

STAFF COMPLAINTS: DEALING WITH ALLEGATIONS OF PROHIBITED CONDUCT/BEHAVIOR(S)

The Lyon County School District is committed to providing a safe and respectful learning and working environment that is free from all prohibited conduct/behavior(s), including but not limited to, bullying, cyber-bullying, harassment, sexual harassment, intimidation, retaliation, and discrimination for all staff. Through the District's staff complaint resolution process detailed in the following this policy and administrative regulations, employees shall have a method to resolve concerns and complaints.

Below The following are the governing documents related to the process for LCSD staff to file a complaint:

- GBBC: Employee Bullying
- GBB: Fair Employment Practices
- GBBJ: Code of Ethical Standards
- AA: Equal Educational Opportunity; Equal Employment Opportunity; Nondiscrimination
- AB: Nondiscrimination on the Basis of Sex under Title IX
- Applicable negotiated agreements

This policy for complaints does not prohibit the processing of grievances by an employee bargaining representative and/or a member of a bargaining unit pursuant to grievance procedures established at the District level by an applicable collective bargaining agreement ("CBA").

SPECIAL NOTE REGARDING SEXUAL HARASSMENT UNDER TITLE IX:

If the alleged bullying or harassment or sexual harassment prohibited conduct/behavior(s) could constitute sexual harassment under Title IX, the AB policy and administrative regulations apply rather than the GL policy and administrative regulations.¹ Because the school district must respond with specific steps whenever any employee has notice of sexual harassment under Title IX, **all school employees are required to report possible incidents of sexual harassment involving students directly to the District's Title IX Coordinator, as soon as practicable, but not later than a time during the same day on which the employee became aware of sexual harassment, including allegations of sexual harassment.** Reports by school district employees must be made by in person, by telephone, and/or by email to the school district's Title IX Coordinator as follows:

Executive Director of Human Resources (EEO Officer)
Lyon County School District

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25 E. Goldfield Avenue Yerington, NV 89447
(775)463-6800 bhogan@lyoncsd.org

The school district's Title IX Coordinator will assist the employee to determine whether the allegation could constitute sexual harassment under Title IX, in which case Board Policy AB will be followed rather than Board Policy GL.

¹Sexual harassment is defined under the federal Title IX regulations as conduct on the basis of sex that satisfies one or more of the following:

- a. A school employee conditioning the provision of an aid, benefit, or service of the school district on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo); or
- b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school district's education program or activity; or
- c. Sexual assault as defined in the federal Clery Act, or dating violence, domestic violence, or stalking as defined in the federal Violence Against Women Act.

The Department of Human Resources oversees the complaint process for staff bullying, harassment and discrimination matters falling under Board Policy GBBC: Employee Bullying, Board Policy GBB: Fair Employment Practices and state and federal laws and regulations including Title II of the Americans with Disabilities Act of 1990, Title VI of the Civil Rights Act of 1963, Title VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, and the Age Discrimination Act of 1975. The Director of Human Resources is the Title IX Coordinator and EEO Officer for the District.

STAFF COMPLAINTS: DEALING WITH ALLEGATIONS OF PROHIBITED CONDUCT/BEHAVIOR(S) - ADMINISTRATIVE REGULATIONS **COMPLAINT PROCESS**

This procedure outlines the process for the prompt and equitable response to complaints from staff regarding allegations of prohibited conduct/behavior(s) including, but not limited to, bullying, cyber-bullying, harassment, sexual harassment, intimidation, discrimination and/or retaliation against a staff member in the Lyon County School District.

1. Employee Responsibilities

Employees who believe they personally are being or have been subjected to prohibited conduct/behavior(s), and/or are the target of any form of prohibited conduct/behavior(s), or have witnessed any other employee being subjected to these behaviors should immediately:

1. Identify the offensive behavior to the alleged offender and request that the behavior cease.
2. Note: An employee is NOT required to talk directly to the alleged offender or to the employee's supervisor. It is critical, however, that the employee contact one of the individuals listed in sections 2 or 3 below if s/he they believes s/he they is are being targeted, or has witnessed what the employee believes to be prohibited conduct/behavior(s) directed to or committed by another employee(s), client(s), customer(s), vendor(s), volunteer(s), contractor(s), etc.
3. If the employee feels uncomfortable in speaking directly to the alleged offender or if the employee requested the prohibited conduct/behavior(s) to cease, but the request did not produce the results desired, the employee should report the prohibited conduct/behavior(s) as soon as possible to any administrator, or manager/supervisor, or the District's designated EEO Officer.
4. An employee who witnesses or obtains valid information regarding prohibited conduct/behavior(s) by his/her their immediate supervisor is required to report the incident to the any administrator, District official, or EEO Officer.
5. Applicants who have concerns regarding violations of this any board policy are encouraged to contact the designated EEO Officer or the alternate.
6. Definitions for Bullying, Harassment, Intimidation and Discrimination are found in Policy GBBC – Employee Harassment, Intimidation and Discrimination Bullying.

NOTE: Per NRS 388.122, the definition of "bullying" excludes acts, gestures and expressions which are engaged in as part of a mutual disagreement or conflict.

2. Administrator/Manager/Supervisor Responsibilities

Regardless of whether the employee involved is in the administrator's or manager's/supervisor's department, and regardless of how ~~s/he~~ **they** became aware of the alleged prohibited conduct/behavior(s), all administrators or managers/supervisors must immediately report all allegations, complaints or observations of such prohibited conduct/behavior(s) to the EEO Officer. The information reported must include:

1. The persons(s) involved, including all witnesses.
2. A written record of specific conversations held with the accused and any witnesses.
3. All pertinent facts, including date(s), time(s), and locations(s).
4. Any evidence secured.

Upon becoming aware of alleged prohibited conduct/behavior(s), District officials will take necessary action to ensure the safety of the involved employees.

An administrator's or manager's/supervisor's failure to immediately report such activities, complaints, or allegations will result in discipline, up to and including possible termination.

Filing a Complaint

Complaints should be filed with the lowest level administrator/manager/supervisor who is not involved in the alleged ~~bullying, harassment and/or discrimination~~ **prohibited conduct/behavior(s)** and has the authority to remedy the alleged issues, or filed with the ~~Department of~~ Executive Director of Human Resources/EEO Officer or alternate.

If an administrator/manager/supervisor is aware or made aware of actions that may amount to ~~bullying, harassment and/or discrimination~~ **prohibited conduct/behavior(s)**, they ~~administrator may~~ **must** request a written complaint from the alleged victim ~~or proceed with an investigation without a written complaint.~~ If ~~there is no~~ **the alleged victim refuses to file a** written complaint, the administrator will ~~file~~ **create** a report **of the alleged prohibited conduct/behavior(s)**, which will serve as the complaint for purposes of the investigation.

If the complaint is not filed with the appropriate administrator, the person receiving the complaint shall note the date and time the complaint form was received and immediately forward the complaint form to the Executive Director of Human Resources. The Executive Director of Human Resources will then be responsible for forwarding the complaint to the appropriate administrator/manager/ supervisor as soon as possible, ~~as practical~~ **but not later than 1 working day after receipt.**

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Formal complaints ~~should~~ must be submitted on the Staff Complaint form. When reporting an incident, it is helpful to provide as much information as possible, including the following:

1. A description of the event(s);
2. The number of occurrences, with dates and places;
3. The names of any witnesses;
4. Any documents or other ~~exhibits~~ evidence; and, if appropriate
5. The relief or remedy requested.

Once a complaint is received by the appropriate first level administrator, a confidential, thorough, and impartial investigation shall begin promptly ~~once received by the appropriate administrator~~ within 5 working days, unless unusual circumstances prevent the investigation from being started. Administrators/managers/supervisors shall coordinate and timely report investigative findings to the Executive Director of Human Resources. Additionally, the district may report individuals in violation of this policy to law enforcement officials as applicable. Licensed staff may be reported to the Nevada Department of Education.

Note: A copy of the complaint and associated evidence (if any) will be provided to the alleged offender(s) by the administrator/ manager/supervisor within 1 working day of receiving the complaint. The alleged offender(s) may submit evidence to the investigating administrator/manager/supervisor asserting that the complaint is vexatious or repeated within 2 working days of receiving the complaint against them.

Complaint Review

Upon receiving a complaint of alleged ~~bullying, harassment and/or discrimination~~ prohibited conduct/behavior(s), the administrator/manager/supervisor shall take any immediate necessary action to ensure the safety and well-being of the complainant(s) or other employee(s) that have alleged harm. Additionally, the complaint may be reviewed by the Superintendent or designee to determine if it is vexatious or repeated.

District officials will thoroughly investigate all valid complaints of prohibited conduct/behavior that are founded in actual, common, or constructive knowledge that would lead a reasonable person to believe that the prohibited conduct/behavior occurred. In other words, complaints against employees will only be investigated if they are based on factual information and not merely rumor, hearsay, opinion, perception, etc. Therefore, vexatious and/or repeated complaints will not be investigated by District officials when they are dismissed using this standard.

1. A complaint shall be deemed vexatious if it is determined to have been made maliciously, frivolously, or without reasonable grounds; or if it is intended to harass, annoy, or otherwise subject the individual to unnecessary investigation or discipline.

2. A complaint shall be deemed repeated if it contains substantially the same allegations or facts as a prior complaint that has already been investigated and resolved or dismissed.
3. An employee about whom a complaint has been filed may submit evidence asserting that the complaint is vexatious and/or repeated within 2 days of receiving the complaint.
4. Any complaint against an employee that is deemed by District officials to be vexatious and/or repeated will not be investigated.
5. If a complaint is dismissed as vexatious or repeated, no record of the complaint will be maintained in the employee's personnel file. Further, the dismissed complaint may not be used or based in any future disciplinary proceedings.
6. No employee shall suffer adverse consequences for asserting that a complaint is vexatious and/or repeated, or for requesting that it be dismissed.
7. If a complaint is dismissed, District officials will inform the complainant in writing regarding the dismissal of their complaint and the reasons that warrant the dismissal.

Investigation Process

The District will endeavor to complete an investigation into bullying, harassment or discrimination prohibited conduct/behavior(s) as quickly as possible after the administrator District official receives the complaint. During the investigation, interviews will be conducted and statements shall be taken from the involved individuals, to include any witnesses. Written statements are preferred, when possible. The parties complainant(s) and alleged offender(s) will have an opportunity to submit evidence and a list of witnesses. A written report of the findings and conclusions of the investigation shall be completed that includes a summary of the facts and the evidence considered. Investigation notes and documents are considered work products and are kept confidential as permitted by law.

1. Investigation

1. Upon being made aware of allegations or complaints of prohibited conduct/behavior(s), the District will ensure that such an investigation of the allegations or complaints will begin within three 5 working (3) days. This provides adequate time for the accuser and accused to present evidence, as applicable. The District treats all valid allegations or complaints seriously and requires all employees to be candid and truthful during the investigation process.
2. The investigation should be completed as expediently as practicable, not to exceed 7 10 working days after the staff complaint is filed investigation commenced. If the administrator District official is not able to complete the required interviews with the complainant or respondent, because any of the staff are not available, 2 additional days may be used to complete the investigation.

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3. The District will make efforts to ensure that all investigations are kept as confidential as reasonably possible, although confidentiality cannot be guaranteed. Employees will be are requested to refrain from discussing the subject content with others, particularly while the investigation is in progress. Employees shall may be required, upon request, to provide information to regulatory agencies. The District will release information obtained only to those individuals involved in the investigation and the administration of the complaint with a business need-to-know, or as required by law.
4. The District investigator(s) will communicate to the individual who made the initial complaint, as well as the individual against whom the complaint was made, that the investigation is completed and appropriate action, if any, has been taken. The complainant(s) and individual(s) against whom the complaint was made will be provided a copy of the investigation report with the associated findings and conclusion.
5. If evidence arises that a participant in the investigation made intentionally false statements or withheld pertinent information from the investigator, that employee will be disciplined, up to and including possible termination.
6. If it is determined that a violation of this LCSD board policy/regulation has occurred, the District will take corrective action against the violator commensurate with the severity of the offense. Such corrective action may include, but is not limited to, counseling, verbal warning, written reprimand, admonition, pay reduction, transfer, demotion, suspension without pay, and/or termination. The District will also initiate action to deter any future prohibited conduct/behavior(s) from occurring. Employee discipline will be progressive and remain confidential as required by policy and law.
7. With regard to disability-related complaints, the EEO Officer shall propose a resolution to the complaint based upon the findings of such the investigation. Such resolution will include reasonable accommodation when the District determines that such a reasonable accommodation can be provided.

Retaliation

It is a violation of the LCSD board policy and applicable law to retaliate against any individual filing a complaint. Any staff member who believes they are experiencing retaliation because they filed a complaint should file a separate complaint regarding the alleged retaliation with the Executive Director of Human Resources/EEO Officer or alternate.

Appeals

Any complainant who is not satisfied with the resolution of a complaint conclusion of the investigation may appeal that decision in writing within 10 business working days of notification

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of the resolution receipt of the investigation report addressed to the Executive Director of Human Resources based on one or more of the following grounds:

1. A procedural error in the investigation process (e.g. failed to interview all witnesses listed, failed to consider video evidence, etc.) that significantly impacted the outcome of the investigation.
2. To consider new evidence which was unknown or unavailable during the original investigation and that could substantially impact the original findings or sanction conclusion. The appeal must include a summary of new evidence, why it was unavailable at the time of the investigation, and its potential impact.

An appeal will be assigned to a District administrator (“Appeal Review Officer”) who did not conduct the underlying investigation. The Appeal Review Officer assignment will be made by the Executive Director of Human Resources, depending on the nature of the complaint, and those involved. Acknowledgement of receipt of appeal will be sent to the appealing party. The Executive Director of Human Resources will respond to the appealing party indicating receipt of the appeal and the name of the Appeal Review Officer within 3 working days of receipt.

Before considering the appeal, the Appeal Review Officer will determine whether the appeal is timely and raises substantiates one or more of the permissible grounds for appeal listed above. If the written appeal is not timely or does not raise substantiate one or more of the permissible grounds for appeal, the Appeal Review Officer will notify the appealing party in writing that the appeal is denied and the basis for the denial within 10 working days of receiving the assignment.

A decision on an appeal will be based on the following:

Unless there is a request to consider new evidence as grounds for an appeal, the Appeal Review Officer WILL NOT conduct a new or separate investigation, but will limit his or her their review to the investigation record and process. If the Appeal Review Officer determines that the written appeal is timely and substantiates one or more of the permissible grounds for appeal,

• The Appeal Review Officer will decide whether to grant or deny the appeal based on the specific grounds for appeal. • The Appeal Review Officer they may will also remand refer the matter back to the original investigator(s) to consider substantiated new evidence or if a procedural error was found that significantly impacted the investigation. The original investigator(s) will reopen the investigation to consider the new evidence and/or correct the procedural error as applicable and render a new report with associated facts and conclusion within 10 working days from it being referred back. The original investigator(s) will provide the new report to the complainant, alleged offender(s), and Appeal Review Officer within 1 working day of completion.

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The Appeal Review Officer will review the new report to determine that the new substantiated evidence was appropriately considered and/or the procedural error was corrected leading to the new facts and conclusion. The Appeal Review Officer will render a decision and provide a written determination respond to the appealing all the parties involved with a written decision of the appeal within 10 working days of receiving the new report. The Appeal Review Officer's decision is final and not subject to further appeal.

Confidentiality

An investigation will be kept in strictest confidence, where practical, for the protection of all parties involved. The District's obligation to investigate, provide a safe environment and take corrective action may supersede an individual's right of privacy. Pending the completion of the investigation, however, the District may will take any action necessary to protect the safety and well-being of its students, employees, and property.

Sanctions

Consistent with the requirements of applicable state law, District policies and administrative regulations, and/or collective bargaining agreements, the District may take such action as deemed necessary and appropriate after the completion of the investigation. The complainant(s) will be notified in writing of the investigation findings. However, if the individual(s) who were found to be engaged in prohibited conduct/behaviors are disciplined, the complainant(s) will only be advised that the District is taking appropriate steps to ensure that the prohibited conduct/behaviors will not re-occur.

Nothing in this procedure is intended to prohibit discipline or remedial action for inappropriate behaviors that do not rise to the level of bullying, harassment or intimidation prohibited conduct/behavior(s) herein, but which are or may be prohibited by be a violation of other District rules policies/regulations.

A substantiated charge against an employee of the District may subject the employee to disciplinary action in accordance with any the requirements of applicable state law, District policies and administrative regulations and/or collective bargaining agreements.

False, Vexatious, and/or Repeated Accusations

Persons knowingly bringing false, vexatious, and/or repeated accusations will be held responsible for their actions, and may be subject to disciplinary action commensurate with their conduct/behavior(s) and in accordance with the requirements of applicable state law, District policies and administrative regulations, and/or collective bargaining agreements.

Remediation

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Individuals found to be subjected to ~~harassment or discrimination~~ prohibited conduct/behavior(s) will be provided support services available from the District to help deal with the effects. As always, employees are encouraged to access the Employee Assistance Program (EAP).

Where To Go for Help

Employees may contact any of the following individuals or offices for guidance, information, or resolution of ~~a sexual harassment~~ prohibited conduct/behavior issues:

- Administrators, Supervisors, Managers, or other District officials ~~principal, or director~~
- ~~Department~~ The Executive Director of Human Resources (EEO Officer) or alternate

Other Sources of Assistance

Additional avenues available to staff members for filing a complaint include: U.S. Equal Employment Opportunity Commission ("EEOC") and/or Nevada Equal Rights Commission ("NERC").

~~• A staff member is required to exhaust the administrative process with the District, prior to filing a complaint with the EEOC or NERC.~~

The Nevada State Department of Education

U.S. Department of Education Office for Civil Rights, Regional Office

Any court of competent jurisdiction

Appendix A

**LYON CSD STAFF COMPLAINT FORM REGARDING ALLEGED
WORKPLACE BULLYING, HARASSMENT, OR DISCRIMINATION
PROHIBITED CONDUCT AND/OR BEHAVIOR(S)**

Lyon County School District ("District" or "LCSD") has developed this Complaint Form and Staff Complaint Process for the prompt and equitable response to complaints from District staff regarding allegations that the District personnel or other staff members bullied, harassed or discriminated engaged in prohibited conduct/behavior(s) against any person employee with respect to the person employee's compensation, terms, conditions, or privileges of employment because of the person's age, disability, equal pay, genetic information, gender identity or expression, national origin, pregnancy, race, religion, retaliation, sex, sexual harassment or sexual orientation in compliance with LCSD Board Policies GBBC: Employee Bullying, GBB: Fair Employment Practices, GBBJ: Code of Ethical Standards, AB: Non Discrimination Title IX, and applicable negotiated agreements workplace or other civil rights. The complaint process shall remain confidential to the fullest extent allowed by law.

Complainant Information

Name:		
<u>Full Address:</u> <u>City State ZIP</u>		
<u>Home/Cell Phone #:</u>	Work Phone:	Email:
School or Work Location <u>Department:</u>		Occupation <u>Title:</u>

This complaint alleges the following prohibited conduct/behaviors:

Bullying ___; and/or

Harassment/Discrimination on the basis of (check all that apply):

Age ___ Disability ___ Equal Pay ___ Genetic Information ___ Gender Identity or Expression ___
 National Origin ___ Pregnancy ___ Race ___ Religion ___ Retaliation ___ Sex ___ Sexual
 Harassment ___ Sexual Orientation ___ Other (please specify) _____

Subject of Complaint:

Name:
Occupation (if known):
School or Work Location <u>Department</u> (if known):

Complaint:

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Incident(s) occurred or began on or about (date):	Time of Occurrence (approximate is acceptable):
Place of Occurrence (description of area or address. Example: "Room N-99, Anytown High School):	
Time and Place that you addressed <u>the</u> complaint with <u>the alleged offender and/or</u> supervisor, or reason for not addressing <u>the</u> complaint with <u>the alleged offender and/or</u> supervisor:	
Description of Incident (Please attach additional information as necessary.):	
Relief Requested or Proposed Resolution:	

Possible Witnesses:

Name:	Contact Information (if known):	
School or Work Location/ <u>Department</u> (if known):	Occupation (if known):	
Information witness may have:		

Name:	Contact Information (if known):	
School or Work Location/ <u>Department</u> (if known):	Occupation (if known):	

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Information witness may have:

Please attach any and all related documents you believe are material and relevant to support your complaint allegations.

Name:	Contact Information (if known):	
School or Work Location/Department (if known):		Occupation (if known):
Information witness may have:		

Name:	Contact Information (if known):	
School or Work Location/Department (if known):		Occupation (if known):
Information witness may have:		

Signature of Complainant

Date

To Be Completed by Human Resources

Date Received: _____ Assigned To: _____