

PROPOSED REGULATION OF THE STATE BOARD OF EDUCATION

LCB File No. R111-15

NAC Chapter 388 is amended by adding a new section as follows:

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 [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 cyberbullying in any [district or] public school facility, 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 or in the passage to and from school or to and from a school bus.

Section 3. *Definitions*

The definitions of "bullying," "cyberbullying," 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.

As used in this regulation, "principal" means the lead administrator of a public school, including a charter, even if that individual has a different title.

Section 4. *Reporting*

- 1. Students who are subjected to, witness, or overhear incidents of bullying or cyberbullying 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. A teacher, administrator, principal coach or other staff member, including a volunteer, who witnesses, overhears, or receives 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.**Immediate action must be taken whether the student is on school premises or not.*
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 outlined 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. "School day" means the time when school is in session during any weekday, Monday through Friday.*
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. Records of the good faith effort must be kept, particularly if school is not in session following the bullying report.*

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, including targets, alleged offenders, and witnesses;*
 - 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 may 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 and maintenance of records so that they can be reviewed by a school safety committee as needed.*
 - 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 an 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.*
 - 5. If the school is not in session, for example during spring or summer break or during an annual school calendar break, the principal or designee must continue the investigation regardless of whether students remain in school during the prescribed time period for investigations.*

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] [governing board of the charter school]. 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.*
- 3. Within the requirements of FERPA, the written report 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]/governing body of the charter school].*
4. *Within the requirements of FERPA, notification should be given to the parent or legal guardians of the target(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.*
 - c. *Request an appeal of the outcome of the investigation or any violation of this policy related to bullying and the provision of a safe and respectful learning environment in accordance with policies adopted by the [board of trustees of the school district]/governing body of the charter school].*
5. *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.*
6. *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).*
7. *Not later than 10 school days after receiving the initial report, the principal or designee shall again meet with the 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 reported victim(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).*
- 8. *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]/[charter school] 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]/[charter school] policy.*
- 2. *The parent or guardian of a student who was the alleged victim of the reported bullying or cyber-bullying may appeal the outcome of the investigation or any violation of this policy related to bullying and the provision of a safe and respectful learning environment in accordance with the [school district]/[charter school] policy.*
- 3. *Not later than 30 days after receiving a final decision 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.*
- 9. *Any [district]/[charter school] 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] [charter school] policy. These employees may not appeal disciplinary actions to the Office for a Safe and Respectful Learning Environment.*

Section 9. Professional Development

- 1. *The [district superintendent, along with the board of trustees,]/[governing body of the charter school] 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] [Governing Body of _____].*
 - 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, investigate and complete a written report of findings for 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 skills to students so that the students are able to replace inappropriate behavior with positive behavior.*

- 2. 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 training must comply with state law and include the materials developed by the Department of Education. The [board of trustees] [governing board] shall allow school [district] personnel to attend the program of training during regular school hours.*
- 4.. 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][governing body] 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][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][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][governing board] and employees of the [district][charter school] 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][charter school] or any member of its board, administrator, teacher, counselor, employee or agent to disclose personally identifiable student information.*

NAC Chapter 388 is amended by adding a new section to establish 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 decision of the appeal concerning the incident is made at the local level and is provided to the parent. Parents have 30 days following receipt of the local decision to file a complaint.*
- 2. Complaints from the parent or guardian of a student who was the alleged victim regarding dissatisfaction with the outcome of an investigation or a violation of the policy adopted by the school district or charter school related to bullying and the provision of a safe and respectful learning environment can only be submitted to the Department after a final decision of the appeal concerning the incident is made at the local level and is provided to the parent. Parents have 30 days following receipt of the local decision to file a complaint.*
- 3. Complaints must be in writing and must include contact information and as much information about the incident as can be provided.*

4. *A complaint to the Department must include any written report and record of an appeal 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 and record of an appeal, if any, so that the Department can verify the details of the local incident and gather any reports or records of appeal that are available.*
5. *If the complaint alleges that a teacher, administrator, principal, coach or other staff member or a member of a board of trustees or governing board of a charter school has violated a provision of NRS 388.121 to 388.145, inclusive, a description of what statute is alleged to have been violated must be provided. This office cannot provide legal advice.*
6. *If the complaint alleges that a teacher, administrator, principal, coach or other staff member or a member of a board of trustees or the governing board has engaged in criminal conduct, a description of the criminal conduct must be provided. This office cannot provide legal advice.*
7. *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.*
8. *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.*
9. *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.*
10. *A Final Report will be issued within 45 days of the Preliminary Report. If the Investigation Division requests additional time for its work, the Department will notify the parent.*
11. *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.

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

13. The Department will provide copies of its Preliminary and Final Reports to the superintendent of the school district from which a complaint is filed and to the sponsor of the charter school from which a complaint is filed.