

**NEVADA DEPARTMENT OF EDUCATION  
NEVADA EDUCATOR CODE OF ETHICS ADVISORY GROUP  
JANUARY 24, 2018**

**Meeting Locations:**

<b>Office</b>	<b>Address</b>	<b>City</b>	<b>Meeting Room</b>
Department of Education	9890 S. Maryland Pkwy	Las Vegas	Board Room (2 <sup>nd</sup> Floor)
Department of Education	700 E. Fifth St	Carson City	Board Room

**SUMMARY MINUTES OF THE REGULAR MEETING**

*(Video Conferenced)*

**ADVISORY GROUP MEMBERS PRESENT:**

**In Las Vegas:**

Robert Cowles  
Jason Dietrich  
Lou Markouzis  
Amanda McWilliams  
Caramia Phillips  
Dan Wold

**In Carson City:**

Dr. Diane Barone  
Rachel Croft  
Susan Kaiser  
Sean Moyle  
Dr. Jeffrey Paul  
Casey Stiteler

**ADVISORY GROUP MEMBERS NOT PRESENT:**

None

**DEPARTMENT STAFF PRESENT:**

**In Las Vegas:**

Dena Durish, Deputy Superintendent, Division of Educator Effectiveness and Family Engagement  
Michael Arakawa, Office of Educator Licensure  
Brandon Kirchner, Office of Educator Licensure

**In Carson City:**

None

**LEGAL STAFF PRESENT:**

Greg Ott, Senior Deputy Attorney General

**AUDIENCE IN ATTENDANCE:**

**In Las Vegas:**

Theo Small, Vice President of Clark County Education Association  
Christina Hall, Prevention Education Manager for Rape Crisis Center

**Carson City:**

None

**Agenda Item #1 – Call to Order; Roll Call; Pledge of Allegiance**

Michael Arakawa called the meeting to order at 9:04 AM.

Roll call attendance was taken as reflected above. It was determined a quorum was met.

The Pledge of Allegiance was led by Mr. Markouzis.

**Agenda Item #2 – Public Comment #1**

No Public Comment from Las Vegas

No Public Comment from Carson City

**Agenda Item #3 – Approval of Flexible Agenda**

Motion: Mr. Wold moved to approve the flexible agenda. Mr. Cowles seconded the motion. Motion carried unanimously.

**Agenda Item #4 – Introductions of Advisory Group Members**

Each member introduced himself or herself and gave a brief description of their experience and education and what they can bring to the Advisory Group.

**Agenda Item #5 – Overview of the Advisory Group Authority and Scope of Work presented by Michael Arakawa**

Mr. Arakawa introduced Deputy Superintendent Dena Durish to the group. Ms. Durish encouraged members to visit the Nevada Legislative website to view video testimony regarding Assembly Bill 124, along with questions and comments about the bill. Ms. Durish thanked members for volunteering time to serve on the board, and also mentioned that Assemblywoman Olivia Diaz and Clark County Education Association Vice President Theo Small were integral to spearheading AB 124. Ms. Durish encouraged members to submit email addresses to either Mr. Arakawa or Mr. Kirchner, for the purpose of sharing information relevant to the Advisory Group's work. Ms. Durish closed by thanking the Advisory Group members on behalf of Superintendent of Public Instruction Steve Canavero.

Mr. Arakawa stated the current body was created by statute when Assembly Bill 124 passed during the 2017 legislative session. Mr. Arakawa went on to state that AB 124 specifies the makeup of the group, the election of a chairperson for the group, and how often the group must meet. Section 5 of AB 124 directs this group to study codes of ethics and best practices that have been established in other states. Mr. Arakawa asked for group member comments; no comment was given from Las Vegas or Carson City.

Mr. Arakawa requested Senior Deputy Attorney General Greg Ott to explain what public meeting law is and how it affects the Advisory Group.

Mr. Ott stated the Advisory Group was created by statute, therefore the group must follow the provisions listed in the Nevada Open Meeting Law (NRS 233B). Mr. Ott informed the group they are doing public work, and must make available all work discussed by the group to the public.

Mr. Ott went on to explain that making Advisory Group discussions available to the public will give the public a chance to participate in those discussions.

#### **Agenda Item #6 – Election of Advisory Group Chairperson**

Mr. Arakawa deferred to Senior Deputy Attorney General Greg Ott to explain the role of the Chairperson and to handle the election according to Roberts Rules of Order. After explaining the nomination and voting processes, Mr. Ott opened the floor for nominations.

Ms. McWilliams nominated herself.

Mr. Dietrich nominated himself.

Ms. Croft nominated herself.

Ms. Phillips nominated herself.

Mr. Markouzis nominated himself.

Ms. McWilliams retracted her self-nomination in support of Ms. Phillips.

Mr. Dietrich retracted his self-nomination.

Each candidate gave a brief description of his or her experiences in education and how these would benefit them as Chairperson.

A vote was held with 5 votes for Ms. Croft, 4 votes for Ms. Philips, and 2 votes for Mr. Markouzis. Since a majority vote was not reached for any nominee, another vote was held resulting in 6 votes for Ms. Croft, 5 votes for Ms. Philips, and 1 vote for Mr. Markouzis. As a majority was not reached, another vote was held. The final vote resulted in 6 votes for Ms. Croft and 6 votes for Ms. Phillips. As a result of the split vote, Ms. Croft and Ms. Phillips were elected as Co-chairs.

#### **Agenda Item #7 – Presentation on Educator Ethics by Dr. Troy Hutchings Hutchins**

Mr. Arakawa introduced Dr. Troy Hutchings to the group. Dr. Hutchings is a subject matter expert in the areas of professional ethics, educator misconduct, and developing a framework for an ethical and legal teaching practice, and he has provided training in these areas to a diverse group of stakeholders including the U.S. Army, state and national policy groups, school district teachers and administrators, university faculty, and department of education and licensing officials across the country. Dr. Hutchings has served as an expert witness in judicial hearings, and has collaborated on state policy initiatives and on projects as diverse as the Model Code of Educator Ethics, the National Council for the Advancement of Educator Ethics, the Georgia Educator Ethics Assessment, and the NASDTEC Academy. In 2009 the National Association of State Directors of Teacher Education and Certification honored Dr. Hutchings with the Doug Bates Award, which recognizes outstanding contributions to educator professional practices, and in 2016 he was named the Anna Funk Lockley Annual Endowed Lecturer for that year.

Dr. Hutchings introduced himself as an expert witness who has testified before legislators in several states and held workshops around the country in reference to codes of ethics and conduct. Dr. Hutchings gave a brief overview of what would be discussed.

Dr. Hutchings began his presentation with a slide show on risks and vulnerabilities. A PDF version of the presentation is available upon request from the NDE. Dr. Hutchings went on to detail how the American Medical Association, American Psychological Association, American Bar Association, and other professional organizations have created codes of ethics in response to risks involved with their professions. Dr. Hutchings explained how education's biggest risks are not necessarily the risks themselves, but not acknowledging, recognizing, mitigating and navigating those risks. He proposed reframing the discussion of educator ethics as risk vulnerability linked with misconduct. Dr. Hutchings demonstrated via a quote on ethics, how interventions in ethical dilemmas have failed due to the false assumption that individuals recognize ethical dilemmas when such situations are presented to them. He then presented several scenarios for discussion concerning situations educators may face in reference to

ethical dilemmas. Through the given scenarios, Dr. Hutchings demonstrated how contextual variables affect ethical dilemmas, and more often than not, many ethical dilemmas faced by educators are in a gray area, because a code of ethics and code of conduct have not been defined. After discussing the scenarios with the group, Dr. Hutchings discussed how “Is this ethical?” is the wrong question to ask in reference to moral dilemmas. He stated the question, “Is this ethical?” is too restrictive and only allows for binary logic based upon individual morality or upon law. The question creates an impermeable wall based upon yes or no. Dr. Hutchings elaborated on how applying the binary logic of yes or no halts the discussion of ethics and conduct, and creates a dichotomy of good vs evil, when the issues presented are far more complex. He quoted Dr. Philip Zimbardo in reference to the good vs. evil argument, and how the choice between the two frees “the good people” from responsibility in their part in creating, perpetuating, and sustaining their role in misconduct. Dr. Hutchings went on to explain that individual decisions, situational contexts, and systemic variables must be analyzed while examining misconduct in education, and he elaborated on this point by giving examples of how one’s own beliefs and morality should not dictate how ethical and moral dilemmas are addressed in the workplace. Dr. Hutchings explained how implementing codes of conduct and ethics helps to deter personal bias and morality. Misconduct is not an event, but a process. Dr. Hutchings stated that teachers who care more about their students are more susceptible to accusations of misconduct, and mentioned a study he conducted 2 years ago in 7 different states in which he captured ethical dilemmas from Pre-Kindergarten to 12<sup>th</sup> grade. Dr. Hutchings found in the study that ever-changing implicit norms imposed by workplace culture often trumped school policy in many educators’ minds. He further elaborated on how these implicit norms can alter what is perceived as acceptable conduct amongst educators in the classroom and as a regular citizen. Dr. Hutchings quoted psychologist Albert Bandura’s belief that social institutions can create conditions which would not be morally acceptable outside of said institutions, and continued with another quote from Bandura on how moral standards are not constant but fluid, meaning that self-regulatory mechanisms have to be initiated through organic and continuing conversations on conduct. Dr. Hutchings explained that while other professions’ practitioners have policies in place to deal with inappropriate behavior on the part of the patient, no such policies exist within education. Dr. Hutchings went on to detail his own experience with having to deal with students’ inappropriate behavior as an educator and coach, and how it was almost impossible to address because no policy had been put in place to dictate to him what actions he could or could not take. Dr. Hutchings discussed how the lexicon utilized by educators must be redefined to better suit educator and student’s needs and situations, pointing out that educators typically make more than 3,000 decisions daily, many of which fall into the category of ethical dilemmas as a result of not having implemented a code of ethics. He then discussed codes of ethics from the states of Iowa, Idaho, Georgia, and Texas, pointing out that many states include conduct absolutes within their codes of ethics rather than focusing them on ethics alone.

Dr. Hutchings presented three lexicons that must be present to establish an ethical equilibrium: dispositional framework, regulatory framework, and ethical framework. He broke each down into concepts as follows: dispositional framework as professional attitudes, values and beliefs that guide decision making; regulatory framework as policies, statutes, and case law that guides decision making; and ethical framework as professional ethical standards that guide decision-making, individual decisions, situational contexts, and systemic variables. Dr. Hutchings asked Mr. Wold to provide an example of ethical dilemmas he faces in his rural district, then listed some more examples of similar ethical dilemmas and how different situations call for different reactions. Through his studies, Dr. Hutchings has found that more than half of ethical dilemmas come down to a matter of what is best for the student vs school policy, and has discovered that most educators choose to do what is best for students. He stated that action and policymaking (or policy revision) usually don’t come about until an incident occurs to drive them. He went on to detail how counselors have their own code of ethics, which allows for decision-making that is not based upon individual morality, contrary to how educators often deal with ethical dilemmas. Dr. Hutchings emphasized that a code of ethics is necessary at the preservice, licensure, and in-service levels of education, but that in many jurisdictions it is not present at any of these levels.

Dr. Hutchings then discussed the link between ethics and conduct. He defined conduct as relating to boundaries, with possible sanctions imposed for boundary violations, and stated this is the lowest standard of acceptable behavior. However, this is where educators normally operate: in the gray areas. In these gray areas, where educators make thousands of daily decisions, emotional and intellectual intimacy with multiple stakeholders, as well as nuanced and complex competing tensions, also exist. Agents of the state also exist within these gray areas, acting in the public interest. Dr. Hutchings stated that in education, the code of ethics solely operates in the gray. Codes of ethics help educators by guiding decision making, mitigating risks, protecting the practitioner and the profession, and protecting student welfare, if done properly. He clarified that codes of conduct are about compliance and punishment, while codes of ethics are about choice and prevention.

Through his research, Dr. Hutchings has found that there are no absolutes; rather, parameters for ethical behavior are typically discussed and decided by educators and students. Since often no framework for decision-making exists, a continuum of responsibility within the profession is non-existent; implicit norms vary by teacher and region, teachers rely on their own morality to guide decisions, educators do not have defined rules or duties in some respects, boundaries are often arbitrary, and educators often find it very difficult to report misconduct or to seek guidance from colleagues. As a result, decisions are made in isolation without any transparency, resolutions are often inconsistent between similar situations, and often a culture of silence exists because of fear of potential consequences following from decisions and actions.

Dr. Hutchings shared a focus group he had with 12 secondary teachers from a metropolitan school district to speak about ethical dilemmas. During this focus group, a teacher pointed out that there can be no ethical dilemmas in education because ethics is not defined.

He went on to identify a “professional standard of care” as a legal threshold, elaborating that this standard assumes educators are aware of, and act on, standards, norms and codes of ethics, when most are not aware of these. Dr. Hutchings gave several examples of how not having a code of ethics can hinder actions being taken to protect educators and students.

Dr. Hutchings explained that Nevada has statutes linked to other statutes in NRS 391.330 (which governs educator conduct and discipline), and this makes the law very difficult to understand. He went on to compare other state department of education codes of ethics with NRS 391.330. The codes of ethics of the states compared with Nevada can be provided by the DOE upon request.

Ms. McWilliams inquired if Nevada has a separate code of ethics for educators in Special Education. Dr. Hutchings replied he believed no separate code of ethics for Special Education exists, but this is something that could be examined by the Advisory Group.

Mr. Arakawa called for a recess for lunch at 12:00 p.m.

Mr. Arakawa called the meeting back to order at 1:22 p.m. with all members present.

Dr. Troy Hutchinson continued his presentation with a 4 minute video on the Model Code of Ethics for Educators (MCEE). After the video, he discussed the history of the MCEE, which he helped to create, and described how NASDTEC and other development partners within the national education community helped to facilitate a process to determine whether or not we need a common code of educator ethics. Overwhelming support among these diverse stakeholders for forming a code of ethics is what prompted the development of the MCEE. Dr. Hutchings described the MCEE as a living document which can be changed. He then discussed the various sections of the MCEE, and applied them to a number of hypothetical ethical dilemmas. He went on to describe misconduct as not being an event, but a process, and elaborated by stating that he has found no decision to be an isolated event, but rather one ethical dilemma leading to another. Dr. Hutchings presented a few case studies on ethical dilemmas, and asked the members to determine how the MCEE could apply to the situation and prevent the ethical situation from ever occurring.

Dr. Hutchings continued with a story about how he was able to apply the MCEE to a real life situation involving a former student outside of an education setting. He closed by remarking on a study he conducted on the efficacy of the MCEE on educators. He said he found that because of the MCEE, educators now had permission to speak about ethical dilemmas, where they felt they didn't before. Dr. Hutchings emphasized that the MCEE is only a document by itself, but when used to drive discussion it can become something more. He ended by stating his hope that Nevada will fully utilize the MCEE when establishing a code of ethics for educators.

Mr. Arakawa thanked Dr. Hutchings for his time and expertise.

#### **Agenda Item #9 – Future Agenda Items**

Mr. Arakawa invoked the flexible agenda to table agenda item #8 until later in the meeting, and moved to agenda item #9.

Mr. Arakawa reiterated briefly what is expected of the group. Making recommendations is only a small part of what the Advisory Group will do. The group will also need to take a close look at the Nevada Revised Statutes (NRS) and Nevada Administration Code (NAC) to determine how these can best be used to move the Advisory Group's work forward. Mr. Arakawa then proposed to discuss delegation of the work load of the group to separate sub-committees in a future meeting.

#### **Agenda Item #8 – Future Meeting Dates**

Mr. Arakawa proposed to schedule the next Advisory Group meeting for sometime in February. In discussion, Mr. Cowles voiced a preference for either the 15<sup>th</sup> or 16<sup>th</sup> of the month, and Dr. Barone stated that the 15<sup>th</sup> would work well for her. Mr. Arakawa advised that he would do his best to accommodate these requests when scheduling the meeting, but stated that availability of meeting rooms as well as convenience for the group members would be a consideration. Mr. Cowles moved to hold the next meeting in February on a date to be determined. Ms. McWilliams seconded the motion. The motion carried unanimously.

#### **Agenda Item #10 – Group Members' Comments/Discussion**

No comments or discussion by Advisory Group members.

#### **Agenda Item #11 – Public Comment #2**

No public comment in Carson City.

Public comment in Las Vegas:

Christina Hall, Prevention Education Manager at the Rape Crisis Center, thanked the advisory group for dedicating their time to create a code of ethics for educators. Ms. Hall recommended the group take a look at the code of ethics for Social Workers, as it may be a beneficial resource for the group's work. As stated by Dr. Hutchings, a code of conduct is just as important as a code of ethics. For that reason, Ms. Hall recommended also taking a look at the Enough Abuse Campaign developed by the Centers for Disease Control (CDC) and Massachusetts Citizens for Children, which recognizes 20 boundary violating behaviors between educators and students. Ms. Hall went on to ask the group to make the code of ethics readily available to all educators and students once finished. She ended by thanking the group once again and offered the Rape Crisis Center as a resource for the development and implementation of the code of ethics for educators in Nevada.

Theo Small, Vice President of Clark County Education Association, thanked the group for volunteering their time to create a code of ethics for educators. Mr. Small went on to specify that the code of ethics

will apply to all educators and not just teachers. Mr. Small recognized Assemblywoman Olivia Diaz as integral in helping create and pass Assembly Bill 124. He said when he and Deputy Superintendent Dena Durish went to Nevada's Committee on Professional Standards (COPS) before to propose forming a group to create a code of ethics, they were first met with hesitation, which came from the enormous number of responsibilities educators already hold. Mr. Small suggested that when formulating a code of ethics for educators, the code has to be about building the profession in a meaningful way. He went on to suggest referring to the MCEE when developing the code of ethics for educators in Nevada, and to treat the code of ethics as a living document. Mr. Small again thanked everyone for their time and suggested continuing to utilize Dr. Troy Hutchings as a resource for developing the Nevada code of educator ethics.

**Agenda Item #12 – Adjournment**

Meeting adjourned at 4:34 p.m.