

**PROPOSED REGULATION OF THE
STATE BOARD OF EDUCATION**

LCB FILE NO. R063-22I

**The following document is the initial draft regulation proposed
by the agency submitted on 05/06/2022**

State Board of Education Proposed Draft Regulation Language
Dispute Resolution Regulation (Full Version) with Draft Additions and Revisions

NAC 388G.100 Establishment of dispute resolution process to address issues relating to member of organizational team; requirements for process; submission of dispute to Department. ([NRS 388G.590](#))

1. The board of trustees of a large school district shall establish a dispute resolution process for issues relating to retaliation and reprisal as a result of the performance of duties as a member of an organizational team for a local school precinct established pursuant to [NRS 388G.700](#), *and for any disputes related to NRS 388G.500 through 388G.810 and any regulations thereof.*
2. A dispute resolution process established pursuant to subsection 1 must include a requirement that:
 - (a) A large school district must respond within 5 business days after the date on which a request for dispute resolution is received by the school district. Such a response must be made in writing on a form prescribed by the board of trustees of the school district.
 - (b) All disputes must be resolved within 15 business days after the date on which a request for dispute resolution is received by the school district.
 - (c) Within 30 business days after the date on which a request for dispute resolution is received by the school district, the school district shall:
 - (1) Prepare a report regarding the dispute resolution and provide the report to the parties involved in the dispute resolution.
 - (2) Post the report prepared pursuant to subparagraph (1) on the Internet website maintained by the school district. The school district shall redact from such a report any information that could be used to identify the parties involved in the dispute resolution.
3. A party involved in a dispute may, within 10 business days after the date on which the person receives a report pursuant to subparagraph (1) of paragraph (c) of subsection 2, file with the Department a request that the Department resolve the dispute. Such a request must include
 - (a) Letter that states the reason the party is dissatisfied with the outcome of the dispute resolution by the school district and requests the Department to resolve the dispute;
 - (b) Copy of the report provided pursuant to subparagraph (1) of paragraph (c) of subsection 2; and
 - (c) Signed declaration that waives any applicable right of the person to the confidentiality of information concerning the dispute.
4. Within 10 business days after the date on which the Department receives a request to resolve a dispute pursuant to subsection 3, the Department shall:
 - (a) Determine whether resolution by the Department is warranted. The Department shall determine that such resolution is warranted if it determines, based on the information provided in the request made pursuant to subsection 3, there is reason to believe that the decision of the school district was erroneous.
 - (b) Notify the school district and the person who made the request of its decision.
5. If the Department determines that resolution by the Department is warranted pursuant to paragraph (a) of subsection 4, the Department shall provide the names of approved hearing officers to the parties involved in the dispute and invite each party to indicate to the Department a preference regarding which hearing officer the party would like to be selected.
6. The Department shall, within 5 business days after the last day on which a party indicates its preference regarding a hearing officer pursuant to subsection 5, arrange for a 3-hour

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dispute resolution session before:

- (a) The hearing officer for whom the school district expressed a preference;
 - (b) The hearing officer for whom the other person involved in the dispute expressed a preference, if such an officer is different from the person for whom the school district expressed a preference; and
 - (c) A hearing officer selected by the Department.
7. ***The actual cost of dispute resolution, including, but not limited to, the expense of and compensation for hearing officers selected pursuant to subsections 5 and 6 of this section, shall be the sole responsibility of the large school district.***
8. The Department shall, within 10 business days after the date on which a dispute resolution session is held pursuant to subsection 6, compile a report regarding the dispute resolution and provide a copy of that report to the parties involved in the dispute.
- ~~8.9.~~ If the Superintendent of Public Instruction finds that a school district has failed to comply with the requirements of this section, the Superintendent of Public Instruction may request the board of trustees of the school district to submit to the Superintendent of Public Instruction a plan of corrective action pursuant to [NRS 385.175](#). Such a request and any response to such a request by the school district must be made available to members of the public upon request.
10. ***Any cost or financial burden related to consequences imposed for noncompliance with the provisions of NRS 388G.500 through 388G.810, inclusive, or for noncompliance with any of the provisions of chapter 388G of NAC, shall be the sole responsibility of the large school district.***

Nevada Administrative Code (NAC) 388G.XXX

1. As used in this subsection and for purposes of the implementation of paragraph 4 of NRS 388G.610:

- (a) “Large school district” has the meaning ascribed to it in NRS 388G.530.*
- (b) “Active discipline” shall mean any documented disciplinary action, including a grieved disciplinary document, taken within:
 - (1) Two years and one day, if no subsequent documented disciplinary action has been taken during that time; or*
 - (2) Three years and one day, if a subsequent documented disciplinary action has been taken during the two years following the initial disciplinary action.**
- (c) A “documented disciplinary action” shall mean any, written warning, admonition, suspension, or dismissal.*
- (d) A “grieved disciplinary document” shall mean a dispute concerning the disciplinary document which arises regarding an interpretation, application, or alleged violation of any provisions of the collective bargaining agreement.*
- (e) “In good standing” shall refer to a teacher who:
 - (1) Holds a valid educator license in the State of Nevada;*
 - (2) Has, on each evaluation completed within the most recent school year, achieved a summative rating of “effective” or higher on the Nevada Educator Performance Framework (NEPF) or “developing” or higher for educators in their initial term of probation;*
 - (3) Has no active discipline in the employee’s personnel file;*
 - (4) Has had fewer than 10 absences during the last school year, other than for documented medical reasons; and*
 - (5) Is not prohibited from employment as an educator in this State by reason of sexual offenses or sexual misconduct pursuant to NRS 391.850 through 391.930, inclusive.**
- (f) “To the greatest extent possible” shall mean that:
 - (1) The school district has completed all reasonable due diligence prior to extending an offer of employment, including that required by NRS 391.850 through 391.930, inclusive, and the principal justifies that the prospective hire satisfactorily meets the needs of the local school precinct and the position to be filled as evidenced in the Plan of Operation and/or Master Staffing Schedule and is an educator “in**

good standing” as defined in paragraph (e) of this subsection.

2. A principal of a local school precinct:

- (a) Shall have the discretion to select a candidate to fill a vacancy who does not meet the definition of “in good standing”; and*
- (b) Shall have the ability, during any open transfer period or teacher surplus process, or during the hiring of new teachers by the District at any point of the school year, to select candidates that meet the needs of the local school precinct and the position to be filled as evidenced in the Plan of Operation and/or Master Staffing Schedule.*

3. A large school district:

- (a) Shall make a list with an applied designation of “in good standing” or “not in good standing” of all eligible licensed teacher candidates, to include contact information, available for review by any principal of a local school precinct and shall provide each principal with the ability to see all eligible licensed candidates within the current electronic human resources system of the large school district;*
- (b) Shall develop procedures for principals, in instances in which a substitute teacher licensed pursuant to NAC 391.0897 is selected to fill a vacancy, to:*
 - (1) Document compliance with the “to the greatest extent possible” standard defined in subparagraph (d) of subsection 1; and*
 - (2) Document the justifiable reasons, which may not include financial savings, why a licensed teacher was not chosen, if one was available for hire, based upon the school’s Master Staffing Schedule and approved Plan of Operation; and*
 - (3) Actively monitor any selection of a substitute to fill a teacher vacancy; and*
 - (4) Ensure that an emergency substitute is hired to temporarily fill a vacancy only when a licensed teacher or a substitute teacher licensed pursuant to NAC 391.0897 is not available.*
- (c) Shall not place any licensed teacher at a local school precinct at any time during a school year if a principal has met the regulation’s meaning of “to the greatest extent possible”; and*
- (d) May place an available licensed teacher “in good standing” in a vacant position at a local school precinct, in lieu of a substitute teacher, only if a principal has not met the regulation’s meaning of “to the greatest extent*

- possible” in selecting a candidate for that position; and*
- (e) Shall provide a confidential report on all such instances described in paragraph (b) above to the State Board of Education on or before December 30 and June 30 of each year which must include, but not be limited to:*
- (1) The number of licensed teacher candidates available for the vacant position, indicating their designation of “in good standing” or “not in good standing,” at the time of the vacancy;*
 - (2) The number of licensed teacher candidates interviewed for the vacant position;*
 - (3) The reason/s why each licensed teacher candidate was not selected; and*
 - (4) The justification used for selecting a licensed substitute teacher to fill a vacancy.*

State Board of Education Proposed Draft Regulation Language
Training

NAC 388G.XXX

- 1. A large school district shall, at least annually, provide mandatory training on the provisions of NRS 388G.500 through 388G.810, inclusive, and on the provisions of chapter 388G of NAC, to:**
 - (a) All voting members of the Board of Trustees of the school district;**
 - (b) The Superintendent of Schools of the large school district;**
 - (c) All members of the Superintendent of School's Cabinet;**
 - (d) All principal supervisors;**
 - (e) All principals employed by the large school district; and**
 - (f) Any person who is a member of a school organizational team within the school district.**
- 2. The training provided pursuant to subsection 1 must be approved by the State Superintendent of Public Instruction or designee prior to delivery and, upon approval, make any training materials available on the large school district's website.**