

***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 bullying, cyber-bullying, harassment, sexual harassment intimidation and discrimination for all staff. Through the District's staff complaint resolution process detailed in the following policy, employees shall have a method to resolve concerns and complaints.

Below 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”).

ADMINISTRATIVE REGULATION - 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, 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:

Identify the offensive behavior to the alleged offender and request that the behavior cease.

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.

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 District's designated EEO Officer

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. Applicants who have concern regarding violations of this policy are encouraged to contact the designated EEO Officer or the alternate.

Definitions for Bullying, Harassment, Intimidation and Discrimination are found in Policy GBBC – Employee Harassment, Intimidation and Discrimination. 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.

SPECIAL NOTE REGARDING SEXUAL HARASSMENT UNDER TITLE IX:

If the alleged bullying or harassment or sexual harassment 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

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

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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:

Director of Human Resources
Lyon County School District
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.

2. 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 including possible termination.

3. Investigation

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 work (3) days. The District treats all allegations or complaints seriously and requires all employees to be candid and truthful during the investigation process. The investigation should be completed as expeditiously as practicable, not to exceed 7 work days after the staff complaint is filed.

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- 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.

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If the administrator 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.

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 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.

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 for the District.

Filing a Complaint

Complaints should be filed with the lowest level administrator/supervisor who is not involved in the alleged bullying, harassment and/or discrimination and has the authority to remedy the alleged issues or filed with the Department of Human Resources.

If an administrator/supervisor is aware or made aware of actions that may amount to bullying, harassment and/or discrimination, the administrator may request a written complaint from the alleged victim or proceed with an investigation without a written complaint. If there is no written complaint, the administrator will file a report, 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 Director of Human Resources. The Director of Human Resources will then

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be responsible for forwarding the complaint to the appropriate administrator as soon as possible, as practical.

Formal complaints should 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, if appropriate
5. Relief Requested

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

Retaliation

It is a violation of the Policy 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.

Complaint Review

Upon receiving a complaint of alleged bullying, harassment and/or discrimination, the administrator 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.

Investigation Process

The District will endeavor to complete an investigation into bullying, harassment or discrimination as quickly as possible after the administrator 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 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 are considered work product and are kept confidential as permitted by law.

Appeals

Any complainant who is not satisfied with the resolution of a complaint may appeal that decision in writing within 10 business days of notification of the resolution addressed to Human Resources based on one or more of the following grounds:

1. Procedural error 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. 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

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Director of Human Resources, depending on the nature of the complaint.

Acknowledgement of receipt of appeal will be sent to the appealing party. Before considering the appeal, the Appeal Review Officer will determine whether the appeal is timely and raises one or more of the permissible grounds for appeal listed above. If the written appeal is not timely or does not raise 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.

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 limit his or her review to the investigation record and process.

- The Appeal Review Officer will decide whether to grant or deny the appeal based on the specific grounds for appeal.
- The Appeal Review Officer may also remand the matter back to the original investigator to consider new evidence.
- The Appeal Review Officer will respond to the appealing party with a written decision of the 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 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 behavior are disciplined, the complainant(s) will only be advised that the District is taking appropriate steps to ensure that the prohibited 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 herein, but which are or may be prohibited by other District rules.

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 Accusations

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

Remediation

Individuals found to be subjected to harassment or discrimination will be provided support services available from the District to help deal with the effects.

Where To Go for Help

Employees may contact any of the following individuals or offices for guidance, information, or resolution of a sexual harassment issue:

- Supervisor, principal, or director
- Department of Human Resources

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



STAFF COMPLAINT FORM REGARDING WORKPLACE BULLYING, HARASSMENT OR DISCRIMINATION

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 or other staff member bullied, harassed or discriminated against any person with respect to the person’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. The complaint process shall remain confidential to the fullest extent allowed by law.

Complainant Information

Name:			
Address:		City	State ZIP
Home/Cell Phone:	Work Phone:	Email:	
School or Work Location/Department:			Occupation:

This complaint alleges Bullying___; or
Harassment/Discrimination on the basis of (check all that apply):

- Age Disability Genetic Information Gender Identity or Expression Equal Pay
 National Origin Pregnancy Race Religion Retaliation Sex
 Sexual Harassment Sexual Orientation

Subject of Complaint:

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

Complaint:

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 complaint with supervisor, or reason for not addressing complaint with supervisor:	
Description of Incident (Please attach additional information as necessary.):	

Relief Requested or Proposed Resolution:
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Please attach any and all related documents you believe are material and relevant to support your complaint allegations.

Possible Witnesses:

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:	

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: _____