

**REVISED PROPOSED REGULATION OF THE
STATE BOARD OF EDUCATION**

LCB File No. R111-15

October 17, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-7, 9 and 10, NRS 388.1327; §8, NRS 388.1327 and 388.1351.

A REGULATION relating to education; specifying the manner by which a pupil may report an incident of bullying or cyber-bullying; prescribing the requirements for responding to an incident of bullying or cyber-bullying; requiring the board of trustees of each school district to adopt a policy relating to the appeal of certain investigations and disciplinary decisions concerning bullying and cyber-bullying; prescribing the requirements for filing a complaint regarding the outcome of an appeal of the result of an investigation of an incident of bullying or cyber-bullying; prescribing the requirements for reporting certain statistics concerning bullying and cyber-bullying; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits certain persons from engaging in bullying or cyber-bullying on the premises of any public school, at an activity sponsored by a public school or on any school bus. (NRS 388.135) **Section 3** of this regulation specifies the manner by which a pupil who is a victim of bullying or cyber-bullying, witnesses an incident of bullying or cyber-bullying or receives information regarding such an incident may report the violation. Existing law requires a principal or his or her designee who receives a report regarding an incident of bullying or cyber-bullying to immediately take any necessary action to stop the bullying or cyber-bullying and ensure the safety and well-being of the reported victim or victims. (NRS 388.1351) **Section 3** also prohibits a principal or designee who is ensuring the safety and well-being of a reported victim of bullying or cyber-bullying from taking action that may cause harm or bring undue attention to the reported victim.

Existing law requires a principal or his or her designee to notify the parents or guardians of all pupils directly involved in a reported act of bullying or cyber-bullying. (NRS 388.1351) **Section 4** of this regulation prescribes the required contents for the initial notification and requires the principal or designee to maintain a record of all attempts to provide such notification.

Existing law requires a principal or his or her designee to conduct an investigation into any reported act of bullying or cyber-bullying. The investigation must be completed not later than 2 school days after the report of the incident is made or, under certain circumstances, not

later than 3 school days after the report is made. (NRS 388.1351) **Section 5** of this regulation requires such an investigation: (1) to include interviews with each person involved in the incident and with the parents or guardians of the reported aggressor and victim and any relevant witnesses; and (2) to be completed within the prescribed time. **Section 5** also requires a principal or designee who conducts an investigation to document the date, time, subject and content of each interview conducted and maintain such documentation in a manner that is consistent with the school district's policy governing maintenance of disciplinary records.

Existing law requires a principal or designee who conducts an investigation into a reported act of bullying or cyber-bullying to complete a written report of the findings and conclusions of the investigation. (NRS 388.1351) **Section 6** of this regulation requires this report to include recommendations for the imposition of restorative disciplinary actions or other measures to be imposed that the principal or designee determines will assist the reported aggressor from engaging in bullying or cyber-bullying in the future. **Section 6** also requires the principal or designee to conduct all meetings with each reported victim and aggressor in a private and discreet manner.

Existing law provides that the written report of the investigation into a reported act of bullying or cyber-bullying must be made available not later than 24 hours after the completion of the report to all parents or guardians of pupils directly involved in the incident. (NRS 388.1351) **Section 7** of this regulation requires a principal or his or her designee who completes a written report concerning an act of bullying or cyber-bullying to: (1) provide a copy of the report to the parent or guardian of the reported aggressor; (2) notify the parent or guardian of any other pupil directly involved in the incident of the outcome of the investigation and make a copy of the report available upon request to the parent or guardian; and (3) notify the parent or guardian of each pupil directly involved in the incident of certain actions that they may take concerning the outcome of the investigation.

Existing law authorizes the parent or guardian of a pupil involved in an incident of bullying or cyber-bullying to appeal a disciplinary decision made against a pupil as a result of the violation in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district. Existing law provides that, after receiving a response provided in accordance with such a policy, a parent or guardian of a pupil who wishes to appeal a disciplinary decision made against a pupil as a result of an investigation into an incident of bullying or cyber-bullying may submit a complaint to the Department of Education. (NRS 388.1351) **Section 7** requires the board of trustees of each school district to adopt a policy that prescribes procedures for appealing the outcome of any investigation and any disciplinary decision made against a pupil concerning a reported act of bullying or cyber-bullying.

Existing law requires the State Board of Education to adopt regulations as are necessary to carry out statutory provisions relating to the creation and provision of a safe and respectful learning environment. (NRS 388.1327) Pursuant to this authority, **section 8** of this regulation authorizes the parent or guardian of a pupil involved in a reported incident of bullying or cyber-bullying to submit a complaint to the Department concerning: (1) the outcome of an appeal or a violation of certain statutory provisions relating to the creation and provision of a safe and respectful learning environment; (2) a violation of **sections 2-10** of this regulation; and (3) criminal conduct by a teacher, administrator, principal, coach, other staff member or member of

the board of trustees of a school district. **Section 8** also prescribes: (1) the required contents of such a complaint; and (2) the procedure the Department must use in response to such a complaint.

Existing law requires the Department to prescribe a policy for use by school districts to train members of the board of trustees of the school district, administrators, principals, teachers and all other personnel employed by the school district in the appropriate methods for positive interactions and human relations to create and promote a safe and respectful learning environment. (NRS 388.133) **Section 9** requires the board of trustees of each school district to develop and carry out a plan to ensure that such training is provided and includes the training materials developed by the Department. **Section 9** also requires the board of trustees of each school district to provide a copy of **sections 2-10** and any policies adopted pursuant thereto: (1) at least once each year to the parent or guardian of a pupil who is enrolled in a school within the school district and each teacher, administrator and staff member; and (2) to any person upon request.

Existing law requires the preparation and submittal of an annual report of accountability. (NRS 385A.070) **Section 10** prohibits: (1) the report from including any personally identifiable information of any pupil involved in a reported incident of bullying or cyber-bullying; and (2) any teacher, administrator, principal, coach or other staff member or member of the board of trustees of a school district from interfering with the reporting of statistics concerning bullying or cyber-bullying.

Section 1. Chapter 388 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 10, inclusive, of this regulation, “principal” means the lead administrator of a public school, including, without limitation, such an administrator who is referred to by another title.*

Sec. 3. 1. *A pupil who is a victim of bullying or cyber-bullying in violation of NRS 388.135, witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred may report the violation:*

(a) To any employee or volunteer in the public school or school district in which the pupil is enrolled, including, without limitation, a teacher, counselor, coach or administrator;

(b) Through the 24-hour, toll-free statewide hotline or Internet website maintained by the Office for a Safe and Respectful Learning Environment pursuant to NRS 388.1323; or

(c) Through a hotline or Internet website maintained by the school district in which the pupil is enrolled, if the school district maintains such a hotline or website.

2. When ensuring the safety and well-being of a reported victim of bullying or cyber-bullying as required by NRS 388.1351, the principal or his or her designee:

(a) Shall not take any action that may cause harm to the reported victim, including, without limitation, requiring the reported victim to change classrooms or isolating the reported victim from his or her peers.

(b) Shall, to the extent practicable, talk privately and discreetly about the violation with the reported victim, without bringing undue attention to the reported victim.

Sec. 4. 1. The initial notification provided pursuant to NRS 388.1351 to the parents and guardians of pupils directly involved in a reported violation of NRS 388.135:

(a) Must include, without limitation, a statement that the principal or his or her designee will be conducting an investigation of the reported violation and that the parent or guardian may discuss with the principal or designee any counseling or intervention services that are available to the pupil.

(b) Must not include any personally identifiable information of a pupil other than the pupil to whose parent or guardian the notification is provided.

2. A principal or his or her designee shall maintain a record of each notification made pursuant to subsection 1, including all good faith efforts to notify a parent or guardian if the contact information for the parent or guardian is not correct.

Sec. 5. 1. *Each investigation of a report of bullying or cyber-bullying conducted pursuant to NRS 388.1351 must be conducted thoroughly and impartially in a manner that does not retraumatize or further traumatize the reported victim and must include, without limitation, an interview with:*

(a) Each person involved in the reported bullying or cyber-bullying, including, without limitation, the reported aggressor, the reported victim and any relevant witnesses.

(b) The parent or guardian of the reported aggressor and the reported victim.

↪ To the extent practicable, the identities of the persons interviewed and the content of the interviews must remain confidential.

2. *Each principal or his or her designee who conducts an investigation pursuant to this section and NRS 388.1351 shall document the date, time, subject and content of each interview conducted and maintain such documentation in a manner that is consistent with the policy governing maintenance of disciplinary records for the school district in which the school is located.*

3. *Each principal or his or her designee who conducts an investigation must complete the investigation within the time prescribed by NRS 388.1351.*

Sec. 6. 1. *If a principal or his or her designee determines that a violation of NRS 388.135 has occurred, the written report of the findings and conclusions of the investigation completed pursuant to NRS 388.1351 and section 5 of this regulation must include recommendations for the imposition of restorative disciplinary actions or other measures to be imposed as a result of the violation that the principal or designee determines will assist the reported aggressor to see the harm that his or her actions have caused, to repair that harm and to not engage in bullying or cyber-bullying in the future. Such other measures may*

include, without limitation, the development of a plan to support the physical and emotional well-being of the reported aggressor that is aligned with the training provided by the Office for a Safe and Respectful Learning Environment.

2. The principal or his or designee shall develop and carry out a plan to support the physical and emotional well-being of the reported victim and the reported aggressor which is designed to ensure that the reported victim and the reported aggressor are not further harmed by the bullying or cyber-bullying, including, without limitation, by allowing the reported victim to make up any test or homework assignment that he or she missed or failed to submit as a result of the bullying or cyber-bullying.

3. The principal or his or her designee shall meet with each reported victim of bullying or cyber-bullying as required by subsection 6 of NRS 388.1351 and with each reported aggressor, regardless of the outcome of the investigation, to ensure that the bullying or cyber-bullying is not continuing. Each meeting must be conducted in a private and discreet manner that does not draw unnecessary attention to the reported victim.

Sec. 7. *1. Subject to the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a principal or his or her designee who completes a written report of the findings and conclusions of an investigation of reported bullying or cyber-bullying pursuant to NRS 388.1351 and section 5 of this regulation shall, within 24 hours after completing the report:*

(a) Provide to the parent or guardian of the reported aggressor a copy of the written report that does not contain the personally identifiable information of any other pupil;

(b) Notify the parent or guardian of any other pupil directly involved in the incident of the outcome of the investigation and make available upon request to any such parent or guardian

a copy of the report that does not contain the personally identifiable information of any pupil other than the pupil to whose parent or guardian the report is provided; and

(c) Notify the parent or guardian of each pupil directly involved in the incident that the parent or guardian may:

(1) Submit to the principal or designee a complaint or concern regarding the conduct or outcome of the investigation;

(2) Request a meeting with the principal or designee to discuss the outcome of the investigation;

(3) Appeal the outcome of the investigation in the manner prescribed pursuant to subsection 2; and

(4) Appeal a disciplinary decision of the principal or designee made against the pupil as a result of the incident.

2. The board of trustees of each school district shall adopt a policy that prescribes procedures by which the parent or guardian of any pupil directly involved in a reported violation of NRS 388.135 may appeal the outcome of the investigation conducted pursuant to NRS 388.1351 and section 5 of this regulation, and any disciplinary decision made against the pupil.

Sec. 8. *1. Not later than 30 days after receiving notification of the final resolution of an appeal made pursuant to the policy adopted pursuant to section 7 of this regulation, the parent or guardian of a pupil directly involved in the reported violation of NRS 388.135 may submit a complaint to the Department concerning the outcome of the appeal or a violation of any provision of NRS 388.121 to 388.1395, inclusive, or sections 2 to 10, inclusive, of this regulation or criminal conduct by a teacher, administrator, principal, coach, other staff*

member or member of the board of trustees of a school district. Each complaint must be in writing and must include, without limitation:

- (a) Contact information for the parent or guardian;*
- (b) A copy of the written report of the findings and conclusions of the investigation conducted pursuant to NRS 388.1351 and section 5 of this regulation;*
- (c) Any written record of the appeal prepared by or at the direction of the school district or school regarding the violation or, if there is not a written record, a narrative summation provided by the parent or guardian, including any contact information that will assist the Department in verifying the accuracy of the narrative summation;*
- (d) If the complaint concerns the outcome of an appeal, the outcome that the parent or guardian would have preferred;*
- (e) If the complaint alleges that a teacher, administrator, principal, coach, other staff member or member of the board of trustees of a school district has violated any provision of NRS 388.121 to 388.1395, inclusive, or sections 2 to 10, inclusive, of this regulation, the specific provision that was allegedly violated and a description of the alleged violation;*
- (f) If the complaint alleges that a teacher, administrator, principal, coach, other staff member or member of the board of trustees of a school district has engaged in criminal conduct, a description of the alleged crime; and*
- (g) Any other information that the parent or guardian determines would be useful to the Department when resolving the complaint.*

2. The Department shall not provide legal advice, including, without limitation, advice concerning whether a statute or regulation has been violated or whether a crime has been committed.

3. *After a complaint is submitted pursuant to this section, the Department may request any additional information necessary to conduct an investigation. The Department shall make any such request for additional information within 5 working days after receipt of the initial complaint. The Department shall notify a parent or guardian who submits a complaint when the Department determines that the complaint is complete and requires no additional information for the purposes of making a preliminary determination pursuant to subsection 4.*

4. *After receiving a complaint that is complete, the Department shall determine whether it will conduct further investigation into the complaint and issue to the parent or guardian of each pupil directly involved in the incident described in the complaint, any other person involved in that incident and the superintendent of the school district a preliminary report containing that determination. The Department shall issue the preliminary report not later than 10 working days after receipt of the completed complaint pursuant to subsection 3.*

5. *If the Department conducts further investigation after issuing a preliminary report pursuant to subsection 4, the Department shall issue to the parent or guardian of each pupil directly involved in the incident, any other person involved in that incident and the superintendent of the school district a final report concerning the findings and conclusions of the investigation. The Department shall issue the final report not later than 45 working days after the preliminary report is issued unless the Department notifies the parent or guardian of each pupil directly involved in the incident, any other person involved in the incident and the superintendent of the school district that the Department needs more time to conduct the investigation.*

6. As a result of a complaint submitted pursuant to this section, the Department may request that a school district prepare a plan of corrective action, including any recommendations made by the Department.

7. An employee who is subject to disciplinary action pursuant to NRS 388.1354 may not appeal that disciplinary action to the Department pursuant to this section.

Sec. 9. *The board of trustees of each school district shall:*

1. Develop and carry out a plan to ensure that members of the board of trustees of the school district, administrators, principals, teachers and all other personnel employed by the school district receive the training in accordance with the policy prescribed by the Department pursuant to paragraph (b) of subsection 2 of NRS 388.133, including, without limitation, the training materials developed by the Department.

2. Provide a copy of sections 2 to 10, inclusive, of this regulation and any policies adopted pursuant thereto to the parent or guardian of each pupil who is enrolled in a school within the school district and each teacher, administrator and other staff member of the school district at least once each school year.

3. Make the information described in subsection 1 available upon request to any person, including, without limitation, a community organization that has a cooperative agreement with a school within the school district.

Sec. 10. *1. The annual report of accountability prepared pursuant to NRS 385A.070 must not include the personally identifiable information of any pupil involved in a reported violation of NRS 388.135 or any other incident of bullying or cyber-bullying.*

2. A teacher, administrator, principal, coach, other staff member or member of the board of trustees of a school district shall not interfere with the reporting of statistics concerning violations of NRS 388.135.