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## IEP Meetings and Divorced Parents

Biological and adoptive parents who have the right to make educational decisions for their children are “parents” under the IDEA. *See* 34 CFR 300.30 (a)(1). When the parents of a child with a disability are divorced, the parental rights under the IDEA apply to both parents, unless a court order or other state law specifies otherwise. The vast majority of divorce decrees grant both parents joint legal custody, meaning that both parents have equal decision-making authority. When a school has a student with divorced parents who share joint legal custody and that student is on an IEP, the following are recommended steps when conducting IEP meetings for the student:

**☑ Make sure both parents are invited.** The IDEA says districts “must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting.” 34 CFR 300.30 (a). As a best practice, invite both parents even if one parent doesn’t have rights to make educational decisions, unless there is a court order restricting one parent from attending the IEP meeting in person such as a restraining order. There should not be two separate IEP meetings with each parent because it is impossible for the IEP Team to duplicate each meeting, which can lead to claims of lack of parent participation.

**☑ Set behavior expectations.** If there is a history of volatility with the family, you may want to send behavior expectations – and consequences – to the parents before the IEP meeting. This helps put the parents on warning that they will be expected to follow a code of conduct. Most court orders require the parents to act in the child’s best interest. If the parents disagree during the IEP meeting on educational decisions, it is recommended that the LEA remind them that they must come to an agreement for the best interest of the child, or they should seek court intervention to determine which parent has the sole authority to make educational decisions on behalf of the student.

**☑ Send correspondence post-IEP meeting.** Provide both parents with the revised IEP after the meeting and any PWNs.

## Bullying Investigations and Law Enforcement

A frequent question that arises is what happens if a potential bullying matter is reported to school police or local law enforcement. There are many instances where incidents of bullying can rise to the level of criminal conduct. Some examples include staff on student sexual conduct, unwelcome sexual conduct, battery and destruction of property. In these instances, there are two investigations that must take place: a criminal investigation by a law enforcement agency and an administrative investigation by school administrators.

The law allows the District to defer the administrative investigation until the criminal investigation is completed, if we take the following steps: 1) the school puts a safety plan in place to protect the alleged victim while the criminal investigation is taking place; 2) parents are notified of the incident; and 3) parents are kept informed about when the criminal investigation will be completed. These steps should be documented in IC.

Once the criminal investigation is complete, regardless of the outcome, school administrators must still carry out an administrative bullying investigation. The criminal investigation only determines whether a crime has been committed, not whether the incident meets the criteria for bullying. As soon as the criminal investigation is complete, the



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## Quick Tips/Links

- Office of the General Counsel webpage
- Civil Rights Compliance Forms
- Staff Resources – Student Bullying Complaints, Investigation and Resolution Process

## Topics for Future Newsletters

- Do you have a topic you would like covered in a future OGC Newsletter? Email your ideas or areas of interest/questions/concerns to [bread@washoeschools.net](mailto:bread@washoeschools.net) for consideration of coverage in a future issue.

### Upcoming Staff Training Dates

#### CIVIL RIGHTS COMPLIANCE

- ✓ Mandatory for administrators conducting bullying investigations
- ✓ Register thru MyPGS

#### Bullying Investigations Refresher Course

- September 3, 2019, 4 pm – 5 pm
- September 12, 2019, 8 am – 9 am
- September 17, 2019, 8 am – 9 am
- September 24, 2019, 4 pm – 5 pm
- October 1, 2019, 8 am – 9 am
- October 3, 2019, 4 pm – 5 pm

#### Bullying Investigations Introductory Course

- September 5, 2019, 8 am – 10 am
- September 10, 2019, 8 am – 10 am
- September 19, 2019, 4 pm – 6 pm
- September 26, 2019, 4 pm – 6 pm

#### 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 5, 2019
  - Navigating the Certified Contract
- Tuesday, October 1, 2019
  - Navigating the ESP Contract
- Tuesday, November 5, 2019
  - Discipline & Due Process for Certified Staff
- Tuesday, December 3, 2019
  - Discipline & Due Process for ESP Staff

timelines for the bullying investigation start. Remember, it can still be bullying even if it is not a crime. If you have questions, contact Gina Session.

## Bullying and Safety Plans

Although much of the training on responding to complaints of bullying focus on notification, investigation and documentation, it is important that we not lose focus on the importance of safety plans. After all, the primary purpose of the bullying protocols is to ensure that every student feels safe and welcome in the school environment.

Nevada law requires that “upon receiving a report [of bullying] the administrator or designee shall immediately take any necessary action to stop the bullying or cyber-bullying and ensure the safety and well-being of the reported victim or victims of bullying or cyber-bullying...” NRS 388.1351(2). While there is no “one size fits all” safety plan, there are some things to keep in mind when crafting an effective plan.

First, the plan should be geared towards ensuring that the alleged bullying behavior stops. Second, to the extent possible, a safety plan should not cause undue burden on the alleged victim. Third, the best safety plans are created based on input from the alleged victim. Some of the common elements of a safety plan are anytime passes, line of sight supervision, alternate passing periods and/or lunch periods and class changes. Katherine Loudon and school counselors are a great resource for creating and implementing safety plans for students.

After the conclusion of the investigation where there is a finding that bullying took place, state law requires administration to check-in with the victim not later than 10 school days after receiving the report of bullying to inquire about their well-being and to ensure the bullying behavior is not continuing. Finally, if a student is a victim of bullying and requests a change in schools, the District is required to accommodate the request. The Area Superintendent can assist with these requests.

## Assessing Credibility in Investigations

Do not overlook the importance of assessing the credibility of a person being interviewed during an investigation, especially in those matters where there is a lack of physical and/or documentary evidence. Some of the things to consider when assessing credibility are:

1. Proximity - What does the person know about the incident and how do they know it?
2. Mannerisms - Does the person respond directly or are there stalls in their response time?
3. Plausibility - Does the narrative sound reasonable?
4. Corroboration - Do the responses match up to the information known to the investigator?
5. Consistency - Did the person contradict himself/herself?
6. Bias/Character - Are there any motives not to respond truthfully?

Remember, it is important to analyze all the evidence obtained during an investigation, including the strength or weakness of your witness's statements.

## Parental Disputes Over Enrollment

If your school has a parental dispute regarding school enrollment. Remember:

1. If there is a known enrollment dispute, students may not be withdrawn from schools or have their enrollment changed without a court order.
2. If there is no known dispute between the parents, the primary household parent/guardian may change the student's school to align with primary household's zoned school, unless a variance is granted.

For more information, please see *Policies, Regulations, and Procedures for Enrolling Students*, contact our Office, or contact the Student Accounting Department.