



Administrative Regulation 5151 GUIDELINES FOR REGULATING STUDENT SPEECH

Responsible Office: Office of the General Counsel

PURPOSE

This Administrative Regulation shall establish guidelines for school administrators to apply when regulating or restricting student speech in the Washoe County School District (District).

DEFINITIONS

1. "Bullying" means written, verbal or electronic expressions or physical acts or gestures, or any combination thereof, that are directed at a person or group of persons, or a single severe and willful act or expression that is directed at a person or group of persons, and:
 - a. Have the effect of physically harming a person or damaging the property of a person; or placing a person in reasonable fear of physical harm to the person or damage to the property of the person; or
 - b. Interfere with the rights of a person by: creating an intimidating or hostile educational environment for the person; or substantially interfering with the academic performance of a pupil or the ability of the person to participate in or benefit from services, activities or privileges provided by a school; or
 - c. Are acts or conduct described in paragraph (a) or (b) and are based upon the: actual or perceived race, color, national origin, ancestry, religion, gender identity or expression, sexual orientation, physical or mental disability of a person, sex or any other distinguishing characteristic or background of a person; or association of a person with another person having one or more of those actual or perceived characteristics.
 - d. The term "bullying" includes, without limitation: repeated or pervasive taunting, name-calling, belittling, mocking or use of put-downs or demeaning humor regarding the actual or perceived race, color, national origin, ancestry, religion, gender identity or expression, sexual orientation, physical or mental disability of a person, sex or any other distinguishing characteristic or background of a person; behavior that is intended to harm another person by damaging or manipulating his or her relationships with others by conduct that includes, without limitation, spreading false rumors; Repeated or pervasive nonverbal threats or intimidation such as the use of aggressive, menacing or disrespectful gestures; threats of harm to a person, to his or her possessions or to other persons, whether such

threats are transmitted verbally, electronically or in writing; blackmail, extortion or demands for protection money or involuntary loans or donations; blocking access to any property or facility of a school; stalking; and physically harmful contact with or injury to another person or his or her property.

2. "Cyber-bullying" means bullying through the use of electronic communication. The term includes the use of electronic communication to transmit or distribute a sexual image of a minor:
 - a. "Electronic communication device" means any electronic device that is capable of transmitting or distributing an image of bullying, including, without limitation, a cellular telephone, personal digital assistant, computer, computer network and computer system; and
 - b. "Image of bullying" means any visual depiction, including, without limitation, any photograph or video, or a minor bullying another minor.
3. "Defamation" is a false written or oral statement that damages another's reputation.
4. "Discrimination" means any single or repeated or pervasive act or acts, whether targeted to a specific person or targeted in general to any demographic regarding the race/color, gender, gender identity or expression, sexual orientation, religion, national origin, age, pregnancy, genetic information, domestic partnership, or disability of a person that causes harm or creates a hostile work or learning environment, which may include, without limitation, jokes, threats, physical altercations, or intimidation.
5. "Distribution" means the intentional circulation or dissemination of a student publication by one or more students and to one or more students using any District property, or on any District property, or at the time and place of school activities (or immediately prior or subsequent thereto) by means of any of the following: handing out free copies; selling or offering copies for sale; accepting donations for copies; making copies available (such as by placing them in a common area); displaying copies; transmitting the publication electronically (which includes posting the publication on a school server or making the publication accessible from a school computer); or otherwise circulating or disseminating the publication in a manner that it is likely that students will have access to the information either using District resources, on District property, or at the time and place of school activities (or immediately prior or subsequent thereto)
6. "Obscenity" is any item, material or performance which depicts or describes in a patently offensive way sexual acts or lewdly exhibits genitals and taken as a whole lacks serious literary, artistic, political, or scientific value.

7. "Student Publications" are materials prepared and issued by students through a curricular, co-curricular, or extra-curricular program. Examples include a school newspaper or yearbook and may extend to displays of artwork when such work is available to the general population. Such publications can be hard copy, electronic, or appear in social media; have a District employee as advisor; and utilize District funds and other resources.
8. "Unprotected speech" may include, but is not necessarily limited to, the following: obscenity, fighting words, defamation (includes libel, slander), child pornography, perjury, blackmail, incitement to imminent lawless action, true threats, solicitations to commit crimes, speech which is vulgar or profane, speech which contains a pro-alcohol, tobacco and/or controlled or illegal substances message, speech that symbolizes gang-related behavior, bullying, cyberbullying and/or discriminatory speech, hate speech, speech that does not comply with the District's policies and regulations, and/or interferes with the educational process or poses a threat to the safety of students or other District individuals.

PROCEDURE

1. Any regulation of student speech shall be imposed in order to create a productive, uninterrupted, and safe learning environment while also balancing student free expression rights and the cultural diversity of the various communities within the District.
2. The District shall not restrict or ban a student's wearing of religious clothing with the exception of unprotected speech. Parents having religious-based concerns regarding the dress code, or a site-based uniform policy are encouraged to discuss them with the principal.
3. A District administrator shall regulate and restrict unprotected speech. When determining whether the speech constitutes unprotected speech, the following guidelines shall be used:
 - a. Speech that creates an immediate danger or threats to other students or District staff may include speech that incites a violation of the law that is both imminent and likely—i.e., it is specific as to the person threatened, the means to act on the threat, and the time period to carry out the threat is immediate;
 - b. Speech that encourages students towards illegal acts may include messages which promote underage drinking, illegal drug use, violence, and/or gang activity;
 - i. However, administrators may not discipline a pupil enrolled in kindergarten through 8th grade for simulating a firearm or dangerous weapon while playing or wearing clothing or accessories

that depict a firearm or dangerous weapon or express an opinion regarding a constitutional right to keep and bear arms, unless it substantially disrupts the educational environment;

- c. Speech that amounts to a substantial disruption to the orderly operation of the school is decided on a case-by-case basis and administrators are encouraged to contact their supervisor or the District's legal department in determining whether the speech at issue constitutes a substantial disruption of the educational environment;
 - i. The interruption of classes, threats to teachers or students, bullying or cyberbullying, racially harassing conduct and significant race-based tension, discriminatory speech based on a student or employee's membership in a protected class, fights or violent behavior on school grounds, complaints filed regarding the speech, the canceling of school events due to the speech, and emotional distress suffered by teachers or students are all examples of substantial disruption to the educational environment; and
- d. Speech that violates a specific school rule or policy may include, but is not limited to, any Board Policy, Administrative Regulation, or school rule as reflected in the Parent/Student Handbook.

4. Student Publications

- a. District students producing content for student publications are entitled to express themselves in a manner consistent with the rights guaranteed by the First and Fourteenth Amendments to the United States Constitution. However, such content must not be disruptive of instruction and must not be used to engage in discrimination based on race, bullying or cyber-bullying or intimidate any person.
- b. Students who engage in speech related to work on a student publication shall be protected from disciplinary action unless such conduct amounts to unprotected speech, substantially disrupts the ability of the school to perform its educational mission and/or is used to engage in bullying, cyber-bullying, or the intimidation of another person and the disruption was intentional.
- c. District teachers and staff advisors, and coaches are responsible for guiding students in the parameters of unprotected speech and for ensuring that unprotected speech does not appear in student publications or productions. Student are expected to follow standards for student publications, productions, etc. that are consistent with professional journalism, theatrical, and/or broadcast standards.

- i. A District employee acting as an advisor for a student publication shall not be subject to discipline, when the employee acts in a responsible and appropriate manner to protect a student engaged in protected free speech or expression related to the student publication.
 - d. The general distribution of student publications which comply with this Administrative Regulation is permitted during times and in areas designated by the building principal. Any distribution which substantially interferes with the normal flow of traffic within the school corridors and entrance ways, which is coercive of any other person's right to accept or reject any publication, which creates a safety concern, or which causes substantial and material interference with normal school activities shall not be permitted.
 - e. The following disclaimer shall be included in all District-sponsored student publications.
 - i. "The views and opinions expressed in this student publication are those of the student journalists and do not reflect the official policy or position of the Washoe County School District or the Board of Trustees."
- 5. Any appeal of the administrator's decision to restrict student speech shall follow the District's public complaint process.

LEGAL REQUIREMENTS AND ASSOCIATED DOCUMENTS

- 1. This Administrative Regulation reflects the goals of the District's Strategic Plan and aligns/complies with the governing documents of the District, to include:
 - a. Board Policy 5150, Student Freedom of Speech, Freedom of Expression, and Right to Assemble;
 - b. Board Policy 5105, Student Uniforms – Adoption of a Site-Based Policy;
 - c. Board Policy 5100, Student Behavior; and
 - d. Board Policy 1600, Public Complaint and Resolution Procedure.
- 2. This Administrative Regulation complies with Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC), to include:
 - a. NRS Chapter 388, System of Public Instruction;
 - i. NRS 388.077 Right of pupils to constitutional expression; limitation; adoption of policy for pupil publications; resolution of complaint by pupil of violation of right; and

b. NRS Chapter 392, Pupils

- i. NRS 392.4634 Prohibition against disciplining certain pupils for simulating firearm or dangerous weapon or wearing clothing or accessories that depict firearm or dangerous weapon; exceptions; prohibition against adoption of conflicting policy, ordinance, or regulation.

REVISION HISTORY

Date	Revision	Modification
09/28/2022	1.0	Adopted