

1 **PARENTAL NOTIFICATION RELATED TO STUDENT**
2 **SAFETY**

3 2013 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Gage Froerer**

6 Senate Sponsor: _____

7
8 **LONG TITLE**

9 **General Description:**

10 This bill requires parental notification of certain safety threats to a parent's student.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ requires a school to notify a parent:

- 14 • if the parent's student threatens to commit suicide; or
- 15 • of an alleged incident of bullying, cyber-bullying, harassment, hazing, or

16 retaliation involving the parent's student; and

17 ▶ requires a school to have a parent sign a statement acknowledging that the parent
18 was notified of the suicide threat or bullying.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 **AMENDS:**

25 **53A-11-605**, as last amended by Laws of Utah 2012, Chapter 425

26 **53A-11a-301**, as last amended by Laws of Utah 2011, Chapter 235

27 **53A-13-302**, as last amended by Laws of Utah 1999, Chapter 284



28 ENACTS:

29 **53A-11a-203**, Utah Code Annotated 1953



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

32 Section 1. Section **53A-11-605** is amended to read:

33 **53A-11-605. Definitions -- School personnel -- Medical recommendations --**
34 **Exceptions -- Penalties.**

35 (1) As used in this section:

36 (a) "Health care professional" means a physician, physician assistant, nurse, dentist, or
37 mental health therapist.

38 (b) "School personnel" means ~~any~~ a school district or charter school employee,
39 including a licensed, part-time, contract, ~~and~~ or nonlicensed ~~employees~~ employee.

40 (2) School personnel may:

41 (a) provide information and observations to a student's parent or guardian about that
42 student, including observations and concerns in the following areas:

43 (i) progress;

44 (ii) health and wellness;

45 (iii) social interactions;

46 (iv) behavior; or

47 (v) topics consistent with Subsection 53A-13-302(6);

48 (b) communicate information and observations between school personnel regarding a
49 child;

50 (c) refer students to other appropriate school personnel and agents, consistent with
51 local school board or charter school policy, including referrals and communication with a
52 school counselor or other mental health professionals working within the school system;

53 (d) consult or use appropriate health care professionals in the event of an emergency
54 while the student is at school, consistent with the student emergency information provided at
55 student enrollment;

56 (e) exercise their authority relating to the placement within the school or readmission
57 of a child who may be or has been suspended or expelled for a violation of Section
58 53A-11-904; and

59 (f) complete a behavioral health evaluation form if requested by a student's parent or
60 guardian to provide information to a licensed physician.

61 (3) School personnel shall:

62 (a) report suspected child abuse consistent with Section 62A-4a-403;

63 (b) comply with applicable state and local health department laws, rules, and policies;
64 and

65 (c) conduct evaluations and assessments consistent with the Individuals with
66 Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments.

67 (4) Except as provided in Subsection (2) [~~and~~], Subsection (6), and Section
68 53A-11a-203, school personnel may not:

69 (a) recommend to a parent or guardian that a child take or continue to take a
70 psychotropic medication;

71 (b) require that a student take or continue to take a psychotropic medication as a
72 condition for attending school;

73 (c) recommend that a parent or guardian seek or use a type of psychiatric or
74 psychological treatment for a child;

75 (d) conduct a psychiatric or behavioral health evaluation or mental health screening,
76 test, evaluation, or assessment of a child, except where this Subsection (4)(d) conflicts with the
77 Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent
78 amendments; or

79 (e) make a child abuse or neglect report to authorities, including the Division of Child
80 and Family Services, solely or primarily on the basis that a parent or guardian refuses to
81 consent to:

82 (i) a psychiatric, psychological, or behavioral treatment for a child, including the
83 administration of a psychotropic medication to a child; or

84 (ii) a psychiatric or behavioral health evaluation of a child.

85 (5) Notwithstanding Subsection (4)(e), school personnel may make a report that would
86 otherwise be prohibited under Subsection (4)(e) if failure to take the action described under
87 Subsection (4)(e) would present a serious, imminent risk to the child's safety or the safety of
88 others.

89 (6) Notwithstanding Subsection (4), a school counselor or other mental health

90 professional acting in accordance with Title 58, Chapter 60, Mental Health Professional
91 Practice Act, or licensed through the State Board of Education, working within the school
92 system may:

93 (a) recommend, but not require, a psychiatric or behavioral health evaluation of a child;

94 (b) recommend, but not require, psychiatric, psychological, or behavioral treatment for
95 a child;

96 (c) conduct a psychiatric or behavioral health evaluation or mental health screening,
97 test, evaluation, or assessment of a child in accordance with Section 53A-13-302; and

98 (d) provide to a parent or guardian, upon the specific request of the parent or guardian,
99 a list of three or more health care professionals or providers, including licensed physicians,
100 psychologists, or other health specialists.

101 (7) Local school boards or charter schools shall adopt a policy:

102 (a) providing for training of appropriate school personnel on the provisions of this
103 section; and

104 (b) indicating that an intentional violation of this section is cause for disciplinary action
105 consistent with local school board or charter school policy and under Section 53A-8a-502.

106 (8) Nothing in this section shall be interpreted as discouraging general communication
107 not prohibited by this section between school personnel and a student's parent or guardian.

108 Section 2. Section **53A-11a-203** is enacted to read:

109 **53A-11a-203. Parental notification of certain incidents required.**

110 (1) For purposes of this section, "parent" includes a student's guardian.

111 (2) A school shall notify a parent:

112 (a) if the parent's student threatens to commit suicide; or

113 (b) of an alleged incident of bullying, cyber-bullying, harassment, hazing, or retaliation
114 involving the parent's student.

115 (3) If a school notifies a parent of an incident or threat required to be reported under
116 Subsection (2), the school shall require the parent to sign a statement acknowledging that the
117 parent was notified of the incident or threat.

118 (4) The school shall maintain a copy of a parental statement described in Subsection
119 (3) for at least four years.

120 (5) At the request of a parent, a school may provide information and make

121 recommendations related to an incident or threat described in Subsection (2).

122 Section 3. Section **53A-11a-301** is amended to read:

123 **53A-11a-301. Bullying, cyber-bullying, harassment, hazing, and retaliation**
124 **policy.**

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

127 (2) The policy shall:

128 (a) be developed only with input from:

129 (i) students;

130 (ii) parents;

131 (iii) teachers;

132 (iv) school administrators;

133 (v) school staff; or

134 (vi) local law enforcement agencies; and

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

136 (3) The policy shall include the following components:

137 (a) definitions of bullying, cyber-bullying, harassment, and hazing that are consistent
138 with this chapter;

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

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

142 (d) language prohibiting making a false report of bullying, cyber-bullying, harassment,
143 hazing, or retaliation[-]; and

144 (e) parental notification of an incident of bullying, cyber-bullying, harassment, hazing,
145 or retaliation involving a parent's student as required in Section 53A-11a-203.

146 (4) A copy of the policy shall be included in student conduct handbooks and employee
147 handbooks.

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

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

152 Section 4. Section 53A-13-302 is amended to read:

153 **53A-13-302. Activities prohibited without prior written consent -- Validity of**
154 **consent -- Qualifications -- Training on implementation.**

155 (1) Policies adopted by a school district under Section 53A-13-301 shall include
156 prohibitions on the administration to a student of any psychological or psychiatric examination,
157 test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the
158 student's parent or legal guardian, in which the purpose or evident intended effect is to cause
159 the student to reveal information, whether the information is personally identifiable or not,
160 concerning the student's or any family member's:

161 (a) political affiliations or, except as provided under Section 53A-13-101.1 or rules of
162 the State Board of Education, political philosophies;

163 (b) mental or psychological problems;

164 (c) sexual behavior, orientation, or attitudes;

165 (d) illegal, anti-social, self-incriminating, or demeaning behavior;

166 (e) critical appraisals of individuals with whom the student or family member has close
167 family relationships;

168 (f) religious affiliations or beliefs;

169 (g) legally recognized privileged and analogous relationships, such as those with
170 lawyers, medical personnel, or ministers; and

171 (h) income, except as required by law.

172 (2) Prior written consent under Subsection (1) is required in all grades, kindergarten
173 through grade 12.

174 (3) ~~The~~ Except as provided in Section 53A-11a-203, the prohibitions under
175 Subsection (1) shall also apply within the curriculum and other school activities unless prior
176 written consent of the student's parent or legal guardian has been obtained.

177 (4) Written parental consent is valid only if a parent or legal guardian has been first
178 given written notice, including notice that a copy of the educational or student survey questions
179 to be asked of the student in obtaining the desired information is made available at the school,
180 and a reasonable opportunity to obtain written information concerning:

181 (a) records or information, including information about relationships, that may be
182 examined or requested;

183 (b) the means by which the records or information shall be examined or reviewed;

184 (c) the means by which the information is to be obtained;

185 (d) the purposes for which the records or information are needed;

186 (e) the entities or persons, regardless of affiliation, who will have access to the

187 personally identifiable information; and

188 (f) a method by which a parent of a student can grant permission to access or examine

189 the personally identifiable information.

190 (5) (a) Except in response to a situation which a school employee reasonably believes

191 to be an emergency, or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or

192 Neglect Reporting Requirements, or by order of a court, disclosure to a parent or legal guardian

193 must be given at least two weeks before information protected under this section is sought.

194 (b) Following disclosure, a parent or guardian may waive the two week minimum

195 notification period.

196 (c) Unless otherwise agreed to by a student's parent or legal guardian and the person

197 requesting written consent, the authorization is valid only for the activity for which it was

198 granted.

199 (d) A written withdrawal of authorization submitted to the school principal by the

200 authorizing parent or guardian terminates the authorization.

201 (e) A general consent used to approve admission to school or involvement in special

202 education, remedial education, or a school activity does not constitute written consent under

203 this section.

204 (6) (a) This section does not limit the ability of a student under Section 53A-13-101.3

205 to spontaneously express sentiments or opinions otherwise protected against disclosure under

206 this section.

207 (b) (i) If a school employee or agent believes that a situation exists which presents a

208 serious threat to the well-being of a student, that employee or agent shall notify the student's

209 parent or guardian without delay.

210 (ii) If, however, the matter has been reported to the Division of Child and Family

211 Services within the Department of Human Services, it is the responsibility of the division to

212 notify the student's parent or guardian of any possible investigation, prior to the student's return

213 home from school.

214 (iii) The division may be exempted from the notification requirements described in this
215 Subsection (6)(b)(ii) only if it determines that the student would be endangered by notification
216 of his parent or guardian, or if that notification is otherwise prohibited by state or federal law.

217 (7) Local school boards shall provide inservice for teachers and administrators within
218 their respective school districts on the implementation of this section.

219 (8) The board shall provide procedures for disciplinary action for violations of this
220 section.

Legislative Review Note
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Office of Legislative Research and General Counsel