

NEVADA DEPARTMENT OF EDUCATION

Notice of Workshop to Solicit Comments on Proposed Regulation

The Nevada Department of Education is proposing regulation language pertaining to the Nevada Administrative Code. The Workshop has been scheduled for **Thursday, August 13, 2015** via video conference at the following locations: **Nevada Department of Education Offices, Board Conference Room, 700 East Fifth Street, Board Room, Carson City and 9890 South Maryland Parkway, 2nd Floor Board Conference Room, Las Vegas, Nevada.** The purpose of the Workshop is to solicit comments from interested person on the following general topics to be addressed in a proposed regulation:

9:10 A.M. Workshop to solicit comments on proposed amendments to NAC Chapter 388 to provide procedures and standards by which the Office for a Safe and Respectful Learning Environment will conduct investigations of complaints (Statute of Nevada 2015, Chapter 115); to prescribe a policy for use by all school districts and public schools to provide a safe and respectful learning environment (NRS 388.133); and to establish a process for grants from the Bullying Prevention Account (NRS 388.1325 and 388.1327).

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting by telephone Karen Johansen, State Board of Education Office, Nevada Department of Education, at 775-687-9225, or in writing to the Department of Education, 700 East Fifth Street, Carson City, Nevada 89701-5096. A reasonable fee for copying may be charged.

This Notice of Workshop to Solicit Comments on Proposed Regulation has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations: The offices of the Nevada Department of Education in Carson City and Las Vegas, the 17 Nevada County main public libraries, the Nevada State Library and Archives, and at the meeting locations.

BRIAN SANDOVAL
Governor

STATE OF NEVADA

SOUTHERN NEVADA OFFICE
9890 S. Maryland Parkway, Suite 221

DALE A.R. ERQUIAGA
Superintendent of Public Instruction



Las Vegas, Nevada 89183
(702) 486-6458
Fax: (702)486-6450
<http://teachers.nv.gov>

DEPARTMENT OF EDUCATION
700 E. Fifth Street
Carson City, Nevada 89701-5096
(775) 687 - 9200 · Fax: (775) 687 - 9101
<http://www.doe.nv.gov>

**SMALL BUSINESS IMPACT STATEMENT
PURSUANT TO NRS 233B.0608**

Date: July 20, 2015

Re: Workshop to Adopt Regulations Concerning a Safe and Respectful Learning Environment, scheduled for August 13, 2015 at 9:10 a.m.

I, Dale A.R. Erquiaga, being the duly appointed Superintendent of Public Instruction, do hereby certify that, to the best of my knowledge or belief:

1. The proposed permanent regulations to be added the NAC Chapter 388 concerning a safe and respectful learning environment in public schools are not likely to (a) impose a direct or significant economic burden upon a small business, or (b) directly restrict the formation, operation or expansion of a small business. The proposed regulations provide procedures and policies related to bullying and safe schools.
2. A concerted effort was made to determine any economic burden. The Department of Education has relied legislative testimony during the consideration and passage of Senate Bill 504 and consultation with local school districts and other experts.
3. All relevant materials were reviewed and the Department considered its history with implementing similar regulations; the proposed changes are within the scope of the Department's budget and legislatively approved activities and present no new significant cost of enforcement.
4. Comment has not been solicited from small businesses, and no summary of their response is provided, because small businesses are not impacted by this regulation and thus no burden or economic impact can be assessed.

I hereby further certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the regulation on small businesses and that the information contained in this statement was prepared properly and is accurate.

Respectfully submitted,

A handwritten signature in black ink that reads "Dale A.R. Erquiaga". The signature is written in a cursive style.

DALE A.R. ERQUIAGA
Superintendent of Public Instruction

Safe and Respectful Learning Environment

Proposed Regulatory Topics

Procedures and Standards for Complaints pursuant to Statutes of Nevada 2015, Chapter 115 (SB 504 of the 78th Regular Session):

1. Complaints regarding disciplinary actions taken against pupils can only be submitted to the Department after a final report at the local level is provided to the parent. Parents have 30 days following receipt of the local report to file a complaint.
2. Complaints must be in writing and must include contact information and as much information about the incident as can be provided.
3. A complaint to the Department must include any written report prepared by or at the direction of the local district or school regarding the alleged violation. If no report was made in writing, the parent or guardian may submit his or her own narrative summation and must provide the name(s) of the person(s) who provided the local report so that the Department can verify the report as restated.
4. If the complaint alleges that a teacher, administrator, principal, coach or other staff member or a member of a board of trustees has violated a provision of NRS 388.121 to 388.145, inclusive, a citation for what statute is alleged to have been violated must be provided. This office cannot provide legal advice.
5. If the complaint alleges that a teacher, administrator, principal, coach or other staff member or a member of a board of trustees has engaged in criminal conduct, a citation for the criminal conduct must be provided. This office cannot provide legal advice.
6. If the complaint does not allege a violation of state law or criminal conduct, but the nature of the complaint is dissatisfaction with the outcome of a local investigation or the remedy provided, the complaint must state this fact and suggest an acceptable outcome or remedy. The Department may be able to provide certain remedies; but in the event a remedy is beyond the scope of the Department's authority, the Superintendent of Public Instruction may be able to refer the matter back to the local jurisdiction for further review and action.
7. The Department may request additional information if a complaint is deemed insufficient for an investigation to be conducted. Such requests will be made within 48 hours of receipt of the initial complaint and the parent will be advised when the complaint filed is deemed "complete" for purposes of a preliminary determination.
8. A Preliminary Report, determining whether to conduct an additional or further investigation will be issued within five working days of receipt of the final complaint. The Department may consult with legal counsel and the Investigation Division of the Department of Public Safety in making its Preliminary Report. If the Department considers the complaint to be invalid or finds that it cannot conduct an investigation, the parent will be notified.
9. A Final Report will be issued within 30 days of the Preliminary Report. If the Investigation Division requests additional time for its work, the Department will notify the parent.
10. The Department may request a plan of corrective action with suggested changes to be made by the local district pursuant to the Superintendent of Public Instruction's authority under state law. The request for a corrective action plan and any local response would be made public, allowing for the redaction of personally identifiable information about the student(s) involved.

11. Timelines may be adjusted if school is not in session.

Policy for All School Districts and Public Schools to Provide a Safe and Respectful Learning Environment, pursuant to NRS 388.133:

Safe, Respectful and Inclusive Learning Environment Policy

WORKSHOP NOTE: Policy was initially proposed by the Anti-bullying Task Force in 2014; it has been amended by NDE staff as of July 2015 for purposes of discussion in the regulation workshop process.

Chapter 388 of NAC is hereby amended by adding thereto the provisions set forth below:

Section 1. Pursuant to NRS 388.132, the board of trustees of each school district and the governing board of each charter school shall adopt a policy in substantially the form set forth in sections 2 through 10 of this regulation.

Section 2. Introduction or Statement of Intent

The _____ School District or charter school is committed to providing a safe and respectful learning environment to ensure that pupils be free from physical, emotional or mental abuse while in our care and that pupils be provided with an environment that allows them to learn. No member of the board, employee of the district or school, member of a club or organization which uses district or school facilities (regardless of whether the club or organization has any connection to the district or school), or any students shall tolerate or engage in bullying or cyber-bullying in any district or school facilities, including but not limited to every classroom, locker room, cafeteria, restroom, gymnasium, playground, athletic field, school bus, parking lot and other areas on the premises of a school.

Section 3. Definitions

The definitions of "bullying," "cyber-bullying," and "electronic communication" set forth in NRS 388.121 through 388.124 are incorporated by reference and may be restated entirely for clarity and ease of reference.

Section 4. Reporting

1. Students who are subjected to, witness, or overhear incidents of bullying or cyber-bullying should report such an incident to a teacher, counselor, coach, school or district staff member, or a school administrator, or through the on-line tip line or 24 hour hotline maintained at the Department of Education, or through an on-line tip line maintained by the district.
2. Employees who witness, overhear, or receive information, formal or informal, written or oral, of bullying and/or cyber-bullying at school, at a school-sponsored event, or on a school bus, shall report it to the principal or the principal's designee as soon as practicable, but not later than on the same day the violation was witnessed or information on the violation was received, and should take immediate action to protect a target or target of bullying or cyber-bullying when witnessing, overhearing, or being notified that bullying or cyber-bullying is occurring or has occurred.

3. Upon receiving a report, the principal or designee shall immediately take any necessary action to stop the bullying or cyber-bullying and ensure the safety and well-being of the reported target(s).
 - a. This action shall in no way cause further harm to the target – for example, they should not be forced to switch classrooms or remain isolated from their peers;
 - b. The target(s) should not have undue attention brought to them; care should be taken to talk to them discreetly and privately.
4. When violations of the prohibition against bullying and cyber-bullying occur among teachers; between teachers and administrators, principals and other personnel of a school district occur, a report must be made to the immediate supervisor, or if the person the complaint is regarding is the immediate supervisor, to the next supervisor in line of authority. As soon as possible after receiving the complaint, the supervisor must take appropriate action, as outline in the school board adopted policies for complaints.

Section 5. Notifications

1. The principal or designee shall provide notice of a reported violation to the parent or guardian of the alleged target(s) and the alleged offender(s).
2. The notification should be provided by telephone, electronic mail, robo calling, or other electronic means – or provided in person. A record of the notification must be maintained by the principal or designee.
3. Notification must be made not later than 6 pm on the same day the report was made, unless the report was made on a day that wasn't a school day, or after school hours on a school day – in which case, notification must happen by 6 pm the following school day.
4. The notice must include, without limitation, a statement that the principal or the designee will be conducting an investigation into the reported violation and that the parent or legal guardian may discuss with the principal or the designee any counseling and intervention services that are available to the student(s).
5. The notice may not include personally identifiable information regarding other students (such as the name of the alleged offender or any other involved students), and does not need to label the student's alleged role in the incident.
6. If the contact information for the parent or guardian is not correct, a good faith effort to notify them must be made.

Section 6. Investigations

1. The principal or designee shall initiate an investigation. A proper investigation should include:
 - a. A thorough and impartial inquiry, including talking to each of the students involved;
 - b. Interviews conducted individually with, to the extent possible, the identity of each person interviewed and the content of the interview remaining confidential;
 - c. Interviews with the parents or guardians of the alleged target and the alleged aggressor. Principals/designees should use this time to find out if there is any other information that could be useful when making their determinations, such as home factors impacting the students, patterns of behavior witnessed at home, etc.
 - d. Documentation of the investigation.
2. The investigation must be completed not later than two school days after the date on which the report was received. If a parent or guardian or the alleged target or aggressor is unavailable to interview, after making a good faith effort of at least two documented attempts to contact the individual, the principal or designee may have one additional school day to complete the investigation.

3. No cause of action may be brought against a student, an employee, or volunteer of a school who reports a bullying or cyber-bullying incident unless the person who made the report acted with malice, intentional misconduct, gross negligence, or intentional or knowing violation of the law.
4. If the principal determines that the report was false and that the person who made the report acted with malice, intentional misconduct, gross negligence, or intentional or knowing violation of the law, the principal may recommend the imposition of disciplinary action or other measures against the person in accordance with the policy governing disciplinary action of the school district.

Section 7. Responses

1. The principal or designee must complete a written report of the findings and conclusions of the investigation, and, while protecting the privacy rights of the students involved, must have that report available to the parents or guardians of the students involved not later than 24 hours after the completion of the written report, should they request to see it.
2. If a violation is found to have occurred, the report must include recommendations concerning the imposition of disciplinary action or other measures to be imposed as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district. Other measures may include:
 - a. Using consequences to teach: For example, the student who engaged in bullying can do a project about civil rights and bullying; read a book about bullying; be kept from the social network that encouraged him or her to bully; do a service learning project; clean up, repair, or replace any damaged property; use his or her power and leadership skills in positive outlets; remove access to the electronic medium use for cyber-bullying, and etc.
 - b. The goal is to help the student to see the harm, repair the harm, and take steps to ensure the harm won't occur again in the future.
5. Notification should be given to the parent or legal guardians of the alleged offender(s) involved as to the outcome of the investigation – without disclosing personally identifiable student information. The notification must inform the parent or legal guardian that he or she may:
 - a. Submit to the principal or his or her designee a complaint or a concern regarding the conduct or outcome of the investigation.
 - b. Request a meeting with the principal or his or her designee to discuss the outcome of the investigation; and
 - c. Request an appeal of any disciplinary decision made against the student in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.
6. In addition to, or in lieu of disciplinary action, a student found to have engaged in bullying or cyber-bullying should be provided with resources and/or services in an effort to prevent future acts of bullying or cyber-bullying. Examples of these services may include, at the principal's discretion, one or more of the following: a referral to on-site counseling; a referral to off-site counseling (not at the district's expense); tutoring; utilizing positive behavioral interventions and supports; removing the student from situations where he/she is able to spend free time with peers for a designated period of time, teaching positive leadership skills, or other resources available based on the child's individualized needs.
7. If, based on the investigation it is determined that bullying did occur, the principal or designee shall develop and implement a safety strategy for each student who was subjected to the bullying or cyber-bullying. This strategy may not place any undue burdens on the student and must include, without limitation:
 - a. Reasonable steps to end the bullying or cyber-bullying,
 - b. A strategy to prevent the reoccurrence of the bullying or cyber-bullying. Examples of elements of a safety strategy may include, at the principal's discretion, one or more of the

- following: identification of trusted adults; a referral to onsite counseling or psychological services; a referral to offsite counseling or psychological services (not at district expense); teaching preventative skills, including advocacy and problem solving skills; utilizing positive behavioral interventions and supports; encouraging bystander support; increased adult supervision; and check-ins by administrators and teachers; and
- c. Opportunity to obtain the benefit that was denied, if any, due to the bullying or cyber-bullying (such as making up a test or missing homework).
8. Not later than 10 school days after receiving the initial report, the principal or designee shall again meet with the reported victim(s) of the bullying or cyber-bullying to inquire about their well-being and ensure that the bullying or cyber-bullying has stopped.
 - a. The principal or designee should check in with the student(s) regardless of the outcome of the investigation.
 - b. This check in should be done privately and discreetly, so as not to draw undue attention to the alleged victim(s).
 9. To the extent that it is available, the principal or designee must provide the parents and guardians a list of any resources that may be available in the community to assist their students, as soon as practicable. The school district is not responsible for providing the resources or ensuring the pupil receives such resources.
 - a. This list could include such things as mental health providers, organized activities available to students in or outside of school, volunteers who are willing to help students get transportation to activities that can boost their confidence, on-line resources such as bullyfreezone.nv.gov

Section 8. Appeals

1. The parent or guardian of a student accused of the reported bullying or cyber-bullying may appeal the disciplinary decision in accordance with the school district policy.
2. Not later than 30 days after receiving a response related to the appeal, the parent or guardian may submit a complaint to the Department of Education, in accordance with the policies adopted governing complaints to the Office for a Safe and Respectful Learning Environment.
3. Any district employee who violates either the provisions of state law or this policy related to bullying and the provision of a safe and respectful learning environment is subject to discipline in accordance with district or charter school policy. These employees may not appeal disciplinary actions to the Office for a Safe and Respectful Learning Environment.
4. The parent or guardian of a pupil who was the target of bullying investigated under this policy or any other person who believes that a teacher, administrator, principal, coach or other staff member or member of the board of trustees or the governing board has violated a provision of NRS 388.121 to 388.145, inclusive, may file a complaint with the Office for a Safe and Respectful Learning Environment in the Nevada Department of Education, pursuant to standards and procedures adopted by that office.

Section 9. Professional Development

1. The district superintendent, along with the board of trustees, shall develop a plan, including requirements and procedures, to assure that the following professional development be provided to the members of the board of trustees and all administrators, principals, teachers, and other personnel employed by the Board of Trustees of the _____ School District.

- a. Training in the appropriate methods to facilitate positive human relations among students by eliminating the use of bullying and cyber-bullying so that students may realize their full academic and personal potential;
 - b. Training in methods to prevent, identify and report incidents of bullying and cyber-bullying;
 - c. Methods to promote a positive learning environment
 - d. Methods to improve the school environment in a manner that will facilitate positive human relations among students; and
 - e. Methods to teach social and emotional skills to students so that the students are able to replace inappropriate behavior with positive behavior.
2. For members of the board of trustees or for employees of the school district who have not previously been employed by the district, the training required must be provided within 180 days after the member begins his or her term of office or after the employee begins his or her employment.
 3. The Department of Education established training on methods to prevent, identify, and report incidents of bullying and cyber-bullying for members of the board of trustees. Each member of the board of trustees must complete the established training within one year after being elected or appointed, and at least one other time while the person is a member of the board of trustees, except as otherwise provided for in 2 of this policy.
 4. The Department of Education established a training to assist school district personnel in carrying out their powers and duties as a part of this policy. The board of trustees may allow school district personnel to attend the program of training during regular school hours.
 5. Each administrator of a public school shall complete the program of training established by the Department of Education for the prevention of violence and suicide and appropriate methods to respond to incidents of violence or suicide within 90 days after becoming an administrator and every three years thereafter, or at least once during any school year within which the program of training is revised or updated. The board of trustees may allow school district personnel to attend the program of training during regular school hours.

Section 10: Disclosure and Public Reporting

1. This policy will be distributed annually to all students enrolled in the district or charter school, their parents and/or guardians, and employees. It will also be made available to organizations in the community having cooperative agreements with the schools. The district or charter school will also provide a copy of the policy to any person who requests it.
2. Personally identifiable student information related to bullying and cyber-bullying must not be included in the annual report of accountability.
3. Members of the board of trustees and employees of the district are prohibited from interfering with disclosure of statistical information related to violations of the bullying prohibition. Nothing in this policy or regulation shall require the district or any member of its board, administrator, teacher, counselor, employee or agent to disclose personally identifiable student information.