

R277. Education, Administration.

R277-613. LEA Policies and Training Regarding Bullying, Cyber-bullying, Hazing, Retaliation, and Abusive Conduct.

R277-613-1. Authority, Purpose, and Oversight Category.

(1) This rule is authorized by:

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

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

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

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

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

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

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

(f) 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 this 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;

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

(e) require an LEA to report bullying, cyber-bullying, hazing, and retaliation.

(3) This Rule R277-613 is categorized as Category 3 as described in Rule R277-111.

R277-613-2. Definitions.

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

(2) "Allegation" means a claim or assertion that someone has engaged in disruptive student behavior but has not been confirmed through a formal process as described in Subsection (5).

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

(b) 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.

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

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

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

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

(d) Title II of the Americans with Disabilities Act of 1990.

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

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

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

(8)(a) "Incident" means a verified incident as defined in Subsection 53G-9-601(7).

(b) A single incident may involve:

- (i) one or more students to whom an incident is directed;
- (ii) one or more students as causes of the incident; or
- (iii) a student as both a subject and a cause of the incident.

(c) A single incident occurs at the same time and in the same place.

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

(10) "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.

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

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

(b) include 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;

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

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

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

(12) "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.

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

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

(15) "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 students subjected to the incident, 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.

(16) "Verification" means that an alleged incident has been found to be substantiated through a formal investigation process as described in Subsection (5).

(17) "Volunteer" means a non-employee with significant, unsupervised access to students in connection with a school assignment.

R277-613-3. Superintendent Responsibilities.

(1) The Superintendent shall provide:

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

(b) subject to availability of funds, model training and training opportunities on:

(i) the prevention and identification of bullying, cyber-bullying, hazing, abusive conduct, 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) subject to availability of funds, evidence-based practices and policies related to the prevention of bullying, cyber-bullying, hazing, abusive conduct, and retaliation.

(2) Although an LEA may not 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 rule, 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 Section 53G-9-605

and this rule, which shall include a prohibition on:

(i) bullying;

(ii) cyber-bullying;

(iii) hazing;

(iv) retaliation;

(v) abusive conduct; and

(vi) 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, abusive conduct, or retaliation;

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

(e) review the policies required by this Subsection (1) regularly with input from stakeholders, as described in Subsection 53G-9-605(2)(a); and

(f) include language outlining response to students who share a recording of an act of bullying, cyber-bullying, hazing, abusive conduct, and retaliation to impact or encourage future incidents.

(2) A signed statement under Subsection (1)(d) may not be used as a substitute for other training requirements as set forth in this rule.

(3)(a) As required by Section 53G-9-605, an LEA shall notify a student's parent of:

(i) the student's threat of suicide; or

(ii) an incident of bullying, cyber-bullying, hazing, or retaliation involving the student as a student subjected to the incident, or an individual who is alleged to have engaged in prohibited conduct; and

(iii) of the action plan to address the incident.

(b) An LEA shall:

(i) designate the appropriate school employee to provide parental notification;

and

(ii) designate the format in which notification is provided to a parent and maintained by the LEA.

(c) An LEA shall:

(i) make a notification required in Subsection (3)(a) in a timely manner;

(ii) provide the parent with:

(A) suicide prevention materials and information as recommended by the Superintendent in accordance with Subsection 53G-9-604(2)(b);

(B) information on ways to limit a student's access to fatal means, including firearms or medication; and

(C) information and resources on the healthy use of social media and online practices; and

(iii) produce and maintain a record that:

(A) verifies that the school notified each parent in accordance with the law; and

(B) tracks implementation of the action plan addressing the incident, if applicable.

(4) 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.

(5) An LEA shall take strong responsive action against retaliation, including assistance to students subjected to the incident and their parents in reporting subsequent problems and new incidents.

(6)(a) An LEA shall provide that students, school employees, coaches, and volunteers receive training on bullying, cyber-bullying, hazing, retaliation, and abusive conduct from individuals qualified to provide such training.

(b) The training described in Subsection (6)(a) shall:

(i) include information on:

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

(B) discrimination under the following federal laws:

(l) Title VI of the Civil Rights Act of 1964;

- (II) Title IX of the Education Amendments of 1972;
- (III) Section 504 of the Rehabilitation Act of 1973; and
- (IV) Title II of the Americans with Disabilities Act of 1990;

(C) how bullying, cyber-bullying, hazing retaliation, and abusive conduct are different from discrimination and may occur separately from each other or in combination;

(D) how bullying, cyber-bullying, hazing, retaliation, and abusive conduct are prohibited based upon the students' or employees' actual or perceived characteristics, including race, color, national origin, sex, disability, religion, gender identity, sexual orientation, or other physical or mental attributes or conformance or failure to conform with stereotypes; and

(E) the right of free speech and how it differs for students, employees, and parents;

(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.

(7) The training described in Subsection (6) shall be offered to:

(a) new school employees, coaches, and volunteers within the first year of employment or service; and

(b) all school employees, coaches, and volunteers at least once every three years after the initial training.

(8)(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, abusive conduct.

R277-613-5. Reporting and Incident Investigations of Allegations of Bullying, Cyber-bullying, Hazing, Retaliation and Abusive Conduct.

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

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

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

(c) designate at least one individual at the LEA level who:

(i) can provide training to an individual described in Subsection (1)(b);

(ii) oversees the implementation of the action plan;

(iii) monitors the implementation of the LEA policy regarding communication plans;

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

(v) assists with school case-specific needs; and

(d) identify an LEA employee to be the point person with training and expertise to assist, direct, and supervise training of other employees in the responsibilities established in Subsections R277-613-5(1)(a) and (b).

(2)(a) An LEA shall investigate allegations of incidents described in Subsection (1)(a) by interviewing:

(i) the student individual subjected to the incident;

(ii) the individual who is alleged to have engaged in prohibited conduct;

(iii) parents of the students subjected to the incident and the individual who is alleged to have engaged in prohibited conduct;

(iv) any witnesses;

(v) school staff familiar with the student subjected to the incident;

(vi) school staff familiar with the individual who is alleged to have engaged in prohibited conduct; or

(vii) other individuals who may provide additional relevant information.

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

(i) to the extent allowed by law, the individual shall 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 an investigation under this section, an LEA may:

(a) review disciplinary reports of involved students; and

(b) review physical evidence, consistent with search and seizure law in schools,

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) An LEA shall adopt a policy outlining under what circumstances the LEA will investigate and report incidents of bullying, cyber-bullying, retaliation, and abusive conduct, as civil rights violations.

(7) Following a verified incident of bullying, cyber-bullying, hazing, retaliation, or abusive conduct, an LEA shall create and implement an action plan for each incident in accordance with Section 53G-9-605.5 and Subsection (6).

(8) Following a verified incident of bullying, cyber-bullying, hazing, retaliation, or abusive conduct, 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) provide supportive services designed to preserve the student's access to educational opportunities and a sense of safety; or

(c) develop a communication process.

(9)(a) A student to whom an incident is directed, is not required to participate in a restorative justice practice as described in Subsection (7)(a) with an individual who is alleged to have engaged in prohibited conduct.

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

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

(11) An LEA shall follow up with the parents of all parties to:

(a) inform parents when an investigation is concluded;

(b) inform parents what safety measures will be in place for their child, as determined by the investigation;

(c) provide additional information about the investigation or the resolution consistent with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g; and

(d) inform parents of appeal options, if available, if the parents disagree with resolution of the investigation.

(12) 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 the 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, retaliation, and abusive conduct described in Section 53G-9-607;

(d) report verified incidents of bullying, cyber-bullying, hazing, and retaliation;
and

(e) the number and type of incidents described in Subsection (11)(d) that include a student or LEA employee who was alleged bullied, cyber-bullied, hazed, or retaliated against based on the student's or LEA employee's actual or perceived characteristics, including disability, race, national origin, religion, sex, gender identity, or sexual orientation, including the federal reporting requirements for civil rights violations.

(13) The requirements of this rule are in addition to any federal requirements, including reporting civil rights violations to the appropriate entities and taking other appropriate action.

R277-613-6. Response to Verified Incidents of Bullying or Cyber-bullying.

(1) A school or LEA shall create an action plan for an incident that includes:

(a) a communication plan designed to keep each parent updated on the implementation of the action plan as required in Section 53G-9-605; and

(b) with respect to the student to whom the incident was directed and in direct coordination with the student's parent:

(i) a tailored response to the incident that addresses the student's needs;

(ii) a mechanism to consider consequences or accommodations the student may need regarding decreased exposure or interactions with the student who caused the incident;

(iii) notification of the consequences and plan to address the behavior of the student who caused the incident;

(iv) supportive measures designed to preserve the student's access to educational services and opportunities; and

(v) to the extent available, access to other resources the parent requests for the student; and

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

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

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

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

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

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

(a) educational schedule or placement; or

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

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

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

R277-613-7. Training by LEAs Specific to Participants in Public School Athletic Programs and School Clubs.

(1)(a) Before 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, retaliation, and abusive conduct 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 this rule.

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

R277-613-8. 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).

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

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