

PROHIBITED CONDUCT:

EMPLOYEE BULLYING, HARASSMENT, INTIMIDATION AND DISCRIMINATION

The District is committed to a safe and respectful learning and work environment free from bullying, cyber-bullying, harassment, intimidation and discrimination. This policy applies to all persons involved in the operation of the District and prohibits bullying, harassment, discrimination, and retaliation by any member of the Board of Trustees, any employee of the District, including supervisors and coworkers, volunteers, customers or clients of the District, and any vendor or other service provider with whom the District has a business relationship. The District will not tolerate instances of bullying, harassment, discrimination, or retaliation whether or not such behavior meets the threshold of prohibited conduct/behavior(s). While single incidents of alleged harassment, discrimination, or retaliation may not be sufficiently severe or pervasive to rise to the level of being a violation of the law, the District nevertheless prohibits such conduct/behavior(s) and may impose appropriate disciplinary action against any employee engaging in such.

If the alleged bullying, cyber-bullying or harassment could constitute sexual harassment under Title IX, the AB policy and administrative regulations apply rather than the GBBC 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 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 an incident 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:

Director of Human Resources
Lyon County School District
25 E. Goldfield Avenue
Yerington, NV 89447
(775)463-6800
dhuckaby@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 GBBC.

It is the intent of this policy that all persons in the school district are entitled to maintain their own beliefs and to disagree respectfully without resorting to violence, bullying, cyber-bullying,

¹ Sexual 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.

harassment, intimidation and/or discrimination. This policy does not advocate nor require the acceptance of differing beliefs in a manner that would inhibit the freedom of expression, but does require that all persons with differing beliefs be free from bullying, harassment and abuse.

The superintendent and staff shall use all reasonable means to inform employees, volunteers and parents/guardians that the District will not tolerate bullying, cyber-bullying, harassment, discrimination, or intimidation. The superintendent will provide for the appropriate training of all personnel employed by this District, volunteers and parents/guardians.

The District prohibits retaliation against any employee or volunteer because he or she has made a report of prohibited conduct in accordance with this policy or because he or she has testified, assisted, or participated in the investigation of such a report. Such retaliation is a violation of this policy and the District will take disciplinary action when appropriate.

Legal Reference: NRS 200.571, NRS 388.122

Policy #GBBC

Revised 10/24/2023

PROHIBITED CONDUCT: EMPLOYEE BULLYING, HARASSMENT, INTIMIDATION AND DISCRIMINATION – ADMINISTRATIVE REGULATIONS

1. Equal Employment Opportunity Officer Designated

The primary responsibility for ensuring fair employment practices for the District are promoted and adhered to is assigned to the District's designated Equal Employment Opportunity (EEO) Officer. The District's designated EEO Officer will also serve as the Americans with Disabilities Act (ADA) Coordinator, unless otherwise noted, and as such, also has responsibility for coordinating the District's compliance with federal and state disability laws. The designated EEO Officer for District is the Director of Human Resources. The name and work telephone number of the individual designated will be posted on bulletin boards at District work sites.

2. Implementation of Policy

The District will not tolerate instances of bullying, harassment, discrimination, or retaliation whether or not such behavior meets the threshold of prohibited conduct/behavior(s).

3. Definitions:

Bullying: repeated mistreatment of one or more persons by one or more perpetrators that takes one of the following forms: Verbal abuse; Offensive conduct/behaviors (including nonverbal, physical, and cyber-bullying) which are threatening, humiliating, or intimidating, or work interferences, such as sabotage, which prevents work from getting done. The definition of "bullying" excludes acts, gestures and expressions which are engaged in as part of a mutual disagreement or conflict.

Harassment: unwanted conduct/behavior(s) harasses, disrupts, or interferes with another's work performance or that creates an intimidating, offensive, or hostile environment based on that person's race, color, religion, age, gender, pregnancy, sexual orientation, national origin, ancestry, disability, veteran status, domestic partnership, genetic information, gender identity or expression, political affiliation, or membership in the Nevada National Guard, or any other class that becomes protected by federal and/or state law.

Discrimination: Distinguishing treatment of an individual based on their actual or perceived membership in a certain group or category, in a way that explicitly or implicitly affects an individual's employment, prevents or denies equal access to programs or benefits; unreasonably interferes with an individual's work performance; or creates an intimidating, hostile or offensive educational or work environment.

4. Purpose

The purpose of this policy is to communicate to all employees, including supervisors and managers, that the District will not tolerate any form of bullying, harassment, or discrimination, including any conduct/behavior(s) on the part of employees, volunteers, clients, customers, vendors, contractors, etc., that impairs an employee's ability to perform his/her duties. Employees found in violation of this policy may be subject to disciplinary action, up to and including termination.

5. Prohibited Conduct/ Behavior(s)

Examples of prohibited conduct/behavior(s) include, but are not limited to:

- a. Verbal: Offensive verbal communication including slurs, jokes, epithets, derogatory comments, degrading or suggestive words or comments, unwanted sexual advances, invitations, slandering, ridiculing or maligning an employee or his/her family; persistent name calling which is hurtful, insulting, or humiliating; yelling, screaming, and cursing; chronic teasing; belittling opinions or constant criticism.
- b. Physical: Unwanted physical contact including brushing up against someone in an offensive manner, unwanted touching, impeding or blocking normal movement, pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to an employee's work area or property.
- c. Nonverbal: Offensive gestures, expressions, and graphics including leering, obscene hand, finger, or body gestures, offensive drawings, derogatory posters, photographs, or cartoons, displaying sexually suggestive objects or pictures, threatening gestures or glances which convey threatening messages; threatening actions; socially or physically excluding or disregarding a person in a work-related activity.
- d. Online/Digital: Any unwanted digital communication that is offensive or threatening in manner, including repeatedly tormenting, threatening, harassing, humiliating, embarrassing, or otherwise targeting an employee using email, instant messaging, text messaging, social media, or any other type of digital technology.
- e. Workplace Interference: Sabotaging which prevents work from getting done; deliberately tampering with a person's work area or property; unreasonably assigning menial tasks outside of a person's normal job duties.
- f. Expectations, requests, demands, or pressure for sexual favors.
- g. Harassment: Unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.
- h. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.
- i. Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.
- j. Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name-calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.

Harassment can occur in a variety of circumstances, including, but not limited to, the following:

1. The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.

2. The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.
3. Unlawful harassment may occur without economic injury to, or discharge of, the victim.
4. Sexual Harassment: 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.
5. Intimidation: Intentional behavior that would cause an ordinary person to fear harm or injury.

Other Definitions

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.

"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.

"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.

"Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

An "adverse employment action" has been defined in the Ninth Circuit Court of Appeals as "any adverse treatment that is based on a retaliatory motive and is reasonably likely to deter the charging party [an employee] from engaging in protected activity." *Ray v. Henderson*, 217 F.3d 1234, 1242-43 (9th Cir. 2000) Examples of adverse employment actions include termination of employment, demotion evidenced by a decrease in wage or salary, a less distinguished title, a material loss of benefits or diminished responsibilities. Not every disagreeable workplace action constitutes retaliation; rather, retaliation must produce an injury or harm. *Aki v. Univ. of California Lawrence Berkeley Nat'l Lab.*, 74 F. Supp. 3d 1163, 1181 (N.D. Cal. 2014) (citations and quotations omitted.)

Dealing with Allegations of Prohibited Conduct/Behavior(s)

Process (See Policy GL: Staff Complaints)

Employees or applicants who believe they are being subjected to any form of prohibited conduct/behavior(s) as described in this policy/regulation by another (e.g., employee, student, parent, volunteer, vendor, contractor of the District), as well as those who believe they have witnessed another employee, volunteer, customer, or member of the public being subjected to prohibited behavior have an affirmative duty to bring the situation to the attention of the administrator/supervisor. Employees covered by a collective bargaining agreement may opt to use the process described in this policy/regulation or in

an applicable grievance procedure delineated by their collective bargaining agreement, but may not use both.

SPECIAL NOTE REGARDING SEXUAL HARASSMENT UNDER TITLE IX:

If the alleged bullying, cyber-bullying, or harassment could constitute sexual harassment under Title IX, the AB policy and administrative regulations apply rather than the GBBC policy and administrative regulations.² 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 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:

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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 Sexual 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.

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 believes s/he is 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.

- 2) 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, District's designated EEO Officer, or to the HR Representative.
- 3) Employees who believe the EEO Officer has engaged in prohibited conduct/behavior(s) should bring such concerns to the attention of the Superintendent or designee. The Superintendent will designate an objective person to conduct an investigation of such allegations.
- 4) An employee who witnesses or obtains information regarding prohibited conduct/behavior(s) by his/her immediate supervisor is required to report the incident to the administrator, EEO Officer, or HR Representative.
- 5) Applicants who have concern regarding violations of this policy are encouraged to contact the designated EEO Officer or the alternate.

Administrator/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 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).

An administrator's or manager's/supervisor's failure to immediately report such activities, complaints, or allegations will result in discipline, up to and an administrator/supervisor is required to report this information to the District's EEO Officer, or the Director of Human Resources immediately including possible termination.

Investigation

Upon being made aware of allegations or complaints of prohibited conduct/behavior(s), the District will ensure that such allegations or complaints are investigated within three (3) days. The District treats all allegations or complaints seriously and requires all employees to be candid and truthful during the investigation process.

The District will make efforts to ensure that all investigations are kept as confidential as reasonably possible. Employees will be requested to refrain from discussing the subject content with others, particularly while the investigation is in progress. Employees shall be required, upon request, to provide information to regulatory agencies. The District will release information obtained only to those

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individuals involved in the investigation and the administration of the complaint with a business need-to-know, or as required by law.

The District 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.

If evidence arises that a participant in the investigation made intentionally false statements, that employee will be disciplined, up to and including possible termination.

If it is determined that a violation of this 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, pay reduction, transfer, demotion, suspension without pay, or termination. The District will also initiate action to deter any future prohibited conduct/behavior(s) from occurring.

With regard to disability-related complaints, the EEO Officer shall propose a resolution to the complaint based upon the findings of such investigation. Such resolution will include reasonable accommodation when the District determines that such a reasonable accommodation can be provided.

Upon being made aware of allegations or complaints of bullying, the District will ensure that such allegations or complaints are investigated where deemed necessary.

The District will make efforts to ensure that all investigations are kept as confidential as reasonably possible. The District will release information obtained only to those individuals with need-to-know business or involved in the investigation and the administration of the complaint, or as required by law.

The individual who made the initial complaint, as well as the individual against whom the complaint was made, will be made aware that the investigation is completed and appropriate action, if any, has been taken.

If it is determined that bullying, harassment, intimidation or discrimination has occurred, the District will take appropriate action. The District will also initiate action to deter any future prohibited conduct/behavior(s) from occurring.

Training

The District will provide training to all employees on the prevention of discrimination and prohibited conduct/behavior(s) in the workplace. The District will provide new employees a copy of this policy/regulation upon hire and discuss the contents during the new hire orientation process. New employees will participate in training on the prevention of discrimination and prohibited conduct/behavior(s). A copy of this policy/regulation will be made available to applicants upon request.

Prohibition Against Retaliation

Retaliation is an adverse employment action against the employee based upon a protected activity, i.e. Filing a complaint or being a witness in an investigation. The District will not tolerate any retaliation by management or by any other employee against an employee who exercises his/her rights under this policy. The District will not tolerate any retaliation by administrators/supervisors or coworkers against an employee who exercises his/her rights under this policy. Any employee who believes s/he has been retaliated or discriminated against in any manner whatsoever as a result of having filed a complaint, assisted another employee in filing a complaint, or participated in an investigative process should notify the EEO Officer or the

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Director of Human Resources immediately. The District will promptly investigate and deal appropriately with any allegation of retaliation.