

**PROPOSED REGULATION OF THE
DEPARTMENT OF EDUCATION**

LCB FILE NO. R099-17I

**The following document is the initial draft regulation proposed
by the agency submitted on 09/19/2017**

REQUESTED AMENDMENT TO NAC 388

(LCB File No. R111-15)

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

Sec. 2. As used in sections 2 to 10, inclusive, of this regulation, “principal” means the lead administrator of a public school *or charter 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, *or charter school* 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 cyberbullying 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.
- (c) 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 *or charter school* 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]** *governing body of a school* 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]** *governing body of a school*. 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, *or charter 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]** *governing body of a school* 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]** *governing body of a school* 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 *or charter school* 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 1. The rights and needs of persons with diverse gender identities or expressions shall be considered and addressed on an individual basis with the goal of fostering the safe and healthy development of all pupils' gender identities or expressions and with the understanding that the requirements and needs of persons of diverse gender identities or expressions will be dependent upon the individual characteristics and unique circumstances of each person.

2. Pursuant to NRS 388.133, minimum standards for addressing the rights and needs of persons of diverse gender identities or expressions shall include methods for:

(a) ensuring the protection of the person's right to privacy;

(b) prohibiting discrimination, harassment, and bullying based on a person's gender identity or expression;

(c) ensuring the affirmative use of the chosen names and pronouns of persons of diverse gender identities or expressions in all verbal and written communications;

(d) supporting appropriate engagement of the parents or guardians of pupils of diverse gender identities or expressions;

(e) ensuring access to appropriate and supportive academic programming and services, including but not limited to:

(1) curricula and classroom activities that do not discriminate or segregate according to gender identity or expression;

(2) physical education classes and activities;

(3) participation in intramural or interscholastic athletics, in accordance with the policies and provisions of the Nevada Interscholastic Activities Association;

(4) all school activities, including but not limited to field trips, assemblies, dances, celebrations, or other such events;

(f) ensuring access to appropriate and supportive student clubs and family support groups;

(g) ensuring that school dress codes and uniform policies are not delineated or segregated according to gender identity or expression;

(h) ensuring the existence of yearbook photo policies that allow pupils of diverse gender identities or expressions to choose clothing that conforms with their chosen gender identity or expression as well as the availability of a non-gender specific option for senior yearbook photos;

(i) ensuring that pupils of diverse gender identities or expressions may select the cap and gown combination that aligns with the pupil's chosen gender identity or expression and that the pupil's chosen name be read during graduation ceremonies or other such celebrations or awards ceremonies;

(j) ensuring the use of appropriate definitions and terminology regarding the requirements, needs and experiences of persons of diverse gender identities or expressions;

(k) ensuring full and equal enjoyment of the rights provided pursuant to NRS 651.070;

(l) ensuring that the governing body and all administrators, teachers, and all other personnel employed by the governing body of a school are provided training annually regarding the requirements and needs of persons of diverse gender identities or expressions.

[Sec. 9.] Sec. 10. The **[board of trustees]** governing body of **[each]** a 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,]** governing body and all administrators, teachers and all other personnel employed by the **[school district]** governing body of a school 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 *or charter school* and each teacher, administrator and other staff member of the school district *or charter school* 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 *or charter school*.

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]** governing body of a school shall not interfere with the reporting of statistics concerning violations of NRS 388.135.