



Administrative Regulation 5701 STUDENT BULLYING, HARASSMENT, and/or DISCRIMINATION COMPLAINT AND APPEAL PROCEDURES

Responsible Office: Office of the General Counsel, Department of Civil Rights Compliance

PURPOSE

The Superintendent has adopted this administrative regulation to set forth the procedures for the prompt and equitable response to non-criminal complaints¹ and concerns from students, parent(s)/guardian(s), or others regarding allegations of bullying against a student by another student in the Washoe County School District ("District" or "WCSD").

REGULATION

1. For the purposes of this administrative regulation, the word "bullying" encompasses bullying, cyber-bullying, harassment, sexual harassment, discrimination, and/or retaliation pursuant to Nevada state law. (See NRS 388.122)
 - a. "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:
 - i. 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
 - ii. 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
 - iii. 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.

¹ Criminal matters must be referred to school police or local law enforcement.

- iv. 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. (NRS 388.122)
- b. “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. (NRS 388.123)
 - i. “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. (NRS 388.124)
 - ii. “Image of bullying” means any visual depiction, including, without limitation, any photograph or video, or a minor bullying another minor. (NRS 200.900)
 - iii. “Electronic communication” means the communication of any written, verbal or pictorial information through the use of an electronic device, including, without limitation, a telephone, a cellular phone, a computer or any similar means of communication.
 - iv. “Sexual image” means any visual depiction, including, without limitation, any photograph or video, of a minor simulating or engaging in sexual conduct or of a minor as the subject of a sexual portrayal. (NRS 200.737)
- c. Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of this conduct explicitly or implicitly affects an individual's ability to receive an education, unreasonably

interferes with an individual's educational performance or creates an intimidating, hostile or offensive educational environment. The term sexual harassment includes sexual violence under Title IX.

- d. Harassment is unwelcome conduct that is based on 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.
- e. Harassment is to knowingly threaten: a. (1) To cause bodily injury in the future to the person threatened or to any other person; (2) To cause physical damage to the property of another person; (3) To subject the person threatened or any other person to physical confinement or restraint; or (4) To do any act which is intended to substantially harm the person threatened or any other person with respect to his or her physical or mental health or safety; and b. The person by words or conduct places the person receiving the threat in reasonable fear that the threat will be carried out. (NRS 200.571)
- f. Discrimination is the distinguishing treatment of an individual based on their actual or perceived membership in a certain group or category, in a way that is worse than the way people are usually treated.
 - i. Protected Classes: Race, color, national origin or ethnic group identification, marital status, ancestry, sex, sexual orientation, gender identity or expression, genetic information, religion, age, mental or physical disability, military or veteran's status
 - 1. "Disability" means, with respect to a person: 1) a physical or mental impairment that substantially limits one or more of the major life activities of the person, including, without limitation, the human immunodeficiency virus; 2) a record of such an impairment; or 3) being regarded as having such an impairment.
 - 2. "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.
 - 3. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.
- g. Hazing is an activity in which a person intentionally or recklessly endangers the physical health of another person for the purpose of

initiation into or affiliation with a student organization, academic association or athletic team at a high school, college or university in this state. The term: (a) Includes, without limitation, any physical brutality or brutal treatment, including, without limitation, whipping, beating, branding, forced calisthenics, exposure to the elements or forced consumption of food, liquor, drugs or other substances. In accordance with Nevada State Law, an activity shall be deemed to be "forced" if initiation into or affiliation with a student organization, academic association or athletic team is directly or indirectly conditioned upon participation in the activity.

2. Filing a Complaint

- a. The District accepts complaints submitted verbally, in writing, or online. (Email: titleIX@WashoeSchools.net; online at <http://bullyfreezone.nv.gov>, or SafeVoice Nevada at <http://safevoicenv.org>). Complaints shall be directed to the school's principal or designee (i.e. assistant principal or dean of students).
- b. The WCSD Department of Civil Rights Compliance oversees the complaint process for all bullying matters falling under:
 - i. Title VI (of the Civil Rights Act of 1964) and Title IX (of the Educational Amendments of 1972);
 - ii. Title IX (of the Educational Amendments of 1972);
 - iii. Title II (of the Americans with Disabilities Act) and Section 504 of the Rehabilitation Act; and
 - iv. Nevada Revised Statutes (NRS) Chapter 388, Safe and Respectful Learning Environment.
- c. The Director of the Department of Civil Rights Compliance and the Title II, VI, IX, and 504 coordinator is Gina C. Session. Her contact information is:

Office of the General Counsel
Department of Civil Rights Compliance
425 E. 9th Street
Reno, Nevada 89520-3425
GSession@washoeschools.net
- d. Additional avenues available to students and their parent/guardian for filing a complaint may include:
 - i. U.S. Department of Education's Office for Civil Rights (Telephone: 800-421-3481); or Seattle Office (Telephone: 206-607-1600, TDD 1-800-877-8339), www.ed.gov/ocr.

- ii. Nevada Department of Education's Safe and Respectful Learning Environment Office (www.bullyfreezone.nv.gov)
 - e. It is a violation of law to retaliate against any individual filing a complaint or participating in an investigation. Any student experiencing retaliation because they filed a bullying complaint or participated in an investigation should file a separate complaint regarding the alleged retaliation.
3. Reporters
- a. Students – Any student who is the target of bullying and/or students who have first-hand knowledge of such bullying are encouraged to report such incident. Students should report incident(s) to any administrator, counselor, faculty, or staff member; by email to the Civil Rights Coordinator at titleIX@WashoeSchools.net; or through the Nevada Department of Education's SafeVoice Program (<http://safevoicenv.org>) or Bully Free Zone (<http://bullyfreezone.nv.gov>).
 - b. District Employees and Elected Officials – Members of the Board of Trustees, administrators, faculty, coaches or staff members who witness an act of bullying or receive information that such an act may have occurred shall report the information to the principal or designee as soon as practicable, but not later than the same day on which the administrator, faculty, or staff member witnessed the bullying or received information that bullying may have occurred.
4. Complaint Review
- a. District staff shall report allegations that are violent or criminal in nature to the appropriate law enforcement officers. Though a school may defer its investigation until completion of an investigation by law enforcement, law enforcement actions do not replace a school's obligation to conduct an investigation and respond to a bullying complaint.
 - b. Upon receiving a report of possible bullying the principal or designee shall:
 - i. Take any immediate necessary action to ensure the safety and well-being of the involved student(s). Possible actions may include, but are not limited to:
 - 1. Implementing a safety plan;
 - 2. Putting a no contact order in place;
 - 3. Class changes;
 - 4. Counseling services; and/or
 - 5. Academic support.

- ii. Interim actions taken should aim to minimize the impact on the alleged victim.
 - iii. If the principal or designee does not have access to the alleged victim, they can wait until the next school day that there is access to the alleged victim to take the steps outlined above.
- c. Make a preliminary assessment applying the District's Three-Point Criteria to determine whether bullying is actually alleged and/or whether enough information is available to make that determination. For an explanation of the Three-Point Criteria see below.
 - i. If, upon initial examination of the complaint, the principal or designee determines that the complaint allegations, if assumed to be true, **do not meet** the Three-Point Criteria, **a bullying investigation shall not be initiated**. However, other discipline or interventions may still be necessary depending on the incident(s). **The investigator shall document in the District's electronic student records system ("Infinite Campus" or "IC") the analysis that led to the conclusion that the complaint allegations do not meet the Three-Point Criteria in order to establish a bullying complaint.**
 - 1. If the alleged offender is on an Individualized Educational Plan (IEP), an assessment must be made by the principal or designee to determine whether the conduct at issue is addressed in the student's IEP.
 - 2. If the alleged offender's conduct is addressed in the student's IEP, then the bullying provisions do not apply to the conduct.
 - 3. The principal or designee must ensure the safety of the alleged victim.
 - ii. If, upon initial examination of the complaint, the principal or designee determines that the complaint allegations, if assumed to be true, **do** meet the Three-Point Criteria and that bullying may have occurred or there is not adequate information to make an initial determination, **an investigation shall be initiated**.
- d. Three-Point Criteria
 - i. The three-point criteria used to evaluate a bullying complaint is as follows:
 - 1. Criterion One: Did Harm or Threat of Harm Occur?

- a. Was there an intentional act that caused physical or emotional pain? (Note: an intentional act refers to the individual's choice to engage in a behavior(s); it does not refer to the intent of the individual to hurt the alleged victim.)
- b. Is the behavior related to a protected class: Race or ancestry; color; national origin or ethnic group identification; marital status; sex; sexual orientation; gender identity or expression; genetic information; religion; age; mental or physical disability; and military or veteran's status. Additionally, state law includes "other distinguishing characteristics" when defining protected class.

2. Criterion Two: Is the Action Unwelcome?

- a. Was the conduct welcome by the recipient? Who initiated the conduct?
- b. Is the alleged victim afraid? Is the alleged victim avoiding school or areas of the school or school bus?
- c. Was the alleged victim an unequal participant in the conduct?

3. Criterion Three: Is the Action Severe, Persistent or Pervasive?

- a. Severe behavior can be established with a single action (i.e. Physical Assault).
- b. Persistent behavior occurs repeatedly. If the victim asks the offender to stop but the act(s) continue, this is persistent behavior.
- c. Pervasive behavior is when the behavior is rampant throughout the school. Generally, there is not one specific offender in these cases.

ii. The answer to Criterion One, Two and Three must be yes in order for the conduct to meet the definition of bullying.

5. Investigation Process

- a. Upon determining that the complaint meets the preliminary application of the Three-Point Criteria, the principal or designee shall perform the following during the investigation stage:

LETTER TEMPLATE - COMPLAINANT

_____, 20__

Re: Administrative Investigation of Bullying - Findings and Conclusion

Dear _____,

I am writing as a follow up to the online report made on (date). You are alleging (summarize the allegations in the bullying complaint). In accordance with Nevada state law^[1], an administrative investigation into this allegation was initiated on (date). This investigation has been completed by school administration.

After conducting interviews (describe the scope of the investigation) of students and staff we are able to substantiate that _____ (describe the evidence from the complaint. Say why the complaint was or was not substantiated).

We have determined that this instance (does or does not) meet the qualifications for bullying. This behavior meets the three point criteria because (describe how the evidence gathered does or does not support the three-point criteria. For example: the student is in a protected class and harm did occur as she was crying from the incident. The conduct was unwelcomed and it was persistent. There was an imbalance of power as the student calling names was a male and the target was a female. There was a deliberate intent to intimidate, insult and harm the target. The name calling was repeated over time that day, and the target felt distressed.)

Our school has outlined interventions and supports listed below. Sanctions were delivered.

The following interventions are recommended (choose those that apply):

- School Wide PBIS
- School wide SEL – MindUp
- Counseling support at school for your child – as needed
- Increased supervision – provided by school staff
- Promotion of safe and respectful environment by further outlining expectations and consequences.
- Take 5 Pass (when needed)

You have the right to appeal these findings in writing within 10 business days in accordance with Washoe School District Regulation 5701. You should send your appeal to Area Superintendent (add the appropriate name and email address) at _____@washoeschools.net.

^[1] Nevada Revised Statutes (NRS) 388.121 – 388.145, Provision of Safe and Respectful Learning Environment

Thank you for your cooperation during the investigation process. Please let me know if you have any questions

Sincerely,

Assistant Principal

cc:, _____Principal
Katherine Loudon, WCSD Counseling Services
_____, Area Superintendent
Gina Session, Title IX Compliance Officer

LETTER TEMPLATE - COMPLAINANT

_____ del ____

Referente a: Investigación Administrativa sobre un Acosador- Hallazgos y Conclusión

Estimado _____,

Le escribo para dar seguimiento al informe en línea realizado (*fecha*). Usted alegó que _____ . De acuerdo con la ley del estado de Nevada [1], una investigación administrativa sobre este alegato se inició (*fecha*). Esta investigación ha sido completada por la administración de la escuela.

Después de realizar entrevistas (describir el alcance de la investigación) de los estudiantes y el personal, pudimos verificar que_____.

Hemos determinado que en este instante _____ cumple con los requisitos para el acoso escolar. Este comportamiento cumple los criterios de los tres puntos porque _____.

Nuestra escuela ha esbozado intervenciones y apoyos que se enumeran a continuación. Las sanciones fueron entregadas.

Se recomiendan las siguientes intervenciones:

- PBIS de toda la escuela
- SEL de toda la escuela – MindUp
- Apoyo de consejería en la escuela para su hijo, según sea necesario
- Aumentar supervisión, proporcionada por el personal de la escuela
- Promoción de un ambiente seguro y respetuoso con una descripción más amplia de las expectativas y consecuencias.
- Tome 5 Pases (cuando sea necesario)

Usted tiene el derecho de apelar estos hallazgos por escrito dentro de los 10 días hábiles de acuerdo con la Regulación 5701 del Distrito Escolar del Condado de Washoe. Debe enviar su apelación al Superintendente de Área _____ a _____@washoeschools.net.

Gracias por su cooperación durante el proceso de investigación. Por favor hágame saber si tiene preguntas.

Atentamente,

Asistente al Director

cc: _

_____Directo

r

Katherine Loudon, WCSD Servicios de Consejería

_____, Superintendente del Área

Gina Session, Title IX Compliance

Officer

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