

**REVISED PROPOSED REGULATION OF THE
DEPARTMENT OF EDUCATION**

LCB File No. R171-05

January 6, 2006

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-3, 5, 6, 10 and 12-14, NRS 386.540; §4, NRS 386.535 and 386.540; §7, NRS 386.525 and 386.540; §8, NRS 386.527 and 386.540; §§9 and 11, NRS 386.540 and 386.549.

A REGULATION relating to education; revising provisions relating to charter schools; and providing other matters properly relating thereto.

Section 1. Chapter 386 of NAC is hereby amended by adding thereto the provisions set forth as 2, 3 and 4 of this regulation.

Sec. 2. *If the governing body of a charter school requests an amendment to its written charter pursuant to NRS 386.527, the sponsor of the charter school may authorize its staff to approve the amendment to the charter as the sponsor deems appropriate.*

Sec. 3. *Before the last day of the first operational school year, a charter school shall submit to the Department evidence which demonstrates to the satisfaction of the Department that the facility the charter school occupies has been inspected and approved by the Division of Industrial Relations of the Department of Business and Industry for compliance with the federal Occupational Safety and Health Act of 1970, as amended.*

Sec. 4. *The sponsor of a charter school may, in accordance with applicable statutes and regulations, revoke the charter of a charter school that is dedicated to providing educational*

programs and opportunities for pupils who are at risk if the charter school fails to provide educational programs and opportunities to those pupils as required by the written charter.

Sec. 5. NAC 386.010 is hereby amended to read as follows:

386.010 As used in NAC 386.010 to 386.445, inclusive, *and sections 2, 3 and 4 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 386.020 to 386.050, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NAC 386.125 is hereby amended to read as follows:

386.125 1. A committee to form a charter school must submit to the Department a letter of intent to form a charter school. The letter of intent must be submitted in the same fiscal year in which the application to form the charter school is submitted and must be received by the Department no fewer than 15 days before the application is submitted.

2. The letter of intent must include:

(a) The name of the school district in which the proposed charter school will be located;

(b) Whether the proposed charter school will be dedicated to providing educational programs and opportunities for pupils who are at risk;

(c) ~~Whether~~ *Whether* the proposed charter school will operate exclusively for the enrollment of pupils who receive special education pursuant to NRS 388.440 to 388.520, inclusive ; ~~to a statement indicating whether the application to form the charter school will be submitted to the board of trustees of the school district in which the proposed charter school is located or to the State Board of Education pursuant to NRS 386.525; and~~

(d) The date on which the proposed charter school will begin operation ~~to~~ ; *and*

(e) Whether the proposed sponsor is the school district in which the charter school will be located or the State Board of Education. If the proposed sponsor is a school district, the

application may be submitted to the State Board of Education pursuant to NRS 386.525 only if the application has been denied twice by the school district pursuant to NRS 386.525.

3. Except as otherwise provided in this subsection, if a committee to form a charter school submits a letter of intent for a charter school and an application to form that charter school is not submitted within the time period prescribed by NAC 386.130, the committee may not submit another letter of intent for a charter school within the same school district until after the completion of 2 fiscal years immediately succeeding the fiscal year in which the originally proposed charter school would have become an operational charter school. The restriction set forth in this subsection does not apply to a letter of intent submitted for a charter school that is dedicated to providing educational programs and opportunities for pupils who are at risk.

Sec. 7. NAC 386.202 is hereby amended to read as follows:

386.202 1. If the Subcommittee on Charter Schools receives an application to form a charter school , ~~[pursuant to subsection 4 of NRS 386.525,]~~ the staff of the Department, acting on behalf of the State Board of Education, will verify the contents of the application by:

- (a) Performing a physical inspection of the location of the proposed charter school, if applicable;
- (b) Consulting with the members of the committee to form the charter school and, where appropriate, the proposed administrators and staff members of the proposed charter school; and
- (c) Performing any other investigation necessary or useful in verifying the contents of the application.

2. If the Subcommittee on Charter Schools receives an application pursuant to subsection 4 of NRS 386.525 after the application has been denied twice by the board of trustees of a school district, the application that is submitted to the State Board of Education must be the same

application that was denied by the board of trustees except that it may be revised in response to concerns stated by the board of trustees in its second denial of the application if such a revision does not significantly alter the application.

3. Within ~~140~~ 20 days after an application is received by the Subcommittee on Charter Schools, the Department will review the application and determine whether the application:

(a) Complies with NRS 386.500 to 386.610, inclusive, and the regulations applicable to charter schools; and

(b) Is complete in accordance with the regulations of the Department.

4. Within ~~20~~ 30 days after an application is received by the Subcommittee on Charter Schools, the Department ~~shall~~ will provide to the applicant its findings pursuant to subsection 3, including the items that are incomplete or noncompliant. The Department may hold a meeting with the applicant or provide the information required by this subsection in another format suitable to the applicant.

5. Within ~~20~~ 30 days after an application is received by the Subcommittee on Charter Schools, the Department ~~shall~~ will provide to the State Board of Education:

(a) The findings of the Department pursuant to subsection 3;

(b) If applicable, the reasons for the first and second denial of the application by the board of trustees of a school district;

(c) A copy of the proposed written agreement if the State Board approves the application pursuant to subsection 4 of NRS 386.527 or a copy of the proposed written agreement if the State Board approves the application pursuant to subsection 6 of NRS 386.527; and

(d) Any other information the Department determines is necessary for the State Board in its review of the application.

6. Other than material required to convert a written charter issued by the State Board of Education pursuant to subsection 6 of NRS 386.527 to a written charter issued pursuant to subsection 4 of NRS 386.527, no additional application material will be accepted from the applicant after the submission referred to in subsections 1 and 2 unless specifically requested by the State Board, the Subcommittee on Charter Schools or the Department to assist in the review of the application.

7. At the meeting described in subsection 5 or 6 of NRS 386.525, as applicable, the Subcommittee on Charter Schools or the State Board of Education, as applicable, shall:

(a) Consider the application along with any reports generated by the employees of the Department and, if the application was previously denied by the board of trustees of a school district, any reports generated by the employees of that school district pursuant to NAC 386.200; and

(b) Determine whether the application complies with all applicable state and federal statutes and regulations.

8. After the Subcommittee on Charter Schools holds a meeting pursuant to subsection 5 of NRS 386.525, the Subcommittee shall immediately transmit to the State Board of Education a recommendation for approval or denial of the application by the State Board. The Subcommittee shall not delay in the transmission of its recommendation.

9. The State Board of Education shall not approve an application for a written charter pursuant to subsection 4 of NRS 386.527 if the application does not satisfy the requirements of paragraphs (a) and (b) of subsection 1 of NRS 386.525. A written charter may be granted pursuant to subsection 6 of NRS 386.527 if the applicant is not prepared to commence operation. If such a charter is granted, the provisions of NAC 386.240 apply.

10. If the State Board of Education denies an application, it shall forward a copy of the written notice of the denial, including, without limitation, the reasons for the denial, to the Department within 5 days after the decision to deny the application is made.

11. If the State Board of Education approves an application, the:

(a) Written charter must include the application, as approved, and a written agreement signed by the President of the State Board and charter school.

(b) Written notice provided to the Department pursuant to NRS 386.527 indicating approval of the application must include the written charter.

Sec. 8. NAC 386.220 is hereby amended to read as follows:

386.220 1. In addition to the information required pursuant to NRS 386.527, a written charter must include a description of any other agreements entered into between the sponsor of the charter school and the charter school. The sponsor of a charter school shall amend the written charter, if necessary, to reflect any such agreements entered into after the written charter is issued.

2. The 6-year term for which the written charter of a charter school is valid, unless the initial written charter of the charter school was renewed after 3 years of operation pursuant to subsection 2 of NRS 386.530, begins on ~~July 1 of the fiscal year immediately following the fiscal year in which the committee to form the charter school applied to the Department and to~~ *the date on which* the State Board of Education or the board of trustees *approves the application* to form the charter school ~~H~~ *pursuant to subsection 1 of NRS 386.527.*

Sec. 9. NAC 386.345 is hereby amended to read as follows:

386.345 1. A majority of the members of the governing body of a charter school must reside in the county in which the charter school is located.

2. The membership of the governing body of a charter school shall not include:

(a) An employee of the governing body or charter school, including, without limitation, an administrator or teacher; or

(b) A contractor of the governing body or charter school.

3. If a person serves on the governing body of a charter school as a representative of a nonprofit organization or business, no other member of the governing body may also serve as a representative of that organization or business or otherwise represent the interests of that organization or business.

4. Not later than 5 business days after the governing body of a charter school is selected, the governing body shall submit to the Department:

(a) The name and address of each member;

(b) The resume of each member;

(c) The state of residence of each member;

(d) If a member serves on the governing body as a teacher, as that term is defined in subsection 4 of NRS 386.549, a photocopy of his license to teach; and

(e) An affidavit of each member indicating that he ~~has~~ :

(1) Has not been convicted of a felony or any offense involving moral turpitude ~~[-]~~ ; and
(2) Has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other material designed to assist the governing bodies of charter schools, if such material is provided to him by the Department, ➡ as required pursuant to NRS 386.549.

5. The governing body of a charter school governs the charter school, maintains overall control of the charter school and is responsible for the operation of the charter school, including,

without limitation, critically evaluating the performance of a contractor for the charter school and selecting another contractor if the contractor is not performing his duties or services in a satisfactory manner.

6. Not later than 30 business days after each public meeting held by the governing body of a charter school pursuant to subsection 3 of NRS 386.549, the governing body shall submit to the Department and to the sponsor of the charter school ~~the~~ a copy of the minutes of the meeting.

Sec. 10. NAC 386.365 is hereby amended to read as follows:

386.365 A charter school shall report the data required pursuant to NRS 386.650 to ~~the~~ :

1. *The school district in which the charter school is located ~~if the school district is the sponsor of the charter school~~; or*

2. *The Department of Education if the State Board of Education is the sponsor of the charter school,*

↪ not later than the first day of instruction of the second year of operation of the charter school.

Sec. 11. NAC 386.410 is hereby amended to read as follows:

386.410 The sponsor of a charter school shall submit to the Department an annual report of compliance for the charter school. If the board of trustees of a school district is the sponsor of a charter school, the annual report of compliance must be included in the report that is required pursuant to NRS 386.610. The annual report of compliance must include:

1. A determination whether the charter school and its governing body comply with the terms and conditions of operation set forth in the written charter.

2. A determination whether the membership of the governing body of the charter school complies with NRS 386.549 and NAC 386.345, including, without limitation, whether:

FIRST
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SECTION

(a) The governing body consists of at least three teachers, as defined in subsection 4 of NRS 386.549;

(b) A majority of the members of the governing body reside in the county in which the charter school is located; and

(c) Each member of the governing body has filed an affidavit with the Department indicating that he ~~has~~ :

- (1) *Has* not been convicted of a felony or offense involving moral turpitude ~~H~~ ; *and*
- (2) *Has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other material designed to assist the governing bodies of charter schools, if such material is provided to him by the Department, as required pursuant to NRS 386.549.*

3. A determination whether the governing body has held at least one regularly scheduled public meeting in the county in which the charter school is located during each calendar quarter and each meeting complied with chapter 241 of NRS.

4. A determination whether the governing body and the charter school comply with the provisions of NRS 332.800.

5. Upon examination of the agenda and minutes of each meeting of the governing body and the reports submitted to the governing body during each meeting, a determination whether the governing body is fulfilling its duty to evaluate the performance of each entity with whom the governing body has entered into a contract, including, without limitation, the performance of an educational management organization.

6. If the charter school is dedicated to providing educational programs and opportunities for pupils who are at risk, a determination whether the:

- (a) Percentage of pupils who are at risk complies with NAC 386.080; and
- (b) Educational ~~[program]~~ *programs* and services provided to those pupils is appropriate and carried out in an effective manner.

7. A determination whether the charter school has complied with generally accepted standards of accounting and fiscal management.

8. A determination whether all money received by the charter school from this State and from the board of trustees of a school district is deposited and maintained in a bank, credit union or other financial institution in this State.

9. A determination whether the charter school has adopted a final budget, as required by NRS 386.550 and NAC 386.370.

10. A determination whether the charter school complies with NRS 386.573 regarding orders for payment of money.

11. A determination whether the charter school administers achievement and proficiency examinations in accordance with chapter 389 of NRS and chapter 389 of NAC.

12. A summary of the manner in which the charter school ensures the health and safety of the pupils enrolled in the charter school, including, without limitation, a determination whether the charter school:

- (a) Complies with the requirements for reporting the abuse or neglect of a child;
- (b) Complies with Title V of the Rehabilitation Act of 1973, 29 U.S.C. §§ 791 et seq.;
- (c) Provides adequate health services;
- (d) Maintains records of the immunizations required of pupils in accordance with NRS 392.435;

(e) Complies with NRS 392.450 by providing drills for pupils in the appropriate procedures to be followed in the event of an emergency and by posting escape routes; and

(f) Complies with the requirements for crisis response in public schools in accordance with NRS 392.600 to 392.656, inclusive.

13. A determination whether each facility that the charter school occupies complies with applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation.

14. A determination whether the charter school complies with NRS 386.585, including, without limitation, whether the charter school:

(a) Provides a copy of the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments to each pupil;

(b) Maintains, for public inspection at the charter school, a copy of the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments; and

(c) Complies with the policies and procedures for the suspension and expulsion of pupils.

15. A description of the attendance policy of the charter school and a determination whether the policy is:

(a) Distributed to each pupil in accordance with NAC 386.350; and

(b) Available for public inspection during the school's regular business hours.

16. If pupils with disabilities are enrolled in the charter school, a determination whether the provision of special educational services and programs to those pupils complies with the requirements set forth in chapters 388 and 395 of NRS and NAC 388.150 to 388.450, inclusive.

17. A determination whether the charter school provides instruction in the core academic subjects set forth in subsection 1 of NRS 389.018, as applicable for the grade levels of pupils who are enrolled in the charter school.

18. A determination whether the charter school provides at least the courses of study that are required of pupils by statute or regulation for promotion to the next grade or graduation from a public high school and requires the pupils who are enrolled in the charter school to take those courses of study.

19. A determination whether the charter school complies with NRS 386.590 regarding the employment of teachers and other educational personnel.

20. A determination whether the status of the employees of the charter school and the rights and benefits provided to those employees comply with NRS 386.595.

21. A description of the manner in which the charter school maintains personnel records for its employees.

22. A description of the procedure for the enrollment of pupils in the charter school, including, without limitation, whether the charter school enrolls pupils on the basis of a lottery system if more pupils who are eligible for enrollment apply for enrollment than the number of spaces that are available.

23. If the charter school provides instruction to pupils enrolled in kindergarten, first grade or second grade, a determination whether the charter school complies with NRS 392.040 regarding the ages for enrollment in those grades.

24. A determination whether the charter school refrains from charging tuition or fees, except for those fees that are authorized by specific statute or by the written charter of the charter school.

25. A determination whether the charter school provides written notice to the parents and legal guardians of pupils enrolled in grades 9 to 12, inclusive, whether the charter school is accredited by the Commission on Schools of the Northwest Association of Accredited Schools.

26. A determination whether the charter school complies with NRS 386.583 regarding the adoption of rules for academic retention.

27. A determination of whether the charter school maintains a type and amount of insurance in a manner that complies with paragraph (l) of subsection 1 of NRS 386.550, which may include ~~workmen's~~ *workers'* compensation insurance, or is otherwise prepared to hold harmless, indemnify and defend the sponsor of the charter school as required by that paragraph.

28. A determination whether the written inventory of equipment, supplies and textbooks that is maintained by the charter school pursuant to NAC 386.342 is current and accurate.

Sec. 12. NAC 386.410 is hereby amended to read as follows:

SECOND
PARALLEL
SECTION

386.410 The sponsor of a charter school shall submit to the Department an annual report of compliance for the charter school. If the board of trustees of a school district is the sponsor of a charter school, the annual report of compliance must be included in the report that is required pursuant to NRS 386.610. The annual report of compliance must include:

1. A determination whether the charter school and its governing body comply with the terms and conditions of operation set forth in the written charter.

2. A determination whether the membership of the governing body of the charter school complies with NRS 386.549 and NAC 386.345, including, without limitation, whether:

(a) The governing body consists of at least three teachers, as defined in subsection 4 of NRS 386.549;

(b) A majority of the members of the governing body reside in the county in which the charter school is located; and

(c) Each member of the governing body has filed an affidavit with the Department indicating that he:

(1) Has not been convicted of a felony or offense involving moral turpitude; and

(2) Has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other material designed to assist the governing bodies of charter schools, if such material is provided to him by the Department, ➔ as required pursuant to NRS 386.549.

3. A determination whether the governing body has held at least one regularly scheduled public meeting in the county in which the charter school is located during each calendar quarter and each meeting complied with chapter 241 of NRS.

4. A determination whether the governing body and the charter school comply with the provisions of NRS 332.800.

5. Upon examination of the agenda and minutes of each meeting of the governing body and the reports submitted to the governing body during each meeting, a determination whether the governing body is fulfilling its duty to evaluate the performance of each entity with whom the governing body has entered into a contract, including, without limitation, the performance of an educational management organization.

6. If the charter school is dedicated to providing educational programs and opportunities for pupils who are at risk, a determination whether the ~~the~~

~~—(a) Percentage of pupils who are at risk complies with NAC 386.080; and~~

~~—(b) Educational program]~~ *educational programs* and services provided to those pupils is appropriate and carried out in an effective manner.

7. A determination whether the charter school has complied with generally accepted standards of accounting and fiscal management.

8. A determination whether all money received by the charter school from this State and from the board of trustees of a school district is deposited and maintained in a bank, credit union or other financial institution in this State.

9. A determination whether the charter school has adopted a final budget, as required by NRS 386.550 and NAC 386.370.

10. A determination whether the charter school complies with NRS 386.573 regarding orders for payment of money.

11. A determination whether the charter school administers achievement and proficiency examinations in accordance with chapter 389 of NRS and chapter 389 of NAC.

12. A summary of the manner in which the charter school ensures the health and safety of the pupils enrolled in the charter school, including, without limitation, a determination whether the charter school:

- (a) Complies with the requirements for reporting the abuse or neglect of a child;
- (b) Complies with Title V of the Rehabilitation Act of 1973, 29 U.S.C. §§ 791 et seq.;
- (c) Provides adequate health services;
- (d) Maintains records of the immunizations required of pupils in accordance with NRS 392.435;
- (e) Complies with NRS 392.450 by providing drills for pupils in the appropriate procedures to be followed in the event of an emergency and by posting escape routes; and

(f) Complies with the requirements for crisis response in public schools in accordance with NRS 392.600 to 392.656, inclusive.

13. A determination whether each facility that the charter school occupies complies with applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation.

14. A determination whether the charter school complies with NRS 386.585, including, without limitation, whether the charter school:

(a) Provides a copy of the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments to each pupil;

(b) Maintains, for public inspection at the charter school, a copy of the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments; and

(c) Complies with the policies and procedures for the suspension and expulsion of pupils.

15. A description of the attendance policy of the charter school and a determination whether the policy is:

(a) Distributed to each pupil in accordance with NAC 386.350; and

(b) Available for public inspection during the school's regular business hours.

16. If pupils with disabilities are enrolled in the charter school, a determination whether the provision of special educational services and programs to those pupils complies with the requirements set forth in chapters 388 and 395 of NRS and NAC 388.150 to 388.450, inclusive.

17. A determination whether the charter school provides instruction in the core academic subjects set forth in subsection 1 of NRS 389.018, as applicable for the grade levels of pupils who are enrolled in the charter school.

18. A determination whether the charter school provides at least the courses of study that are required of pupils by statute or regulation for promotion to the next grade or graduation from a public high school and requires the pupils who are enrolled in the charter school to take those courses of study.

19. A determination whether the charter school complies with NRS 386.590 regarding the employment of teachers and other educational personnel.

20. A determination whether the status of the employees of the charter school and the rights and benefits provided to those employees comply with NRS 386.595.

21. A description of the manner in which the charter school maintains personnel records for its employees.

22. A description of the procedure for the enrollment of pupils in the charter school, including, without limitation, whether the charter school enrolls pupils on the basis of a lottery system if more pupils who are eligible for enrollment apply for enrollment than the number of spaces that are available.

23. If the charter school provides instruction to pupils enrolled in kindergarten, first grade or second grade, a determination whether the charter school complies with NRS 392.040 regarding the ages for enrollment in those grades.

24. A determination whether the charter school refrains from charging tuition or fees, except for those fees that are authorized by specific statute or by the written charter of the charter school.

25. A determination whether the charter school provides written notice to the parents and legal guardians of pupils enrolled in grades 9 to 12, inclusive, whether the charter school is accredited by the Commission on Schools of the Northwest Association of Accredited Schools.

26. A determination whether the charter school complies with NRS 386.583 regarding the adoption of rules for academic retention.

27. A determination of whether the charter school maintains a type and amount of insurance in a manner that complies with paragraph (l) of subsection 1 of NRS 386.550, which may include workers' compensation insurance, or is otherwise prepared to hold harmless, indemnify and defend the sponsor of the charter school as required by that paragraph.

28. A determination whether the written inventory of equipment, supplies and textbooks that is maintained by the charter school pursuant to NAC 386.342 is current and accurate.

Sec. 13. NAC 386.080 is hereby repealed.

Sec. 14. 1. This section and sections 1 to 11, inclusive, of this regulation become effective upon filing with the Secretary of State.

2. Sections 12 and 13 of this regulation become effective on July 1, 2006.

TEXT OF REPEALED SECTION

NAC 386.080 Charter schools that provide education for pupils at risk: Interpretation of statutory exemption from limitation on number of schools; documentation of status.

(NRS 386.510, 386.540)

1. The Department will interpret the term "charter schools that are dedicated to providing educational programs and opportunities for pupils who are at risk" as used in subsection 2 of

NRS 386.510 to mean those charter schools in which at least 51 percent of the pupils enrolled are pupils who are at risk, as that term is defined in NRS 386.500.

2. If a written charter is issued to a charter school that is dedicated to providing educational programs and opportunities for pupils who are at risk, the charter school shall maintain documentation indicating which pupils enrolled in the charter school are pupils who are at risk, as that term is defined in NRS 386.500.

3. If the annual report of compliance submitted pursuant to NAC 386.410 for a charter school that is dedicated to providing educational programs and opportunities for pupils who are at risk indicates that less than 51 percent of the pupils enrolled in the charter school are at risk, as that term is defined in NRS 386.500, the charter school shall:

(a) Within 1 year after the annual report of compliance, submit evidence to the sponsor of the charter school and to the Department that the percentage of pupils enrolled in the charter school who are at risk, as that term is defined in NRS 386.500, has increased; and

(b) Within 2 years after the annual report of compliance, submit evidence to the sponsor of the charter school and to the Department that at least 51 percent of the pupils enrolled in the charter school are at risk, as that term is defined in NRS 386.500.