



Administrative Regulation 9166

ADMINISTRATIVE INVESTIGATIONS

Responsible Office: Office of the General Counsel

PURPOSE

The Superintendent has adopted this Administrative Regulation to establish the purpose and use of confidential administrative investigations in the Washoe County School District (District).

DEFINITIONS

1. The Administrative Investigations Division (Division) of the Office of the General Counsel (OGC) provides internal investigative support for District representatives, including the Board of Trustees (Board), the Superintendent of Schools and Administrators of the District.
2. For the purposes of this regulation:
 - a. "Administrator" refers to a District Administrator (at the principal level or above) who is requesting an investigation.
 - b. "Investigation" refers to an administrative investigation conducted by the Division or an outside individual or agency hired by the OGC.
 - c. "CRIF" refers to the District's Confidential Request for Investigation Form.
 - d. "Standard of Proof" means the amount of evidence necessary to prove an assertion or claim.
 - e. "Substantial evidence" means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Richard v. Perales, 402 U.S. 389, 401 (1971).

REGULATION

1. The District seeks to ensure that investigations into allegations of unsatisfactory conduct are performed thoroughly and impartially by the Division, protecting the interests of the District, and upholding the rights and obligations of District personnel and students.
2. Criteria for administrative investigations:
 - a. The Division may conduct investigations into matters with one or more of the following criteria:
 - i. Multiple witnesses;

- ii. Difficult or complex legal issues;
 - iii. High risk of liability to the District; and/or
 - iv. Allegation of staff on student bullying.
 - b. All investigations are in anticipation or prevention of litigation.
 - c. If a matter presents a potential conflict of interest, requires specialized subject knowledge, the Division's workload does not permit a timely investigation, or for any other good and proper reason, the OGC may employ an outside individual or agency to conduct the investigation at its direction under the same above criteria.
 - d. All documents and materials used as part of an investigation, and any reports or memoranda generated as a result of the investigation, are attorney-work product and/or attorney-client privileged materials.
 - i. The investigation is conducted at the direction of the OGC Legal Department;
 - ii. An investigation conducted at the direction of the OGC is not completed in the common course of business; and
 - iii. The OGC directs the investigation to provide legal advice and/or support to the Administrator requesting the investigation.
3. Confidential Request for Investigation (CRIF)
- a. To request an investigation, the Administrator must submit a CRIF to the OGC Legal Department. The CRIF must be filled out in detail, signed, and dated by the Administrator. At their election, the Director of the Department of Civil Rights Compliance (Civil Rights Compliance Department) or the Director of the Department of Labor Relations (Labor Relations Department) may sign the CRIF on behalf of the Administrator.
 - b. The Superintendent has delegated authority to the Civil Rights Compliance Department to act as the Administrator for purposes of requesting staff on student bullying investigations.
 - i. The Civil Rights Compliance Department will only be responsible for requesting the investigation. All other requirements, including the final decision on the issue of whether bullying occurred under NRS Chapter 388, must be completed by the Administrator or his/her designee or the next highest administrator, as applicable.

- c. Once the CRIF is completed, signed, and dated, it shall be submitted to the OGC Paralegal (Paralegal) for submission to and review and consideration by the Chief General Counsel (Chief) and/or the Deputy Chief General Counsel (Deputy Chief).
 - i. The Chief and/or Deputy Chief shall review and either approve or deny the CRIF immediately, but no longer than one workday from the date received.
- d. In the event the CRIF is authorized, the Chief or Deputy Chief shall sign the CRIF and provide the authorized CRIF to the Paralegal for processing.
 - i. The Paralegal shall immediately, but no longer than one workday from the date received, transmit a copy of the authorized CRIF to the Division and distribute copies of the authorized CRIF to the Administrator, the Civil Rights Compliance Department and Labor Relations, as applicable.
 - ii. The Division shall open a case file and commence an investigation only upon receipt of the authorized CRIF from the Paralegal.
- e. In the event the CRIF is denied, the Chief or Deputy Chief shall mark the CRIF "DENIED" with a short explanation for the denial and return the denied CRIF to the Paralegal for processing.
 - i. The Paralegal shall immediately, but no longer than one workday from the date received, transmit a copy of the denied CRIF to the Administrator and distribute copies of the denied CRIF to the Division, the Civil Rights Compliance Department and/or Labor Relations, as applicable.
 - ii. If the complaint alleges staff on student bullying and is denied, the Administrator is responsible for completing the investigation.
- f. The Paralegal is responsible for keeping all completed CRIFs, whether authorized or denied, and keeping a record of the total number of completed CRIFs received, the number authorized, the number denied, the requesting Office, Department, or school, and whether the complaint contains allegations of staff on student bullying.

4. Investigation

- a. The Division shall conduct the investigation pursuant to investigative best practices pursuant to training and experience.
- b. Process for investigation generally:

- i. The Division shall analyze the allegations and defenses presented;
 - ii. The Division shall consider all relevant documents, including written statements and other materials presented by the parties;
 - iii. The Division shall interview the parties and other individuals and/or witnesses; and/or
 - iv. The Division shall review certain documents or materials in the possession of any party that the Division has deemed relevant. The Division may also review any available District School Police Department investigation reports or the investigation reports of local law enforcement authorities.
- c. When appropriate, the Division shall work in consult with the Administrator and Labor Relations to provide notice of an expedited investigatory/due process meeting to the subject.
- i. The expedited notice shall include:
 - 1) A description of the allegations against the subject;
 - 2) The date, time, and place for the subject to respond to the allegations; and
 - 3) Under certain circumstances, the right of the subject to have a representative present at the meeting.
 - ii. The Division shall conduct the questioning of the subject in consult with the Administrator and the Labor Relations Department.
- d. Upon completion of the investigation due process meeting, if necessary, the Division shall draft a Confidential Report that analyzes the allegations and facts, including credibility issues. Relevant evidence should be attached to or referenced in the Confidential Report. Upon completion, the AI shall provide a recommendation regarding the burden of proof and next steps. The AI may also include additional comments on other matters that that may come to light as a result of the investigation. Upon completion of the investigation due process in a staff on student bullying investigation, if necessary, the Division shall complete the Administrative Investigation Bullying Report (Bullying Report) that analyzes the allegations and facts, including credibility issues. Relevant evidence should be attached to or referenced in the Bullying Report. Upon completion, the AI shall provide a recommendation regarding the burden of proof and next steps. The AI may also include additional comments on other matters that may come to light as a result of the investigation.

- e. The Division shall submit the Confidential Report or Bullying Report to the Paralegal for forwarding to the Chief and Deputy Chief for approval of the report.
 - i. The Chief and Deputy Chief act as a check and balance on the Division to ensure that the evidence based on the totality of the circumstances could substantiate the recommendation.
 - ii. The Chief and/or Deputy Chief may:
 - 1) Send the Confidential Report or Bullying Report back to the Division for further investigation;
 - 2) Refer the Confidential Report or Bullying Report back to the Division to modify the recommendation based on the evidence presented; or
 - 3) Approve and sign the Confidential Report or Bullying Report and return it to the Paralegal.
- f. Upon receipt of an approved and signed Confidential Report or Bullying Report, the Paralegal shall email it the Administrator, the Civil Rights Compliance Department and/or the Labor Relations Department, as applicable for next steps including Labor Relations Department recommendations and Administrator's decision and action.
 - i. If the requesting Administrator is not the supervisor of the subject of the investigation, the OGC shall inform the supervising Administrator of the investigation. Upon completion of the Confidential Report or Bullying Report, if it contains confidential employee information, the paralegal shall forward the report to the supervising Administrator and inform the requesting Administrator that the investigation has been completed and forwarded through the process for appropriate next steps.

5. Recommendation

- a. The Confidential Report or Bullying Report shall include a recommendation whether the evidence provided is substantial evidence to meet the standard of proof.
- b. The recommendation shall be based on the totality of the circumstances to include:
 - i. The quality of physical evidence;
 - ii. The testimony of witnesses;

- iii. The credibility of witnesses; and
 - iv. Circumstantial evidence.
- c. The Division's recommendation is not a final determination on the evidence and whether the evidence provided is substantial evidence. The recommendation is advisory on behalf of the OGC to the Administrator for the Administrator's consideration in making a final decision.
6. Final decision and discipline
- a. The final decision on whether substantial evidence exists to substantiate the allegation(s) rests with the Administrator.
 - b. The final decision on discipline, if any, rests with the Administrator.
 - c. The final decision on the issue of whether bullying occurred under NRS Chapter 388, rests with the Administrator or his/her designee, or the next highest administrator, as applicable.
 - d. If the Administrator disagrees with the recommendation of the Division, the Administrator should discuss the disagreement with the OGC Legal Department. The Administrator and OGC should work together to attempt to reconcile the difference of opinions.
 - e. The Administrator shall create a memorandum explaining the reason for the decision and the actions taken.

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 9165, Legal Counsel;
 - b. Board Policy 1600, Public Complaint and Resolution Procedure;
 - c. Board Policy 4400, Equal Opportunity in Employment;
 - d. Board Policy 5700, Safe and Respectful Learning Environment; and
 - e. Board Policy 9200 Harassment and Discrimination Prohibited.
2. This Administrative Regulation complies with Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC), to include:
 - a. NRS Chapter 284, State Personnel, and specifically: NAC 284.702 – 284.734, Personnel records;

- b. NRS Chapter 288, Relations Between Governments and Public Employees;
 - c. NRS Chapter 388, Safe and Respectful Learning Environment; and
 - d. NRS Chapter 391, Personnel.
3. This Administrative Regulation complies with applicable federal laws and regulations.
- a. Title VII of the Civil Rights Act;
 - b. Fair Labor Standards Act; and
 - c. National Labor Relations Act.

REVISION HISTORY

Date	Revision	Modification
01/26/2020	1.0	Adopted
09/21/2022	2.0	Revised: Clarify language and update process