

R277-613-5. Reporting and Incident Investigations of Allegations of Bullying, Cyber-bullying, Hazing, Retaliation and Abusive Conduct.

(1) In accordance with an action plan adopted in accordance with Subsection R277-613-4(1)(c), an LEA shall:

(a) investigate allegations of incidents of bullying, cyber-bullying, hazing, retaliation, and abusive conduct in accordance with this section;

(b) provide an individual who investigates allegations of incidents of bullying, cyber-bullying, hazing, retaliation, and abusive conduct with adequate training on conducting an investigation; and

(c) identify an LEA employee to be the point person with training and expertise to assist, direct, and supervise training of other employees in the responsibilities established in Subsections R277-613-5(1)(a) and (b).

(2)(a) An LEA shall investigate allegations of incidents described in Subsection (1)(a) by interviewing:

(i) the alleged victim;

(ii) the individual who is alleged to have engaged in prohibited conduct;

(iii) parents of the alleged victim and the individual who is alleged to have engaged in prohibited conduct;

(iv) any witnesses;

(v) school staff familiar with the alleged victim;

(vi) school staff familiar with the individual who is alleged to have engaged in prohibited conduct; or

(vii) other individuals who may provide additional relevant information.

(c) An individual who investigates an allegation of an incident shall inform an individual being interviewed that:

(i) to the extent allowed by law, the individual shall keep all details of the interview confidential; and

(ii) further reports of bullying will become part of the review.

(3) The confidentiality requirement in Subsection (2)(c) does not apply to:

(a) conversations with law enforcement professionals;

(b) requests for information pursuant to a warrant or subpoena;

(c) a state or federal reporting requirement; or

(d) other reporting required by this rule.

(4) In conducting an investigation under this section, an LEA may:

(a) review disciplinary reports of involved students; and

(b) review physical evidence, consistent with search and seizure law in schools, which may include:

- (i) video or audio;
- (ii) notes;
- (iii) email;
- (iv) text messages;
- (v) social media; or
- (vi) graffiti.

(5) An LEA shall adopt a policy outlining under what circumstances the LEA will report incidents of bullying, cyber-bullying, harassment, and retaliation to law enforcement.

(6) An LEA shall adopt a policy outlining under what circumstances the LEA will investigate and report incidents of bullying, cyber-bullying, retaliation, and abusive conduct as civil rights violations.

(7) Following an investigation of a confirmed allegation of an incident of bullying, cyber-bullying, hazing, retaliation, or abusive conduct, if appropriate, an LEA may:

(a) in accordance with the requirements in Subsection (6), take positive restorative justice practice action, in accordance with policies established by the LEA; and

(b) support involved students through trauma-informed practices, if appropriate.

(8)(a) An alleged victim is not required to participate in a restorative justice practice as described in Subsection (7)(a) with an individual who is alleged to have engaged in prohibited conduct.

(b) If an LEA would like a student to participate in a restorative justice practice, the LEA shall notify the student's parent of the restorative justice practice and obtain consent from the student's parent before including the student in the process.

(9) A grievance process required under Subsection 53G-9-605(3)(f) shall be consistent with the LEA's established grievance process.

(10) An LEA shall follow up with the parents of all parties to:

- (a) inform parents when an investigation is concluded;

(b) inform parents what safety measures will be in place for their child, as determined by the investigation;

(c) provide additional information about the investigation or the resolution consistent with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g; and

(d) inform parents of appeal options, if available, if the parents disagree with resolution of the investigation.

(11) An LEA shall, as required by Subsection 53G-9-606(2), report the following annually, on or before June 30, to the Superintendent in accordance with the Superintendent's submission requirements:

(a) a copy of the LEA's policy required in Section R277-613-4;

(b) implementation of the signed statement requirement described in Subsection 53G-9-605(3)(h);

(c) verification of the LEA's training of school employees relating to bullying, cyber-bullying, hazing, retaliation, and abusive conduct described in Section 53G-9-607;

(d) verified and alleged incidents of bullying, cyber-bullying, hazing, retaliation, and abusive conduct;

(e) the number and type of incidents described in Subsection (11)(d) required to be reported separately under federal law, including the reporting requirements in:

(i) Title VI of the Civil Rights Act of 1964;

(ii) Title IX of the Education Amendments of 1972;

(iii) Section 504 of the Rehabilitation Act of 1973; and

(iv) Title II of the Americans with Disabilities Act of 1990; and

(f) the number and type of incidents described in Subsection (11)(d) that include a student or LEA employee who was bullied, cyber-bullied, hazed, or retaliated against based on the student's or LEA employee's actual or perceived characteristics, including disability, race, national origin, religion, sex, gender identity, or sexual orientation.

(12) The requirements of this rule are in addition to any federal requirements, including reporting civil rights violations to the appropriate entities and taking other appropriate action.