

1 **R277. Education, Administration.**

2 **R277-613. LEA Disruptive Student Behavior, Bullying, Cyber-bullying, Hazing,**
3 **Retaliation, and Abusive Conduct Policies and Training.**

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

5 (1) This rule is authorized by:

6 (a) Section 53G-9-606, which directs the board to monitor LEA development and
7 implementation of bullying and hazing policies;

8 (b) Section 53G-9-607, which directs the board to make rules that establish standards
9 for high quality training related to bullying, cyber-bullying, hazing, and abusive conduct, and
10 retaliation;

11 (c) Section 53E-3-501, which directs the Board to establish rules and minimum
12 standards for the public schools governing discipline and control;

13 (d) Section 53G-8-209, which requires the Board, when making rules regarding
14 student participation in cocurricular or extracurricular activities, to include:

15 (i) prohibitions against the use of foul, abusive, or profane language while in the
16 classroom, on school property, or during a school sponsored activity; and

17 (ii) prohibitions against hazing, demeaning, or assaultive behavior, whether consensual
18 or not;

19 ~~(a)~~ (e) Utah Constitution Article X, Section 3, which vests general control and
20 supervision over public education in the Board; and

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

23 (2) The purpose of the rule is to:

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

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

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

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

31

32 **R277-613-2. Definitions.**

33 (1) "Abusive conduct" means the same as that term is defined in Subsection 53G-9-
34 601(1).

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

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

39 ~~[(e)]~~ (b) The conduct described in Subsection 53G-9-601(2) constitutes bullying,
40 regardless of whether the person against whom the conduct is committed directed, consented
41 to, or acquiesced in, the conduct.

42 ~~[(3) "Civil rights violation" means bullying, cyber-bullying, harassment, or hazing that~~
43 ~~is targeted at a student based upon the students' or employees' identification as part of any~~
44 ~~group protected from discrimination under the following federal laws:~~

45 ~~— (a) Title VI of the Civil Rights Act of 1964;~~

46 ~~— (b) Title IX of the Education Amendments of 1972; or~~

47 ~~— (c) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with~~
48 ~~Disabilities Act of 1990.]~~

49 (4) "Cyber-bullying" means the same as that term is defined in Subsection 53G-9-
50 601(4).

51 (5) "Disruptive student behavior" means the same as that term is defined in Subsection
52 53G-8-210(1)(a).

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

54 (7)(a) "Incident" means one or more infractions committed by a student or group of
55 students acting in concert, at the same time and place.

56 (b) A single incident may involve one or more victims and one or more offenders.

57 (8) "Infraction" means an act of prohibited behavior.

58 ~~(7)~~(9) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the
59 Blind.

60 ~~(8)~~(10) "Participant" means any student, employee or volunteer coach participating
61 in a public school sponsored athletic program or activity, including a curricular, co-curricular,
62 or extracurricular club or activity.

63 ~~(9)~~(11) "Policy" means standards and procedures that:

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

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

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

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

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

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

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

73 ~~(10)~~(12) "Restorative justice practice" means a discipline practice that brings together
74 students, school personnel, families, and community members to resolve conflicts, address
75 disruptive behaviors, promote positive relationships, and healing.

76 ~~(11)~~(13) "Retaliate" or "retaliation" means the same as that term is defined in
77 Subsection 53G-9-601(7).

78 ~~(12)~~(14) "School employee" means the same as that term is defined in Subsection
79 53G-9-601(10).

80 ~~(13)~~(15) "Trauma-Informed Care" means a strengths-based service delivery
81 approach that is grounded in an understanding of and responsiveness to the impact of trauma,
82 that emphasizes physical, psychological, and emotional safety for both the alleged victim and
83 the individual who is alleged to have engaged in prohibited conduct, and that creates
84 opportunities for targets to rebuild a sense of control and empowerment.

85

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

- 87 (1) ~~[Subject to availability of funds,]~~ ~~[t]~~The Superintendent shall provide:
- 88 (a) a model policy on bullying, cyber-bullying, hazing, and retaliation as required in
- 89 Section 53G-9-606;
- 90 (b) subject to availability of funds, model training and training opportunities on:
- 91 (i) the prevention and identification of bullying, cyber-bullying, hazing, and retaliation,
- 92 that an LEA may use to train the LEA's employees, contract employees, and volunteers,
- 93 including coaches; and
- 94 (ii) the reporting and review requirements in Section R277-613-5;
- 95 (c) subject to availability of funds, evidence based practices and policies related to the
- 96 prevention of bullying, cyber-bullying, hazing, and retaliation.
- 97 (2) Although an LEA is required to have a policy on bullying, cyber-bullying, hazing,
- 98 retaliation and abusive conduct as described in Section 53G-9-605 and this rule and provide
- 99 training as described in Section 53G-9-607 and this rule, the LEA is not required to use the
- 100 model policy or model training developed by the Superintendent described in Subsection (1).
- 101 (3) The Board may interrupt disbursements of funds consistent with Subsection 53E-3-
- 102 401(8) and Rule R277-114 for failure of an LEA to comply with:
- 103 (a) Title 53G, Chapter 9, Bullying and Hazing; and
- 104 (b) this rule.
- 105 (4) In addition to the requirements of Title 53G, Chapter 9, Bullying and Hazing and
- 106 this R277-613, LEAs are required to comply with applicable federal requirements.

107

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

- 109 (1) In addition to the requirements of Subsection 53G-9-605(3), an LEA shall:
- 110 (a) develop, update, and implement policies as required by Section 53G-9-605 and this
- 111 rule, which shall include a prohibition on:
- 112 (i) bullying;
- 113 (ii) cyber-bullying;
- 114 (iii) hazing;
- 115 (iv) retaliation; and

- 116 (v) making a false report.
- 117 (b) post a copy of the LEA's policy on the LEA website;
- 118 (c) develop an action plan to address a reported incident of bullying, cyber-bullying,
119 hazing, or retaliation; and
- 120 (d) provide a requirement for a signed statement that meets the requirements of
121 Subsection 53G-9-605(3)(h) annually.
- 122 (2)(a) As required by Section 53G-9-605, an LEA shall notify a parent of:
- 123 (i) a parent's student's threat to commit suicide; or
- 124 (ii) an incident of bullying, cyber-bullying, hazing, or retaliation involving the parent's
125 student as a victim or an individual who is alleged to have engaged in prohibited conduct.
- 126 (b) An LEA shall:
- 127 (i) notify a parent described in Subsection (2)(a) in a timely manner;
- 128 (ii) designate the appropriate school employee to provide parental notification; and
- 129 (iii) designate the format in which notification is provided to parents and maintained by
130 the LEA.
- 131 (3) Subject to the parental consent requirements of Section 53E-9-203, if applicable,
132 an LEA shall assess students about the prevalence of bullying, cyber-bullying, hazing, and
133 retaliation in LEAs and schools, specifically locations where students are unsafe and additional
134 adult supervision may be required, such as playgrounds, hallways, and lunch areas.
- 135 (4) An LEA shall take strong responsive action against retaliation, including assistance
136 to victims and their parents in reporting subsequent problems and new incidents.
- 137 (5)~~[(a)]~~ An LEA shall provide that students, school employees, coaches, and
138 volunteers receive training on bullying, cyber-bullying, hazing, and retaliation, from individuals
139 qualified to provide such training.
- 140 ~~[(b) The training described in Subsection (5)(a) shall:~~
- 141 ~~—(i) include information on various types of aggression and bullying, including:~~
- 142 ~~—(A) overt aggression that may include physical fighting such as punching, shoving,~~
143 ~~kicking, and verbal threatening behavior, such as name calling, or both physical and verbal~~
144 ~~aggression or threatening behavior;~~

- 145 ~~——(B) relational aggression or indirect, covert, or social aggression, including rumor~~
146 ~~spreading, intimidation, enlisting a friend to assault a child, and social isolation;~~
- 147 ~~——(C) sexual aggression or acts of a sexual nature or with sexual overtones;~~
- 148 ~~——(D) cyber-bullying, including use of email, web pages, text messaging, instant~~
149 ~~messaging, social media, three-way calling or messaging or any other electronic means for~~
150 ~~aggression inside or outside of school;~~
- 151 ~~——(E) bullying, cyber-bullying, hazing and retaliation based upon the students' or~~
152 ~~employees' identification as part of any group protected from discrimination under the following~~
153 ~~federal laws:~~
- 154 ~~——(i) Title VI of the Civil Rights Act of 1964, including discrimination on the basis of race,~~
155 ~~color, or national origin;~~
- 156 ~~——(ii) Title IX of the Education Amendments of 1972, including discrimination on the basis~~
157 ~~of sex; or~~
- 158 ~~——(iii) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with~~
159 ~~Disabilities Act of 1990, including discrimination on the basis of disability; and~~
- 160 ~~——(F) bullying, cyber-bullying, hazing, and retaliation based upon the students' or~~
161 ~~employees' actual or perceived characteristics, including race, color, national origin, sex,~~
162 ~~disability, religion, gender identity, sexual orientation, or other physical or mental attributes or~~
163 ~~conformance or failure to conform with stereotypes;~~
- 164 ~~——(ii) complement the suicide prevention program required for students under Rule R277-~~
165 ~~620 and the suicide prevention training required for licensed educators consistent with~~
166 ~~Subsection 53G-9-704(1); and~~
- 167 ~~——(iii) include information on when issues relating to this rule may lead to student or~~
168 ~~employee discipline.]~~
- 169 (6) The training described in Subsection (5) shall be offered to:
- 170 (a) new school employees, coaches, and volunteers; and
- 171 (b) all school employees, coaches, and volunteers at least once every three years.
- 172 (7)(a) An LEA's policies developed under this section shall complement existing school
173 policies and research based school discipline plans.

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

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

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

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

181 (iii) designates to whom notices shall be provided;

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

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

185 (vi) is clearly written and consistently enforced; and

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

190

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

193 (1) In accordance with an action plan adopted in accordance with Subsection R277-
194 613-4(1)(c), an LEA shall:

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

197 (b) provide an individual who investigates allegations of incidents of bullying, cyber-
198 bullying, hazing, and retaliation with adequate training on conducting an investigation.

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

202 (b) An LEA may also interview the following as part of an investigation:

- 203 (i) parents of the alleged victim and the individual who is alleged to have engaged in
204 prohibited conduct;
- 205 (ii) any witnesses;
- 206 (iii) school staff; and
- 207 (iv) other individuals who may provide additional information.
- 208 (c) An individual who investigates an allegation of an incident shall inform an individual
209 being interviewed that:
- 210 (i) to the extent allowed by law, the individual is required to keep all details of the
211 interview confidential; and
- 212 (ii) further reports of bullying will become part of the review.
- 213 (3) The confidentiality requirement in Subsection (2)(c) does not apply to:
- 214 (a) conversations with law enforcement professionals;
- 215 (b) requests for information pursuant to a warrant or subpoena;
- 216 (c) a state or federal reporting requirement; or
- 217 (d) other reporting required by this rule.
- 218 (4) In conducting an investigation under this section, an LEA may:
- 219 (a) review disciplinary reports of involved students; and
- 220 (b) review physical evidence, consistent with search and seizure law in schools, which
221 may include:
- 222 (i) video or audio;
- 223 (ii) notes;
- 224 (iii) email;
- 225 (iv) text messages;
- 226 (v) social media; or
- 227 (vi) graffiti.
- 228 (5) An LEA shall adopt a policy outlining under what circumstances the LEA will report
229 incidents of bullying, cyber-bullying, harassment, and retaliation to law enforcement.
- 230 (6) Following an investigation of a confirmed allegation of an incident of bullying, cyber-
231 bullying, hazing, or retaliation, if appropriate, an LEA may:

232 (a) in accordance with the requirements in Subsection (6), take positive restorative
233 justice practice action, in accordance with policies established by the LEA; and

234 (b) support involved students through trauma-informed practices, if appropriate.

235 (6)(a) An alleged victim is not required to participate in a restorative justice practice
236 with an individual who is alleged to have engaged in prohibited conduct as described in
237 Subsection (5)(a).

238 (b) If an LEA would like an alleged victim who is a student to participate in a restorative
239 justice practice, the LEA shall notify the alleged victim's parent of the restorative justice
240 practice and obtain consent from the alleged victim's parent before including the alleged victim
241 in the process.

242 (7) A grievance process required under Subsection 53G-9-605(3)(f) shall be consistent
243 with the LEA's established grievance process.

244 (8) An LEA shall, as required by Subsection 53G-9-606(2), report the following
245 annually, on or before June 30, to the Superintendent in accordance with the Superintendent's
246 submission requirements:

247 (a) a copy of LEA's policy required in Section R277-613-4;

248 (b) implementation of the signed statement requirement described in Subsection 53G-
249 9-605(3)(h);

250 (c) verification of the LEA's training of school employees relating to bullying, cyber-
251 bullying, hazing, and retaliation described in Section 53G-9-607; and

252 (d) incidents of bullying, cyber-bullying, hazing, and retaliation[;].

253 ~~[(e) the number of incidents described in Subsection (8)(d) required to be reported~~
254 ~~separately under federal law, including the reporting requirements in:~~

255 ~~—(i) Title VI of the Civil Rights Act of 1964;~~

256 ~~—(ii) Title IX of the Education Amendments of 1972; or~~

257 ~~—(iii) Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with~~
258 ~~Disabilities Act of 1990; and~~

259 ~~—(f) the number of incidents described in Subsection (8)(d) that include a student who~~
260 ~~was bullied, cyber-bullied, hazed, or retaliated against based on the student's actual or~~

261 ~~perceived characteristics, including disability, race, national origin, religion, sex, gender~~
262 ~~identity, or sexual orientation.]~~

263 (9) The requirements of this R277-613 are in addition to any federal requirements,
264 including reporting civil rights violations to the appropriate entities and taking other appropriate
265 action.

266

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

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

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

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

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

280

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

282 (1) An LEA shall prohibit abusive conduct.

283 (2) An LEA's bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy,
284 required in Section 53G-9-605 ~~[53A-11a-304]~~ and this rule, shall include a grievance process
285 for a school employee who has experienced abusive conduct as described in Subsection 53G-
286 9-605(3)(f).

287

288 **KEY: abusive conduct, bullying, harassment, hazing, training**

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DRAFT 3 - Green - New Text | ~~[Purple]~~ - Deleted Text

DRAFT 4
Member Hansen Amendment
January 7, 2020

289 **Date of Enactment or Last Substantive Amendment: July 9, 2018**

290 **Notice of Continuation: August 2, 2018**

291 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-9-**

292 **607; 53E-3-501; 53G-8-209; 53G, Chapter 9**