

Office of the General Counsel

Department of Civil Rights Compliance



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TO: All Principals, Assistant Principals, and Deans

FR: Judy Prutzman, Director of Civil Rights Compliance

DATE: October 4, 2023

RE: Guidance for Handling Race-Based Conduct by Students

In 2021, “discrimination based on race” was added to Nevada’s anti-bullying laws as prohibited conduct that must be reported and handled like incidents of bullying and cyber-bullying. Federal law (Title VI of the Civil Rights Act of 1964) also protects students from discrimination based on race, color, or national origin, including shared ancestry or ethnic characteristics. Title VI requires schools to respond to racial harassment that is sufficiently serious to deny or limit a student’s ability to participate in or benefit from the school’s education programs and activities (i.e., creates a hostile environment).

The District’s Administrative Regulation 5701- Student Bullying (AR 5701) identifies discrimination based on race as a form of bullying and provides the following definition:

Discrimination based on race means any single or repeated or pervasive act or acts, whether targeted to a specific person or targeted in general to any demographic including race, color, culture, religion, language, ethnicity, or national origin of a person that causes harm or creates a hostile learning environment.

Discrimination based on race can take many forms, including slurs, taunts, stereotypes, or name-calling, as well as racially motivated physical threats, attacks, or other hateful conduct. The act or acts do not need to target a particular student to create a hostile environment and thereby be considered discrimination based on race. Thus, for example, a complaint by a student that another student generally used the n-word during a soccer game on the playground should be investigated as race-based discrimination/harassment to determine whether it caused harm or created a hostile environment (e.g., by causing students to avoid the game or playground because the language made them uncomfortable or offended them). Likewise, a complaint about racist graffiti (such as swastikas) in the school bathroom should be investigated as race-based discrimination/harassment even if it is not directed at a particular student.

Investigating Allegations/ Reports of Race-Based Conduct

Nevada law and AR 5701 require that allegations/reports of race-based conduct be handled the same way schools handle incidents of bullying/cyber-bullying. Administrators must immediately put a safety plan

in place to ensure the well-being of students affected by the conduct, notify parents/guardians of involved students, investigate the allegation, and notify parents/guardians of the findings of the investigation.

The District's three-point criteria for bullying (harm, unwelcomeness, and severity, pervasiveness, or persistence) applies when an incident of race-based conduct directed at another student is being investigated. Overtly racist conduct (e.g., using a racial slur) directed at another student will almost always meet the District's three bullying criteria and should be identified in Infinite Campus (IC) as "Bullying/Harassment/Race" if the allegation is substantiated.

Although race-based conduct would not be labeled "bullying" without a targeted victim, the bullying steps identified in AR 5701 should still be followed when the conduct is reported by a student as offensive. The District's three-point criteria can be applied to the incident in the following way:

The investigation revealed that (describe conduct) did occur and we have determined that this conduct violates the District's prohibition of discrimination based on race, bullying, and/or cyber-bullying because it meets the following three criteria:

1. **Was There Harm/Threat of harm?** Yes, because it created a hostile environment for the student(s) who witnessed (describe conduct).
2. **Was the Conduct Unwelcome?** Yes, because the conduct was not initiated or provoked by another student.
3. **Was the Conduct Severe, Pervasive, or Persistent?** Yes, because [describe conduct] is unacceptable in any setting.

A substantiated incident of race-based conduct that did not target another student, but was reported as offensive, should be identified in IC as "Discrimination Based on Race." In instances where there is a use of racially derogatory words between friends (i.e., the n-word), this may be an opportunity for reteaching expectations for the first or second incident, then, if the behavior continues, documented as a minor behavior event in IC (i.e., "Inappropriate Language").

Responding to Substantiated Incidents of Discrimination Based on Race

Incidents of race-based discrimination/harassment may require a different response than other types of bullying. Discipline alone is often insufficient to ensure the harassment does not recur or to address the impact of the conduct on the victim and school community.

With support from the District's Equity and Diversity, Counseling, and MTSS/SEL staff, administrators may want to address race-based conduct with the following:

- Counseling the offender(s) about the harmful effect of their conduct;
- Publicly labeling the incidents as racist while also acknowledging the harm;
- Reaffirming the school's policy against discrimination and racial harassment;
- Providing staff with cultural competency training to improve culturally responsive practices and responses; and/or
- Conducting outreach to involve parents and community groups in preventing future racial harassment through continuous education.