



Office of the General Counsel Newsletter

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Welcome Message

Welcome to the first newsletter from the Office of the General Counsel (OGC). Our Office is divided into three parts: Legal, Civil Rights Compliance, and Labor Relations. The purpose of this newsletter is two-fold: (1) To provide the reader with reference information for common issues we see in our Office, and (2) To provide the reader with “inquiry notice” of issues, which means if an issue pops up, hopefully you will remember our newsletter and give us a call or shoot us an email. We will also list upcoming dates for trainings, reminders, and quick tips.

We look forward to working with all of you and supporting you any way we can.

Sincere regards,
Neil A. Rombardo
Chief General Counsel

Staff Involvement in Domestic Matters

In family court proceedings, an attorney for one of the parties involved, or one of the parties themselves, may request that a District employee write a letter or testify on behalf of his/her client. If the employee is not issued a court order to draft a letter or testify (generally this is in the form of subpoena), then the employee is not required to participate in this action. The District cannot prevent a teacher or other staff member from voluntarily writing letters or voluntarily testifying in family law matters as to their personal knowledge regarding the child’s progress, well-being, etc. However, should the staff member choose to voluntarily participate, this voluntary participation is outside the scope of his/her employment and the employee may not associate the District with his/her voluntary participation—i.e., the employee may not represent that his/her testimony reflects or represents the opinion of the District, and the employee may not use any school or District letterhead or other District materials. This analysis only applies to voluntary participation in family court proceedings, **not** court ordered participation. If a staff member is issued a subpoena or other court order mandating his/her participation in the proceedings, the staff member must comply with the order.

Reminder Regarding Public Records

If you do public business on your mobile device, even if you do not receive a stipend from the District, that business is a public record and your mobile device may be subject to a public records request. The primary concern here is texting.

If the public business on your mobile device is emails through the District’s Outlook, which use District’s servers, the information is still a public record, but your mobile device is not subject to disclosure under a public records request because the public record is also on District’s servers.

Reminders/Quick Tips/Links

- Office of the General Counsel webpage
- Civil Rights Compliance Forms
- Coming soon...
 - New Administrative Regulation 5702 – Staff on Student Complaint and Appeal Procedures – Bullying, Harassment, and Discrimination
 - Revised Administrative Regulation, 5701, Student Complaint and Appeal Procedures – Bullying, Harassment, and Discrimination
 - Look for an email from District Policy Coordinator Lisa Scurry regarding the public comment period for these two regulations

Upcoming Staff Training Dates

- Civil Rights Compliance
 - Friday, September 21, 2018 (at LTL)
 - Changes in staff on student bullying
- Labor Relations
 - ✓ **Conducted in the West Conference Room from 4:00 to 6:00**
 - ✓ **Open to all administrators and supervisors**
 - ✓ **Register thru MyPGS**
 - Thursday, September 13, 2018
 - Navigating the Certified Contract
 - Thursday, October 11, 2018
 - Navigating the ESP Contract
 - Thursday, November 15, 2018
 - Certified Due Process and Discipline
 - Tuesday, December 4, 2018
 - ESP Due Process and Discipline

School Police and Staff Conduct

The Department of Labor Relations (DoLR) reminds you that, in the event you receive information that a staff member's conduct may rise to the level of a criminal offense, to **immediately** contact School Police and provide them with all the information you received related to that matter.

The most common occurrence is when a student reports a staff member made physical contact, i.e., grabbing, pulling, shoving, etc. After contacting School Police, you should also contact the Area Superintendent, the Department of Civil Rights Compliance (DoCRC) (this may be bullying), and the DoLR, which Departments will support you with the next steps.

If the staff member is a substitute teacher, the DoLR will immediately pull him/her from his/her assignment and direct Substitute Services to block him/her pending the outcome of the investigation.

If the alleged offending employee is not a substitute teacher, the DoLR will wait to hear from you as to what School Police decides. If there is no criminal conduct, the DoLR will work with you and DoCRC to determine if a finding of bullying and/or a disciplinary action may occur. If there may be criminal conduct and the matter is referred for prosecution, immediately contact the DoLR. The employee will be placed on Administrative Leave (with or without pay, depending upon the employee's Negotiated Agreement) until the matter is completed.

If the matter involves a student receiving special education services, you will also need to contact Jessica Medulla and complete the paperwork regarding a non-permissive restraint/aversive.

Once the matter is completed, School Police will inform the DoLR and provide it with a copy of the police report. These reports are highly confidential and may not always be shared. However, the DoLR will assist in drafting either an Investigatory Due Process (IDP) letter or a Counseling Memo based on information in the report. This process may take several weeks. Do not permit the employee to discuss the situation with you until you have heard from the DoLR on how to proceed.

Staff on Student Bullying

The District is taking a new approach to allegations of staff on student bullying. NRS Chapter 388, in addition to applying to student on student bullying, applies when there is an allegation that a student is being bullied by a staff member. Having school administrators conduct investigations when one of their staff members is involved creates an appearance of bias. Even if the school administrator is neutral and does a thorough investigation, if there is a finding that bullying did not occur, a parent will often feel that the school administrator is simply protecting the staff member and sweeping the allegation(s) under the rug.

To ensure that investigations into staff on student bullying allegations are completely neutral, the District is assigning the investigation to the Administrative Investigators unit of the General Counsel's Office. Administrative Investigator Amanda Gormley will collaborate with school administrators to complete the investigation. While Amanda is responsible for investigating, school staff remain responsible for all other aspects of the bullying protocol such as parent notification, safety plan, IC entries, possible staff discipline and final reports to the parties. Look for a new regulation and an investigation request form coming soon, specific to the process for addressing staff on student bullying allegations. If you have questions, contact Gina Session at gsession@washoeschools.net.