

**PROPOSED REGULATION OF THE
DEPARTMENT OF EDUCATION**

LCB File No. R070-14

July 29, 2014

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

AUTHORITY: §§1-18, NRS 388.133.

A REGULATION relating to education; prescribing a policy for school districts and public schools to provide a safe and respectful learning environment that is free of bullying and cyber-bullying; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Department of Education to prescribe by regulation a policy for all school districts and public schools to provide a safe and respectful learning environment that is free of bullying and cyber-bullying. (NRS 388.133) This regulation prescribes that policy.

Existing law defines “bullying,” in part, as a willful act or course of conduct that exploits an imbalance in power between the person engaging in the act or conduct and the person who is the subject of the act or conduct. (NRS 388.122) **Section 2** of this regulation interprets the term “imbalance in power.”

Section 3 of this regulation requires the superintendent of schools of each school district and the governing body of each charter school to: (1) use all reasonable means to inform pupils, parents, and administrators, teachers and other personnel that bullying and cyber-bullying are not allowed on the premises of any school district or public school; and (2) include certain information regarding bullying or cyber-bullying within each copy of the rules of behavior for pupils.

Existing law prohibits members of the board of trustees of a school district, employees of the board and pupils from engaging in bullying or cyber-bullying. (NRS 388.135) **Section 4** of this regulation provides that a member of the governing body of a charter school and any administrator, principal, teacher or other personnel of a charter school are prohibited from engaging in bullying or cyber-bullying.

Section 5 of this regulation: (1) requires each public school to include on its Internet website a method for any pupil or parent to report an incident of bullying or cyber-bullying; and (2) authorizes a parent or pupil to submit anonymously a report of an incident of bullying or cyber-bullying via the Internet website of the school.

Section 6 of this regulation requires the board of trustees of a school district, the governing body of each charter school and each administrator, principal, teacher and other personnel of the school district or public school to encourage pupils who are subjected to bullying or cyber-bullying or who witness or overhear bullying or cyber-bullying to report the incident.

Existing law requires teachers and other staff members who witness or receive information that bullying or cyber-bullying has occurred to verbally report the bullying or cyber-bullying to the principal or his or her designee. The principal or his or her designee must then initiate an investigation. (NRS 388.1351) **Section 7** of this regulation requires administrators, teachers and other personnel of a public school who witness, overhear or receive information about an incident of bullying or cyber-bullying to verbally report the incident on the day that the person witnesses, overhears or receives information about the incident.

Section 8 of this regulation provides that if a principal witnesses, overhears or receives information about an incident of bullying or cyber-bullying, the principal or his or her designee must initiate an investigation not later than 1 day after witnessing, overhearing or receiving information about the incident. **Section 8** also requires the investigation to be completed within 10 days after the date on which the investigation is initiated. **Section 9** of this regulation sets forth standards and requirements for the investigation. **Section 10** of this regulation requires the principal or his or her designee to develop and implement certain plans if, based on his or her investigation, the principal or designee finds that an incident of bullying or cyber-bullying occurred. **Section 11** of this regulation requires the principal or his or her designee to provide certain written notice of the outcome of the investigation to the parent of each pupil who witnessed, overheard or was involved in the incident of bullying or cyber-bullying. If, based on the investigation, the principal or his or her designee does not find that an incident of bullying or cyber-bullying occurred, **section 12** of this regulation authorizes the parent of a pupil who allegedly was subjected to bullying or cyber-bullying to request a safety plan for the pupil.

Existing law prohibits a member of the board of trustees of a school district or an employee of a school district from directly or indirectly interfering with or preventing the disclosure of information concerning bullying or cyber-bullying. (NRS 388.136) **Section 13** of this regulation applies the same prohibition to a member of the governing body of a charter school or an employee of a charter school.

Section 14 of this regulation requires the superintendent of schools of each school district and the principal of each charter school to develop a plan to ensure that certain professional development intended to create a safe and respectful learning environment in public schools is provided to members of the board of trustees, administrators, principals, teachers and other personnel, members of the governing body of a charter school and employees of the charter school.

Existing law requires the principal of each public school or his or her designee to establish a school safety team and sets forth certain duties for the team. (NRS 388.1343, 388.1344) **Section 15** of this regulation requires the school safety team to carry out certain additional duties.

Section 16 of this regulation requires the principal of each public school to collaborate with the board of trustees of the school district or the governing body of the charter school, as applicable, and with the school safety team to prevent, identify and address incidents of bullying or cyber-bullying.

Section 17 of this regulation requires the board of trustees of each school district and the principal of each public school to include on the website of the school district or public school, as applicable, a summary of the provisions of statutes and regulations relating to bullying and cyber-bullying.

Section 1. Chapter 388 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this regulation.

Sec. 2. *For the purposes of NRS 388.122, the Department will interpret “imbalance in power” to include, without limitation, an imbalance in power resulting from or relating to differences in age, size, social status, relationship status, disability status, race, gender, sexual orientation, sexual identity, national origin, language, religion or any other factor determined within the cultural context of the school.*

Sec. 3. *The superintendent of schools of each school district and the governing body of each charter school shall:*

1. Use all reasonable means to inform pupils, parents, and administrators, teachers and other personnel that bullying and cyber-bullying are not allowed on the premises of any school district or public school, at an activity sponsored by a school district or public school or on any school bus; and

2. Include within each copy of the rules of behavior for pupils that the school district and the governing body provide to pupils:

(a) The provisions of NRS 388.121 to 388.145, inclusive, and sections 2 to 17, inclusive, of this regulation; and

(b) A statement that, pursuant to NRS 200.900, a pupil who is a minor and who knowingly and willfully uses an electronic communications device to transmit or distribute, or otherwise knowingly and willfully transmits or distributes, an image of bullying committed against a minor to another person with the intent to encourage, further or promote bullying and to cause harm to a minor:

(1) For a first violation, is considered a child in need of supervision, as that term is used in title 5 of NRS, and is not a delinquent child; and

(2) For a second or subsequent violation, commits a delinquent act, for which a court may order the detention of the minor in the same manner as if the minor had committed an act that would have been a misdemeanor if committed by an adult.

Sec. 4. *A member of the governing body of a charter school or any administrator, principal, teacher or other personnel of a charter school shall not engage in bullying or cyber-bullying on the premises of the charter school or any other public school, at an activity sponsored by the charter school or any other public school or on any school bus.*

Sec. 5. 1. *Each public school shall include on its Internet website a method for any pupil or parent to report an incident of bullying or cyber-bullying.*

2. A parent or pupil may submit anonymously a report of an incident of bullying or cyber-bullying through the Internet website of a public school.

Sec. 6. *The board of trustees of each school district, the governing body of each charter school and each administrator, principal, teacher and other personnel of the school district or a public school shall encourage pupils who are subjected to bullying or cyber-bullying and pupils who have witnessed or overheard an incident of bullying or cyber-bullying to report the incident.*

Sec. 7. *An administrator, teacher or other personnel of a public school who witnesses, overhears or receives information about an incident of bullying or cyber-bullying shall verbally report the incident to the principal of the public school or his or her designee on the day that the person witnesses, overhears or receives information about the incident.*

Sec. 8. 1. *If a principal witnesses, overhears or receives information about an incident of bullying or cyber-bullying, the principal or his or her designee must initiate an investigation of the incident not later than 1 day after witnessing, overhearing or receiving information about the incident.*

2. *The investigation must be completed within 10 days after the date on which the investigation is initiated.*

Sec. 9. 1. *An investigation of an incident of bullying or cyber-bullying must be thorough and impartial and, to the extent possible, must include, without limitation, interviews by the principal or his or her designee with each person involved in the incident of bullying and each person who may have witnessed or overheard the incident.*

2. *Each person must be interviewed individually. To the extent possible, the identity of each person interviewed and the content of the interview must remain confidential.*

3. *A principal or his or her designee shall maintain a written record of the investigation, including, without limitation, a written record of each interview.*

Sec. 10. *If, based on the investigation, a principal or his or her designee finds that an incident of bullying or cyber-bullying occurred, the principal or designee must develop and implement:*

1. A safety plan for the pupil who was subjected to the bullying or cyber-bullying. The safety plan may not place any undue burdens on the pupil and must include, without limitation:

(a) A plan to end the bullying or cyber-bullying.

(b) A plan to prevent the reoccurrence of the bullying or cyber-bullying. The plan may include, without limitation:

(1) Tutoring.

(2) Counseling, intervention or other psychological services.

(3) Changes to the pupil's individualized education program, if the pupil has an individualized education program.

(4) Behavioral modification and social adjustment.

(5) Improving the pupil's problem-solving skills.

(6) Encouraging other pupils to support the pupil who was subjected to the bullying or cyber-bullying.

(7) Increasing adult supervision of the pupil and arranging for administrators, teachers or other school personnel to follow-up with the pupil.

(c) If the pupil was absent from school as a result of the bullying or cyber-bullying, a plan to allow the pupil to make up any academic assignment, test or other school work that the pupil missed.

2. An action plan for each pupil who committed the bullying or cyber-bullying. The action plan may include, without limitation:

(a) Disciplinary action.

(b) Counseling, intervention or other psychological services.

(c) Changes to the pupil's individualized education program, if the pupil has an individualized education program.

(d) Behavioral modification and social adjustment.

Sec. 11. 1. *The principal or his or her designee shall provide written notice of the outcome of an investigation of an incident of bullying or cyber-bullying to the parent of each pupil who witnessed, overheard or was involved in the incident of bullying or cyber-bullying. The written notice must comply with the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto.*

2. The written notice required pursuant to subsection 1 must inform the parent 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 parent's child in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district or governing body of the charter school, as applicable.

Sec. 12. *If, based on the investigation, a principal or his or her designee does not find that an incident of bullying or cyber-bullying occurred, the parent of a pupil who allegedly was subjected to bullying or cyber-bullying may request that the principal or designee develop and implement a safety plan for the pupil, as described in subsection 1 of section 10 of this regulation.*

Sec. 13. *A member of the governing body of a charter school or a licensed or unlicensed employee of a charter school shall not interfere with or prevent the disclosure of information concerning an incidence of bullying or cyber-bullying.*

Sec. 14. 1. *The superintendent of schools of each school district and the principal of each charter school shall develop a plan, including, without limitation, requirements and procedures, to ensure that the professional development described in subparagraphs (1) to (4), inclusive, of paragraph (b) of subsection 2 of NRS 388.133 is provided to, as applicable, the members of the board of trustees of the school district, administrators, principals, teachers and other personnel, the members of the governing body of the charter school and employees of the charter school.*

2. The board of trustees of each school district may allow school district personnel, and the governing body of a charter school may allow employees of the charter school, to attend a program of professional development included in a plan developed pursuant to subsection 1 during regular school hours.

Sec. 15. *Each school safety team established pursuant to NRS 388.1343:*

1. In making any decisions pursuant to its duties prescribed by NRS 388.1344, shall consider any data accumulated while identifying and addressing patterns of bullying and cyber-bullying;

2. Shall assist the principal in establishing safety plans for pupils;

3. If the public school adopts an evidence-based program to address bullying and cyber-bullying at the public school, shall support efforts to adhere to that program; and

4. Shall provide leadership and support for any measures implemented to address bullying and cyber-bullying at the public school.

Sec. 16. *The principal of each public school shall collaborate with the board of trustees of the school district or the governing body of the charter school, as applicable, and with the school safety team to prevent, identify and address incidents of bullying or cyber-bullying.*

Sec. 17. *The board of trustees of each school district and the principal of each public school shall include a summary of the provisions of NRS 388.121 to 388.145, inclusive, and sections 2 to 17, inclusive, of this regulation on the website of the school district or public school, as applicable.*

Sec. 18. NAC 388.001 is hereby amended to read as follows:

388.001 As used in NAC 388.001 to 388.450, inclusive, *and sections 2 to 17, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 388.005 to 388.141, inclusive, have the meanings ascribed to them in those sections.