug;
  - (i) may not attend school or a school-related activity in an assigned supervisory capacity while possessing, using, or under the influence of alcohol or an illegal drug;

(j) may not intentionally exceed the prescribed dosage of a prescription medication while at school or a school-related activity;

(k) shall cooperate in providing all relevant information and evidence to the proper authority in the course of an investigation by a law enforcement agency or by the Division of Child and Family Services regarding potential criminal activity, except that an educator may decline to give evidence against himself or herself in an investigation if the evidence may tend to incriminate the educator as that term is defined by the Fifth Amendment of the U.S. Constitution;

(l) shall report suspected child abuse or neglect to law enforcement or the Division of Child and Family Services pursuant to Sections 53A-6-502 and 62A-4a-409 and comply with rules and LEA policy regarding the reporting of suspected child abuse;

(m) shall strictly adhere to state laws regarding the possession of a firearm while on school property or at a school-sponsored activity and enforce an LEA policy related to student access to or possession of a weapon.

(n) may not solicit, encourage, or consummate an inappropriate relationship, whether written, verbal, or physical, with a student or minor;

(o) may not:

(i) participate in sexual, physical, or emotional harassment towards any public school-age student or colleague; or

(ii) knowingly allow harassment toward a student or colleague;

(p) may not make inappropriate contact in any communication, including written, verbal, or electronic, with a minor, student, or colleague, regardless of age or location;

(q) may not interfere or discourage a student's or colleague's legitimate exercise of political and civil rights, acting consistent with law and LEA policy;

(r) shall provide accurate and complete information in a required evaluation of himself or herself, another educator, or student, as directed, consistent with the law;

(s) shall be forthcoming with accurate and complete information to an appropriate authority regarding known educator misconduct that could adversely impact performance of a professional responsibility, including a role model responsibility, by himself or herself, or another;

(t) shall provide accurate and complete information required for licensure, transfer, or employment purposes;

(u) shall provide accurate and complete information regarding qualifications, degrees, academic or professional awards or honors, and related employment history when applying for employment or licensure;

(v) shall notify the USOE at the time of application for licensure of past license disciplinary action or license discipline from another jurisdiction;

(w) shall notify the USOE honestly and completely of past criminal convictions at the time of the license

(x) shall provide complete and accurate information during an official inquiry or investigation by LEA, state, or law enforcement personnel.

(5)

(a) Failure to adhere to this Subsection (5) may result in licensing discipline.

(b) A penalty shall be imposed, most readily, if an educator has received a previous documented warning from the educator's employer.

(c) An educator may not:

- (i) exclude a student from participating in any program or deny or grant any benefit to any student on the basis of race, color, creed, sex, national origin, marital status, political or religious belief, physical or mental condition, family, social, or cultural background, or sexual orientation; and
  - (ii) may not engage in conduct that would encourage a student to develop a prejudice on the grounds described in Subsection (5)(c)(i) or any other, consistent with the law.
- (d) An educator shall maintain confidentiality concerning a student unless revealing confidential information to an authorized person serves the best interest of the student and serves a lawful purpose, consistent with:
- (i) Title 53A, Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act; and
  - (ii) the Federal Family Educational Rights and Privacy Acts, 20 U.S.C. Sec. 1232g and 34 CFR Part 99.
- (e) Consistent with Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, Section 53A-1-402.5, and rule, a professional educator:
- (i) may not accept a bonus or incentive from a vendor or potential vendor or a gift from a parent of a student, or a student where there may be the appearance of a conflict of interest or impropriety;
  - (ii) may not accept or give a gift to a student that would suggest or further an inappropriate relationship;
  - (iii) may not accept or give a gift to a colleague that is inappropriate or furthers the appearance of impropriety;
  - (iv) may accept a donation from a student, parent, or business donating specifically and strictly to benefit a student;
  - (v) may accept, but not solicit, a nominal appropriate personal gift for a birthday, holiday, or teacher appreciation occasion, consistent with LEA policy and Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;
  - (vi) may not use the educator's position or influence to:
    - (A) solicit a colleague, student, or parent of a student to purchase equipment, supplies, or services from the educator or participate in an activity that financially benefits the educator unless approved in writing by the LEA; or
    - (B) promote an athletic camp, summer league, travel opportunity, or other outside instructional opportunity from which the educator receives personal remuneration and that involve students in the educator's school system, unless approved in writing consistent with LEA policy and rule; and
  - (vii) may not use school property, a facility, or equipment for personal enrichment, commercial gain, or for personal uses without express supervisor permission.

**R277-515-4. Educator responsibility for maintaining a safe learning environment and educational standards.**

- (1) A professional educator maintains a positive and safe learning environment for a student and works toward meeting an educational standard required by law.
- (2)
  - (a) Failure to strictly adhere to this Subsection (2) shall result in licensing discipline.
  - (b) The professional educator, upon receiving a Utah educator license:
    - (i) shall take prompt and appropriate action to prevent harassment or discriminatory conduct toward a student or school employee that may result in a hostile, intimidating, abusive, offensive, or oppressive learning environment;

(ii) shall resolve a disciplinary problem according to law, LEA policy, and local building procedures and strictly protect student confidentiality and understand laws relating to student information and records;

(iii) shall supervise a student appropriately at school and a school-related activity, home or away, consistent with LEA policy and building procedures and the age of the students;

(iv) shall take action to protect a student from any known condition detrimental to that student's physical health, mental health, safety, or learning;

(v)

(A) shall demonstrate honesty and integrity by strictly adhering to all state and LEA instructions and protocols in managing and administering a standardized test to a student consistent with Section 53A-1-608 and Rule R277-404;

(B) shall cooperate in good faith with a required student assessment;

(C) shall encourage a student's best effort in an assessment;

(D) shall submit and include all required student information and assessments, as required by statute and rule; and

(E) shall attend training and cooperate with assessment training and assessment directives at all levels;

(vi) may not use or attempt to use an LEA computer or information system in violation of the LEA's acceptable use policy for an employee or access information that may be detrimental to young people or inconsistent with the educator's role model responsibility; and

(vii) may not knowingly possess, while at school or any school-related activity, any pornographic material in any form.

(3)

(a) Failure to adhere to this Subsection (3) may result in licensing discipline.

(b) A penalty shall be imposed, most readily, if an educator has received a previous documented warning from the educator's employer.

(c) A professional educator:

(i) shall demonstrate respect for a diverse perspective, idea, and opinion and encourage contributions from a broad spectrum of school and community sources, including a community whose heritage language is not English;

(ii) shall use appropriate language, eschewing profane, foul, offensive, or derogatory comments or language;

(iii) shall maintain a positive and safe learning environment for a student;

(iv) shall work toward meeting an educational standard required by law;

(v) shall teach the objectives contained in a Core Standard;

(vi) may not distort or alter subject matter from a Core Standard in a manner inconsistent with the law; and

(vii) shall use instructional time effectively consistent with LEA policy.

## State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by Utah provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Utah State Board of Education, Bullying Prevention	Goals, strategies, and resources related to bullying prevention.	<a href="https://www.schools.utah.gov/sas/scep/schoolculture/studentdiscipline/bullyingprevention">https://www.schools.utah.gov/sas/scep/schoolculture/studentdiscipline/bullyingprevention</a>
<i>Documents</i>		
Utah State Board of Education, Bullying, Cyberbullying, Harassment, Hazing, and Retaliation Model Policy	Model policy for bullying, cyberbullying, harassment, hazing, and retaliation.	<a href="https://www.schools.utah.gov/file/ca04ea6e-e787-445c-937c-f39ef1260d81">https://www.schools.utah.gov/file/ca04ea6e-e787-445c-937c-f39ef1260d81</a>
Utah State Board of Education, School District or Charter School Search and Seizure Model Policy	Model policy for search and seizure in schools.	<a href="https://www.schools.utah.gov/file/f5d5b4a0-ee8f-4101-b296-ab57e11940a3">https://www.schools.utah.gov/file/f5d5b4a0-ee8f-4101-b296-ab57e11940a3</a>
Utah State Board of Education, School District Student Discipline Model Policy	Model policy for student discipline.	<a href="https://www.schools.utah.gov/file/2357e565-adf2-441e-ad1f-0e295c84bab4">https://www.schools.utah.gov/file/2357e565-adf2-441e-ad1f-0e295c84bab4</a>
Utah State Board of Education, Student Suspension/Expulsion Model Policy	Model policy for suspension and expulsion.	<a href="https://www.schools.utah.gov/file/484046e2-d3b1-4f32-bc46-05c3651cee4d">https://www.schools.utah.gov/file/484046e2-d3b1-4f32-bc46-05c3651cee4d</a>
Utah State Board of Education, Electronic Device Model Policy	Permissive and restrictive model policies for electronic device use.	<a href="https://www.schools.utah.gov/file/74a9a708-6c0e-4ce6-bf71-7cd8b9a540d4">https://www.schools.utah.gov/file/74a9a708-6c0e-4ce6-bf71-7cd8b9a540d4</a>
Utah State Board of Education, Search and Seizure Model Policy	Model policy to protect individual student rights and guard against excessive intrusion.	<a href="https://www.schools.utah.gov/file/f5d5b4a0-ee8f-4101-b296-ab57e11940a3">https://www.schools.utah.gov/file/f5d5b4a0-ee8f-4101-b296-ab57e11940a3</a>
<i>Other Resources</i>		
Utah State Board of Education, Data and Statistics - Reports	Incident data by school, grade, and type of incident.	<a href="https://www.schools.utah.gov/data/reports">https://www.schools.utah.gov/data/reports</a>