

**PROPOSED REGULATION OF
THE DEPARTMENT OF EDUCATION**

LCB File No. R155-20

June 24, 2021

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

AUTHORITY: §§ 1 and 2, NRS 388.133.

A REGULATION relating to education; establishing provisions for the restorative discipline of pupils; requiring certain school personnel to take certain actions in enforcing certain provisions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Department of Education, in consultation with the boards of trustees of the school districts and the governing bodies of charter schools, to prescribe by regulation a policy to provide a safe and respectful learning environment that is free of bullying and cyber-bullying. The policy must include requirements and methods for restorative disciplinary practices. (NRS 388.133) Existing regulations establish provisions for reporting, investigating and adjudicating violations of the prohibition on bullying and cyber-bullying. (NAC 388.890-388.920) This regulation requires the board of trustees of each school district and the governing body of each charter school, in consultation with the principal of each school, to provide for the restorative discipline of pupils. This regulation sets forth the requirements for the provision of restorative discipline, which include, in general and without limitation: (1) taking an approach that is culturally responsive and trauma-informed; (2) using existing statutory frameworks; (3) appointing a school team to implement a tiered model of prevention and support; (4) using appropriate data; (5) focusing on prevention; (6) identifying pupils who need additional support; (7) addressing disproportionate and disparate impacts in discipline; and (8) identifying areas for the professional development of school personnel.

Existing law requires each school district to prescribe written rules of behavior and appropriate punishments for violations of rules related to controlled substances. (NRS 392.463) Existing law also requires the board of trustees of each school district to establish a plan to provide for the restorative discipline of pupils. (NRS 392.4644) This regulation provides that, when administering the rules of behavior or plan for restorative discipline, as applicable: (1) a school administrator shall work to safeguard the rights of pupils; and (2) a school resource officer or school police officer shall act in accordance with the models of best practice established by a national association for such officers.

Section 1. Chapter 388 of NAC is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district and the governing body of each charter school, in consultation with the principal of each public school, shall provide for the restorative discipline of pupils. The board of trustees, governing body and principal shall:

(a) Provide for the restorative discipline of pupils in a manner that:

(1) Considers the unique strengths of pupils and their families, the leadership and staff of the school and the community in which the school is located;

(2) Is culturally responsive and trauma informed;

(3) Serves to eliminate any disparate or discriminatory impacts of disciplining pupils, including, without limitation, impacts based on the actual or perceived race, color, national origin, ancestry, religion, gender identity or expression, sexual orientation, physical or mental disability, sex or any other distinguishing characteristic or background of a pupil;

(4) Supports effective and transparent communication with pupils and the parents or guardians of pupils;

(5) Regularly and intentionally collaborates with pupils; and

(6) Incorporates the philosophy, methods and practices identified in nationally accepted models of best practice for restorative discipline in schools.

(b) Use the framework for providing and coordinating integrated student supports for pupils established pursuant to NRS 388.885.

(c) Appoint a school team to implement a tiered model of prevention and support. The school team must use strategies, practices and supports for prevention that are:

- (1) Based on nationally accepted best practices and, to the extent practicable, empirically valid scientific evidence;*
- (2) Culturally responsive and respectful; and*
- (3) Based on instructional practices that are of the highest quality.*
- (d) Use data in accordance with subsection 3 to support decision making and to monitor the progress of the implementation of the tiered model of prevention and supports pursuant to paragraph (c) at the school, school team and pupil level.*
- (e) Identify preventive measures to support the establishment and maintenance of a positive school climate for pupils, the parents and guardians of pupils and the faculty and staff of the school.*
- (f) Identify a process and indicators for identifying pupils who may need additional support beyond the preventative measures implemented in a school.*
- (g) Develop a template for an individual plan of action to be used for a pupil who is identified pursuant to paragraph (f) as needing additional support. The template must:*
- (1) Include supports and interventions that:*
- (I) Hold the pupil accountable for his or her behavior;*
- (II) Serve to restore or remedy damage or injury related to the behavior of the pupil;*
- (III) Provide relief for any victim of the pupil, as appropriate; and*
- (IV) Support the pupil in changing his or her behavior;*
- (2) Consider previous efforts to prevent or address the behavior through non-punitive intervention and support provided by the school to the pupil to improve the behavior of the pupil;*

(3) Consider any characteristics of the pupil which may be contributing to the behavior of the pupil, including, without limitation:

(I) Diagnosed or undiagnosed mental illness;

(II) Current or past trauma;

(III) The appropriateness of the placement or setting of the pupil in school;

(IV) Whether the pupil has bullied other pupils or has been a victim of bullying;

(V) Family, social or environmental factors which may be affecting the ability of the pupil to engage in appropriate behaviors at school; and

(VI) The age and ability of the pupil to understand the consequences of his or her actions;

(4) Use multiple sources of data to identify appropriate supports for the pupil and monitor the effectiveness of such supports; and

(5) To the extent practicable, include input from the parent or guardian of the pupil and, if appropriate, the pupil.

(h) Develop goals and a plan of action to address any issues of disproportionality or trends in the discipline of pupils collected and reported pursuant to NRS 385A.840 and 392.462.

(i) Identify areas for the professional development of school administrators and teachers.

2. A school team appointed pursuant to paragraph (c) of subsection 1 must:

(a) Include administrators, teachers, specialized instructional support personnel, pupils, parents and guardians of pupils and community stakeholders; and

(b) Meet on a regular basis to review the effectiveness of the tiered model of prevention and support implemented by the school team including, without limitation, by examining relevant data used pursuant to paragraph (d) of subsection 1.

3. Data used pursuant to paragraph (d) of subsection 1:

(a) May be sourced from, without limitation:

(1) Annual surveys on school climate;

(2) Information published through the automated system of accountability information established pursuant to NRS 385A.800;

(3) Data collected through a screening or assessment conducted pursuant to subsection 1 of NRS 388.885; and

(4) Any other data that supports the implementation of a tiered model of prevention and support.

(b) Shall, to the extent practicable, be disaggregated and examined by the categories of pupils identified in subsection 2 of NRS 385A.240 to support the identification of disproportional access to prevention and supports or relevant pupil outcomes.

4. Professional development identified pursuant to paragraph (i) of subsection 1 may include, without limitation:

(a) Methods, practices and approaches to restorative discipline;

(b) The written rules of behavior and appropriate punishments prescribed pursuant to NRS 392.463 and the plan to provide for the restorative discipline of pupils established pursuant to NRS 392.4644;

(c) Culturally responsive classroom management;

(d) Awareness regarding the impact of implicit bias and methods to mitigate such impact;

(e) Instructional practices that are trauma-informed;

(f) Social, emotional and academic development; and

(g) Any other training that supports a safe and respectful learning environment.

5. When carrying out the written rules of behavior and appropriate punishments prescribed pursuant to NRS 392.463 and the plan to provide for the restorative discipline of pupils established pursuant to NRS 392.4644:

(a) An administrator of a school, or his or her designee, acts in loco parentis and shall work to safeguard the rights of pupils; and

(b) A school resource officer or school police officer shall act in accordance with nationally accepted models of best practice established by a national association for such officers, including, without limitation, that school resource officers or school police officers do not administer formal discipline decisions of a school or school district.

Sec. 2. NAC 388.870 is hereby amended to read as follows:

388.870 As used in NAC 388.870 to 388.920, inclusive, *and section 1 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.