

NEVADA DEPARTMENT OF EDUCATION

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066

LCB File No. R021-22

Amendments to NAC Chapter 388.XXX – which pertains to Restorative Justice/Practices as required by Assembly Bill (AB) 67 (2021), AB 194 (2021), AB 371 (2021), Senate Bill (SB) 327 (2021), and SB 354 (2021).

INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code 388:

1. A clear and concise explanation of the need for the adopted regulation.

During the 2019 and 2021 Legislative Session, the passage of several bills made changes to NRS that required the Department of Education to update and provide additional regulations to establish provisions for the restorative discipline of pupils; requiring certain school personnel to take certain actions in enforcing certain provisions; revise certain provisions to include the prohibition on discrimination based on race; and providing other matters properly related thereto.

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 discrimination based on race, bullying and cyber-bullying. (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)

Sections 2-6 of this regulation make conforming changes to extend those provisions to include incidents of discrimination based on race.

Section 7 of this regulation makes a conforming change to repeal provisions relating to the Discrimination and Bullying Prevention Account, which was abolished. (Section 39 of Senate Bill No. 439, chapter 238, Statutes of Nevada 2021, at page 1140)

Existing law requires the policy of the Department to provide a safe and respectful learning environment to include requirements and methods for restorative disciplinary practices. (NRS 388.133) 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)

Section 1 of this regulation requires the governing body of each school, in consultation with the administrator of each school, to provide for the restorative discipline of pupils. Section 1 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.

Section 1 also provides that, when administering the rules of behavior or plan for restorative discipline, as applicable: (1) an 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.

2. Description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Persons wishing to comment upon the proposed action of the Department of Education were advised of their right to appear at the scheduled public hearing and their right to address comments, data, views or arguments, in written form, to the Board Secretary, Nevada Department of Education, 700 E. Fifth Street, Carson City Nevada, 89701. The Department of Education must have received written submissions **on or before August 22, 2022**. No persons who are directly affected by the proposed action appeared to request time to make an oral presentation; the Nevada Department of Education heard and documented the public comment.

A copy of this notice and the regulation to be amended/adopted will be on file at the State Library and Archives, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended/adopted will be available at the Nevada Department of Education, 2080 E. Flamingo Road, Suite 210, Las Vegas, NV 89119, The Nevada Department of Education 700 E. Fifth Street, Suite 100, Carson City NV 89701, and in all counties at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available at the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations: Nevada Department of Education, both locations, and Nevada State Library and Archives.

The public response can be summarized as two individuals testified at the workshop or public hearing, and five individuals provided written statements at the public hearing regarding this regulatory change. A copy of the summary and/or minutes of the public workshop and/or hearing are available upon request.

3. The Number of Persons Who:

- a) Attended Workshop: 7; Hearing: 2
- b) Testified at Workshop: 2; Hearing: 0
- c) Submitted Written Statements: Workshop: 3; Hearing: 2

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing: (a) name; (b) telephone number; (c) business address; (d) business telephone number; (e) electronic mail address; and (f) name of entity or organization represented.

Dr. Tammy Malich, My Brother's Keeper
Paul Lamarca, Washoe County School District
John Anzalone, Clark County School District
Tara Rains, Children's Advocacy Alliance
Sylvia Lazos, My Brother's Keeper

Karen Taycher, Nevada PEP
Tarek Maassarani, Community Member

A description of how comment was solicited from affected business, a summary of their response and an explanation of how other interested person may obtain a copy of the summary.

Comments were solicited through the public hearing notice of **August 23, 2022**. At the workshop persons wishing to comment upon the proposed action of the Department of Education were advised of their right appear at the scheduled public hearing and their right to address comments, data, views or arguments, in written form, to the Board Secretary, Nevada Department of Education 700 E. Fifth Street, Suite 100, Carson City NV, 89701. The Department of Education must have received written submissions **on or before August 22, 2022**. 6 persons who is directly affected by the proposed action appeared to request time to make an oral presentation. The comments can be summarized as requesting the addition of a definition of “to the greatest extent possible” be added to the regulatory language.

A copy of this notice and the regulation to be amended/adopted will be on file at the State Library and Archives, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended/adopted will be available at the Nevada Department of Education, 2080 E. Flamingo Road, Suite 210, Las Vegas, NV 89119, Nevada Department of Education 700 E. Fifth Street, Suite 100, Carson City NV, 89701, and in all counties at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available at the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations: Nevada Department of Education, both locations, and Nevada State Library and Archives.

The response from affected businesses can be summarized as non-existent as no businesses testified at the workshop or the hearing and none provided written statements regarding this regulatory change. A copy of the summary and/or minutes of the public hearing may be obtained by contacting Dylan Fuson, Assistant to the State Board of Education, Nevada Department of Education, 775-687-9224, or by writing to the Nevada Department of Education at 700 E. Fifth Street, Carson City NV, 89701.

5. If the regulation was adopted with or without change to any part of the proposed regulation, a summary of the reasons for adopting.

The Nevada Department of Education adopted the proposed regulation language at the public hearing held on **August 23, 2022** without any change to any part of the proposed regulation as the Department was satisfied with the language as written by the Legislative Counsel Bureau.

6. The estimated economic effect of the adopted regulation on the business that it is to regulate and on the public. These must be stated separately and each case must include:

There will be no economic effect of the regulation on the business that it regulates.
There is no estimated economic effect on the public.

7. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of this regulation.

8. A description of any regulations of other state or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

No other state or governmental agency regulations will be overlapped or duplicated by the above noted regulation. There is no duplication or overlap of federal regulations.

9. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

There are none.

10. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not provide for a new fee or increase an existing fee.