



New Mexico  
Public Schools  
Insurance Authority

# SAFETY FIRST

NMPSIA Risk Services Newsletter

## NMPSIA WELCOMES NEW LEADERSHIP TEAM



The New Mexico Public Schools Insurance Authority (NMPSIA) Board of Directors appointed Ms. Ernestine Chavez to serve as NMPSIA Executive Director, effective September 1, 2018. NMPSIA is charged with purchasing and offering employee benefit and risk coverages to participating public school districts, post-secondary educational entities, charter schools, school board members and school employees. Ms. Chavez will continue working diligently on overseeing the work of the Agency.

Ms. Chavez has over 35 years of experience related to serving employees of the school systems across the state. She been employed with NMPSIA for 22 years, and most recently served as NMPSIA's Deputy Director. Prior to working for NMPSIA, Ms. Chavez worked for the Educator Licensure Bureau of the New Mexico Public Education Department and for the Human Resources Department of the Las Cruces Public Schools.

The NMPSIA Board of Directors appointed Mr. Richard Valerio to serve as NMPSIA Deputy Director, effective September 1, 2018. Mr. Valerio will assist Executive Director Ernestine Chavez in overseeing the operations of the Agency. Mr. Valerio has been employed with NMPSIA since February 2014 and was the Chief Financial Officer prior to being appointed Deputy Director. He received his B.B.A. from the University of New Mexico in 2011. In 2017, he obtained his M.B.A. from New Mexico Highlands University. Prior to working with NMPSIA, Mr. Valerio worked with the New Mexico Energy, Minerals & Natural Resources Department and the New Mexico Department of Transportation.

The NMPSIA Board of Directors appointed Mr. Patrick Sandoval to serve as NMPSIA Chief Financial Officer (CFO), effective September 1, 2018. Mr. Sandoval has been employed with NMPSIA since April 2015, serving as Financial Manager before being appointed CFO. Prior to working at NMPSIA, Mr. Sandoval worked as an Accountant at St. Vincent Hospital and Budget Director for the New Mexico Regulation and Licensing Department.

### TABLE OF CONTENTS

[Let's Talk About Bullying](#)

Page 2

[Are You Prepared to Handle a Workplace Injury?](#)

Page 5

[School Bus Safety Campaign](#)

Page 7

[Limitations on FMLA Intermittent Leave for Teachers](#)

Page 8

[NM Activities Association "Compete with Class"](#)

Page 9

### Important Contact Information

NMPSIA	505-988-2736 www.nmpsia.com
Poms & Associates	505-797-1354
CCMSI	1-800-635-0679
Myers, Stevens, Toohey	1-800-827-4695 ext. 616

# LET'S TALK ABOUT BULLYING

There have been many articles, debates, headlines, and resources spent on school shooters, active threat scenarios, and whether or not teachers should carry guns in schools. However, the discussion on one of the most common forms of violence in schools has grown silent; bullying.

## Breaking News

For the first time a court has used a civil rights law to hold a school district financially accountable in a case of student bullying. In the August 2018 case of *Cohen v. Philadelphia School District*, the court awarded \$500,000 to a transgendered student, ruling that the school district failed to stop her from being bullied.

The student had endured severe taunting, harassment, and bullying from her fellow students—including name-calling and physical abuse. The student and her mother made multiple complaints to the school district, and the student's mother moved her into another

school within the district, but the bullying continued. The only step the administrators made was to suspend the student who physically assaulted the victim, but unsurprisingly this did not stop the bullying.



The court's decision noted that the school did not have any procedures in place to address the discrimination and bullying suffered by the student, additionally, the staff that were responsible for overseeing students were not even aware of the policies that were in place nor how to implement them. This led the court to conclude that the school district failed to take the proper steps to prevent further harassment, which resulted in multiple incidents of bullying and harassment.

## What Is Bullying?

According to the government's website [stopbullying.gov](http://stopbullying.gov), "bullying is unwanted, aggressive behavior among school aged children that involves a real or perceived power imbalance. The behavior is repeated, or has the potential to be repeated, over time."

There are three common types of bullying:

1. Verbal bullying is saying or writing mean things.
2. Social bullying, sometimes referred to as relational bullying, involves hurting someone's reputation or relationships.
3. Physical bullying involves hurting a person's body or possessions.

Bullying can occur during or after school hours, on the playground or bus, in the students' neighborhoods and homes, or on the internet. According to the National Center for Education Statistics and the Bureau of Justice Statistics, around 21% of students across the nation have experienced bullying.

### Effects of Bullying:

Bullying effects everyone involved—those who do the bullying, the who are bullied, and those who witness the bullying. Bullying has been linked to many different negative outcomes for all those involved, including impacts on mental health, substance abuse, and suicide.

A new term has been showing up in discussions of bullying; bullycide. Bullycide is a hybrid of bullying and suicide used to describe someone who took their life as a result of being bullied. The phenomenon of bullycide seems to have grown with a rise in cyberbullying.

### What is Cyberbullying?

Cyberbullying differs from traditional bullying in that a cyberbully is able to easily hide his or her identity, making the origins of the abuse difficult to trace. Additionally, with the prevalence of social media and digital forums, comments, photos, posts, and content shared by individuals is available to be viewed by strangers as well as acquaintances—making an almost permanent public record, an online “reputation”.

Cyberbullying has unique concerns, for example;

- It is **persistent**: digital devices like cell phones and tablets mean people can communicate with others 24 hours a day, which can make it difficult for a child being cyberbullied to find relief.
- It is **permanent**: almost all information communicated electronically is permanent and public, unless it is reported and removed. A negative online reputation can have long lasting consequences, potentially effecting college admissions, employment and other areas of life.
- It is **hard to notice**: for teachers and parents, cyberbullying often goes unseen or unheard, and it is harder to recognize.
- It is often **crueler**: because the internet offers a sense of anonymity, people can mentally and physically distance themselves from their victims lessening their empathy, which can result in a harsher and crueler types of bullying than normally would occur when face-to-face.

### Hazing v. Bullying

The difference between hazing and bullying is subtle, and so the two are often confused with each other. Both involve power dynamics, intimidation tactics, and “second-class citizenship” issues arise in both. Also, bullying and hazing are both precursors to more destructive and hateful behavior.

The two differ in that bullying is the exclusion or ostracization of an individual from a group, whereas hazing is a ritual or process imposed on an individual seeking to be part of a group. Bullying is also often a one-on-one act, and hazing usually involves a group, team, or organization. Hazing is an institutionalized and organized form of bullying.

[Hazingprevention.org](http://Hazingprevention.org) defines hazing as “any action taken or any situation created intentionally that causes embarrassment, harassment or ridicule and risks emotional and/or physical harm to members of a group or team, whether new or not, regardless of the person’s willingness to participate.”

## Prevention

Bullying, in all its forms, and hazing can have serious effects on the victims as well as the school’s or organization’s culture. The best way to address bullying is before it starts.

While there are no federal mandates (yet) about bullying curricula or staff training, by training staff and students to prevent and address bullying can help sustain bullying prevention. Some ways to address bullying in your school could be:

- Incorporating the topic of bullying prevention in lessons and activities, for example;
  - Having students perform library and internet searches on types of bullying and different approaches kids can take to combat bullying in their school
  - Presentations or role-playing on methods to stop bullying
  - Discussions and trainings on reporting bullying, if your school utilizes an anonymous reporting app like this one created by the Sandy Hook organization this is a great opportunity to discuss the topic of bullying when teaching students on the types of incidents they can report using the app.
- Schools can choose to implement formal evidence-based programs or curricula at their own discretion. There are many considerations to consider when selecting a program, including your school’s demographics, capacity, and resources.
- Staff training on bullying and hazing prevention, including training on recognizing what bullying and hazing are, what the school’s policies and rules are, and how best to enforce the policies and create a school culture that does not encourage and foster bullying and hazing.

# ARE YOU PREPARED TO HANDLE A WORKPLACE INJURY?

## The "Mystique of Workers' Compensation

Did you know that how an employer treats an injured worker after a workplace injury has a direct effect on how well and how fast they will heal? So, don't take a backseat to the process and say, "Oh the adjusters are handling it." The Workers' Compensation Administration (WCA), the state governmental agency that regulates and educates on the New Mexico workers' compensation system, wants employers to understand there is a human cost to ignoring their workers' compensation practices because behind every injury there is a struggling employee. The workers' compensation can be a complicated legal process but the WCA has free programs available to help all parties navigate what can be a confusing and vulnerable time.



For your convenience, the [FREE Workers' Compensation Workshop](#) will be conducted in five presentations throughout the state. In October, we will be coming to Farmington, Santa Fe, Albuquerque, Roswell and Las Cruces. The following areas of the Workers' Comp programs will be covered at the workshop: Workers' Comp 101; Return to Work; and the HR Triangle.

## Work Comp 101 Presented by the Ombudsman Bureau

What is the role of an Ombudsman? An Ombudsman is an impartial party. We are here to provide information, assistance and to educate all parties regarding Workers' Compensation rules and regulations.

Here are some of the things you will learn by attending our Work Comp 101 session:

- What to do and how to be prepared for a work-place injury.
- What responsibilities you have as an employer before and after the accident.
- What postings you, as an employer, are required to display.
- What responsibilities an injured worker has before and after the accident.
- What the claim process is.

## Early Return-To-Work Initiative

An early return-to-work (RTW) is a win-win for all parties. The employer wins in several ways including saving on workers' compensation claims costs, getting some production in exchange for payouts and cutting down on replacement hiring. The employee wins by recovering faster which helps alleviate the financial burden of pay reduction/drain on leave balances and higher risk of secondary complications like substance abuse and depression associated with a prolonged work absence. To encourage and help employers making every reasonable effort to accommodate an injured worker's light duty work release from a health care provider, the WCA developed the Early Return-to-Work (RTW) Initiative.

At this workshop, you will get an overview of practical, easy steps you can take to safely and efficiently return injured workers back to work as soon as medically possible. To help you implement what you will learn, the WCA has an RTW Coordinator that works with employers on a one-on-one basis. The WCA will analyze current workers' compensation practices, give you a breakout of what you are doing well and tailor

improvements to help you meet all RTW “Best Practices” and achieve an “A” level workers’ compensation RTW program. By being proactive in RTW, you do right by your injured worker.

### Learn More

Leading up to the workshop, you may be getting a call from the WCA to talk about how the agency can help improve your workers’ compensation program. All outreach, consultations and any help is voluntary and part of a free public service available to NMPSIA members.

### Workers’ Compensation Pop-Quiz

Take the pop-quiz below to test your knowledge of worker’s compensation need-to-know points. If you don’t know some of the answers, come to our [FREE Workers’ Compensation Workshop](#) to learn the answers to these questions as well as how you can help employees who are injured at work.

1. Once an employee is injured, how long does the employee have to report their injury?
2. To whom does an injured employee report the injury?
3. As the employer, what form is required when reporting an injury to CCMSI?
4. Once an employee reports an injury, how much time do you have to report the injury to CCMSI?
5. Is there ever a time I should refuse to report an injury/illness to CCMSI?
6. After an injury occurs, can you (the employer) direct an injured employee to a specific health care provider (HCP)?
7. If an injured employee has been placed off work by the authorized HCP, when do they become eligible for indemnity payments?
8. While off work, what percentage of their wages are they entitled to receive in the form of indemnity benefits?
9. If your employee is released to return to work with restrictions, can you bring them back on light duty?
10. How can you reduce the likelihood of re-injury while accommodating light duty restrictions?
11. Extra Credit: What is your role in helping workers to reach maximum medical improvement/return to work status?

### Answer Key:

Please note answers are based off of compensable claims. These are general answers which may vary case by case.

1. *Workers must report their work-place injury within 15 days from the date of injury; however NMPSIA encourages the employer to have a policy that the employee reports within 24-48 hours.*
2. *Injured workers should report the incident to their supervisor or manager.*
3. *Work-place injuries should be reported to their insurer or TPA using the employers’ First report of Injury/Illness (FROI/E-1) form or electronically using ICE (Internet Claims Edge)*
4. *Employers must report work-place injuries to the insurer or TPA within 72 hours to ensure compliance with the workers’ compensation statute and avoid potential fines.*
5. *Employers should never refuse to report an injury or illness to their insurer or TPA.*
6. *Yes. Upon injury occurrence, the employer has the right to direct initial health care, or the employer can permit the injured employee to make the initial selection. This decision is typically written in the employer’s policy and employee hand book.*
7. *Injured employees become eligible to receive indemnity benefits upon the eighth (8th ) day of lost time from work due to the injury.*
8. *Indemnity benefits are calculated at 66 2/3 of the injured worker’s average weekly wage*
9. *Employers are not required, but encouraged, to accommodate light duty work restrictions directed by the injured workers’ health care provider.*
10. *By monitoring allocated work restrictions, employers can reduce the likelihood of re-injury during recovery.*
11. *Employers who stay involved in the process and take a proactive role in the claims process can help assure injured employees return to work sooner.*

## SCHOOL BUS SAFETY CAMPAIGN



The New Mexico Public Schools Insurance Authority (NMPSIA) and New Mexico State Police have partnered together to remind drivers to look out for students and pay attention to buses picking up and dropping off students. A safety video will be distributed via State Police social media and NMPSIA's web site. We will also be distributing an infographic to state counties, municipalities and state school districts and charters to share on their social media and web pages.

"It's very important that we take steps to prevent an accident from happening, we don't want to wait until a child is hurt or worse to get the word out to driver's...", NMPSIA Executive Director, Sammy Quintana, "... driver's need to anticipate that with school starting, the buses will be out and be patient with our school buses as they make their stops for New Mexico students."

To see the safety video you can go to the [NMSP Facebook page](#), [on YouTube](#), or [NMPSIA's web page](#).

"NMPSIA looks forward to working with New Mexico State Police and Officer Ray Wilson on more safety projects. What we have put together this year is very powerful, it's a message that shouldn't be ignored.", Victoria DeVargas, NMPSIA Risk Program Coordinator. Special thanks to the kids that participated in this video and to Pojoaque Valley School District for loaning us a bus and driver (Terri Ortega), and our 'impatient driver' Cynthia Romero (NMPED).

## LIMITATIONS ON FMLA INTERMITTENT LEAVE FOR TEACHERS

The FMLA has always proven to be a tricky road to navigate for school administrators due to the uniqueness of many school schedules and situations. One example of the difference in FMLA between school employees and other business employees is the issue of summer vacation and calculating it into FMLA leave.

FMLA leave taken by a teacher for a period that ends with the school year and resumes with the next semester is leave taken consecutively, not intermittently. In other words, the period of summer vacation, when the employee would not have been required to report for duty, is not counted against the individual's FMLA leave. Further, a teacher who is on FMLA leave at the end of the school year must be provided with any benefits over summer vacation that employees would normally receive if they had been working at the end of the school year.



If a teacher needs foreseeable intermittent or reduced leave to care for a family member, to care for a covered service member, or for the employee's own serious health condition AND the employee would be on leave for more than 20 percent of the total number of working days over the period leave would extend, the school MAY require the Instructional Employee to choose to either:

1. Take leave for a period or periods of a particular duration, not greater than the duration of planned treatment, OR
2. Temporarily transfer the employee to an available alternative position for which the employee is qualified, which has equivalent pay and benefits, and which better accommodates recurring periods of leave.

Note, these rules apply only to leave involving more than 20 percent of the working days during the period over which the leave extends. For example, if a teacher normally works five days per week and needs to take two days of FMLA leave per week over a period of several weeks, these special rules would be applicable. If the leave constitutes 20 percent or less of the working days during the leave period, the employee may not be subject to temporarily transferring to an alternative position.

If an employee fails to give required notice of a foreseeable FLMA leave to be taken on an intermittent or reduced leave schedule, the school MAY require the employee to take leave of a particular duration OR transfer the individuals temporarily to an alternative position. The school MAY require the employee to delay taking leave until the notice provision is met.

Schools should also note that the determination of how an employee is restored to "an equivalent position" upon return from FMLA leave will be made on the basis of "established school policies and practices." The established practices must be in writing, must be made known to the employee prior to taking FMLA leave, and must clearly explain the employee's restoration rights upon return from leave.

### Limitations on Leave Taken near the End of the Semester

There are also special rules for teachers who begin FMLA leave of more than five weeks, less than five weeks, and less than three weeks before the end of a term. These rules allow the school to require the employee to continue taking leave, usually for the purpose of not disrupting class learning by having teachers coming and going so close to break.

- If the teacher begins leave more than five weeks before the end of the term, the school may require the Instructional Employee to continue taking leave until the end of the term if:
  1. the leave will last at least three weeks, and
  2. the employee would return during the three- week period before the end of the term.
- If the teacher begins leave for a purpose other than the employee's own serious health condition during the five- week period before the end of the term, the school may require the Instructional Employee to continue taking leave until the end of the term if:
  1. the leave will last more than two weeks, and
  2. the employee would return during the two- week period before the end of the term.
- If the teacher begins leave for a purpose other than the employee's own serious health condition during the three- week period before the end of the term, the school may require the Instructional Employee to continue taking leave until the end of the term if the leave will last more than five working days.

There are many resources that can be found on the internet to aid school administrators, as well as the NMPSIA-provided resource: HR Expert On-Call which provides a Human Resource expert available to assist with any questions or concerns you may need. Call 505-369-3454 during normal business hours.

---

## NM ACTIVITIES ASSOCIATION “COMPETE WITH CLASS”

We've all been to that nail-biter sporting event. Everyone is sitting on the edge of their seat when all of a sudden the ball is fumbled or the opposing team scores the winning shot; or words are exchanged on the field/court by players or by parents in the bleachers; or we didn't agree with the official's call. Whatever the case may be, we must remember to practice good sportsmanship.

We are fortunate in New Mexico, we have the “Competing with Class” program available to all [NMAA] member school districts and charters. The “Compete with Class” program was developed through a collaboration of athletic directors, coaches, school administrators, students and parents/adults, with the purpose of establishing a strong culture of sportsmanship based on the core values of Respect, Integrity and Responsibility.

The “Competing with Class” curriculum is available from the [NMAA website](#).

