

**ADOPTED REGULATION OF THE
DEPARTMENT OF EDUCATION**

LCB File No. R169-07

Effective September 18, 2008

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

AUTHORITY: §§1, 3 and 10, NRS 386.525, 386.527 and 386.540; §§2, 8 and 9, NRS 386.520 and 386.540; §§4-6, 17 and 18, NRS 386.540; §7, NRS 386.520, 386.525 and 386.540; §§11 and 12, NRS 386.527 and 386.540; §13, NRS 386.530 and 386.540; §14, NRS 386.535 and 386.540; §15, NRS 386.536 and 386.540; §16, NRS 386.540 and 386.549.

A REGULATION relating to charter schools; revising provisions governing applications to form charter schools; revising provisions relating to charter schools to include sponsorship by a college or university within the Nevada System of Higher Education; and providing other matters properly relating thereto.

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

Sec. 2. 1. *If an application to form a charter school is submitted to the Department pursuant to NRS 386.520 for sponsorship by the State Board of Education, the Department will 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.

2. Within 30 days after receipt of the application, the Department will provide written notice to the applicant of its findings pursuant to subsection 1, including any items that are incomplete or noncompliant. Written notice informing the applicant that the application is

incomplete or noncompliant shall be deemed denial of the application for purposes of subsection 3 of NRS 386.520.

3. If the Department denies an application, the application may be resubmitted within 30 days after receipt of the written notice of denial for review pursuant to this section. An application may be resubmitted pursuant to this subsection not more than once in a fiscal year.

4. An application that is approved pursuant to this section by 5 p.m. on December 15 of the fiscal year immediately preceding the fiscal year in which the proposed charter school will begin operation may be transmitted to the Subcommittee on Charter Schools for review pursuant to NRS 386.525 and section 3 of this regulation.

Sec. 3. 1. If the Subcommittee on Charter Schools receives an application pursuant to NRS 386.525 to form a charter school for sponsorship by the State Board of Education and the application has not previously been denied by the board of trustees of a school district or a college or university within the Nevada System of Higher Education, the staff of the Department, acting on behalf of the State Board, shall 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, when 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. *Other than material required to convert a written charter issued by the State Board of Education pursuant to subsection 7 of NRS 386.527 to a written charter issued pursuant to subsection 5 of NRS 386.527, no additional application material will be accepted from the applicant after the submission of the application unless specifically requested by the State Board, the Subcommittee on Charter Schools or the Department to assist in the review of the application.*

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

(a) A copy of the proposed written agreement if the State Board approves the application pursuant to subsection 5 of NRS 386.527 or a copy of the proposed written agreement if the State Board approves the application pursuant to subsection 7 of NRS 386.527; and

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

4. *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

(b) Determine whether the application complies with NRS 386.500 to 386.610, inclusive, and the regulations applicable to charter schools.

5. *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.*

6. A written charter may be granted pursuant to subsection 7 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.

7. 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.

8. 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 the 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. 4. 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 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 386.015 to 386.050, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NAC 386.050 is hereby amended to read as follows:

386.050 “Written charter” means a written charter granted by the board of trustees of a school district , *a college or university within the Nevada System of Higher Education* or the State Board of Education pursuant to NRS 386.527. The written charter includes both the application to form a charter school approved by the sponsor and a written agreement signed by the sponsor and the charter school.

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 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;
- (d) The date on which the proposed charter school will begin operation; and
- (e) Whether the proposed sponsor is the school district in which the charter school will be located, *a college or university within the Nevada System of Higher Education* or the State Board of Education. If the proposed sponsor is a school district, *a college or a university, as applicable*, 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, *the college or the university, as applicable*, 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 386.130 is hereby amended to read as follows:

386.130 1. The Department will prescribe forms for the use of a committee to form a charter school in applying to:

(a) The Department, pursuant to subsection 2 of NRS 386.520;

(b) The board of trustees of the school district in which the proposed charter school will be located, pursuant to NRS 386.525; ~~and~~

(c) *A college or university within the Nevada System of Higher Education, pursuant to NRS 386.525; and*

(d) The State Board of Education, pursuant to NRS 386.525,

↪ to form a charter school.

2. An application to form a charter school must not propose to form a charter school in more than one county. The Department will accept only one application per year from each committee to form a charter school. The State Board of Education, *a college or university within the Nevada System of Higher Education* and the board of trustees of a school district shall accept only one application per year from each committee to form a charter school. An application that is submitted to:

(a) The Department, pursuant to subsection 2 of NRS 386.520;

(b) The board of trustees of the school district in which the proposed charter school will be located, pursuant to NRS 386.525; ~~and~~

(c) *A college or university within the Nevada System of Higher Education, pursuant to NRS 386.525; and*

(d) The State Board of Education, pursuant to NRS 386.525,

↪ must be submitted on forms prescribed pursuant to subsection 1 and must be submitted to the Department not later than 5 p.m. on September 1 of the fiscal year immediately preceding the fiscal year in which the proposed charter school will begin operation and to the ~~board of trustees or the State Board of Education~~ *proposed sponsor* not later than 5 p.m. on ~~January~~ *December* 15 of the fiscal year immediately preceding the fiscal year in which the proposed charter school will begin operation.

3. An application to form a charter school may not be submitted earlier than 2 fiscal years immediately preceding the fiscal year in which the proposed charter school will begin operation.

4. Pursuant to NRS 386.520 and 386.525, only a committee to form a charter school may submit an application to form a charter school. The Department will not accept an application from a committee whose membership includes a:

- (a) Potential contractor of the proposed charter school;
- (b) Potential lessor of a facility that the proposed charter school may lease; or
- (c) Representative of an educational management organization with which the proposed charter school may contract.

↪ ~~Neither the~~ *The* State Board of Education ~~nor the~~ *, a college or university within the Nevada System of Higher Education or the* board of trustees of a school district shall *not* accept an application from a committee to form a charter school whose membership includes a person or entity described in paragraph (a), (b) or (c).

5. An application may be submitted only for the kind of school, as defined in NRS 388.020, that will be operated during the first year of operation. If the applicant intends to expand the kind

of school for which the charter school is authorized to operate after the first year of operation, the written charter must be amended pursuant to subsection 6 of NRS 386.527.

~~[6. Except as otherwise provided in this subsection, if an application to form a charter school is approved and the charter school fails to become an operational charter school, the committee that submitted the application may not submit another application 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 an application submitted for a charter school that is dedicated to providing educational programs and opportunities for pupils who are at risk.]~~

Sec. 8. NAC 386.180 is hereby amended to read as follows:

386.180 In addition to the items required pursuant to subsection 2 of NRS 386.520, an application submitted to the Department pursuant to that subsection by a committee to form a charter school must also include certain miscellaneous information concerning the proposed charter school, including, without limitation:

1. A description of the lottery system that the proposed charter school will use pursuant to NRS 386.580 if more eligible pupils apply for enrollment in the charter school than the number of spaces for pupils which are available.
2. The name, address, telephone number and, if applicable, the electronic mail address of the person selected to act as liaison pursuant to NAC 386.110.
3. Information concerning records of pupils that will be maintained by the proposed charter school in accordance with NAC 386.360, including, without limitation:
 - (a) The name and title of the person who will be responsible for:

- (1) Maintaining records of pupils; and
 - (2) Providing records of pupils to the school district in which the charter school is located for inclusion in the automated system of accountability information for Nevada that is established and maintained by the Department pursuant to NRS 386.650.
- (b) An example of the manner in which the cumulative record of a pupil is proposed to be stored.
 - (c) The proposed location within the charter school in which records of pupils will be stored.
 - (d) The name of the person who will be responsible for the records of pupils if the charter school is dissolved or the written charter of the charter school is not renewed.
 - (e) The policy of the charter school regarding the retention of the records of pupils.
4. A proposed budget that sets forth the estimated revenues and expenditures of the charter school for the first 2 years of operation, including, without limitation, the cost of insurance required by NAC 386.215. In addition, the proposed budget must be accompanied by a statement of cash flow and a budget for the period before the charter school commences operation.
 5. A list of rules setting forth the policies of the charter school regarding truancy and other situations in which a pupil is absent from school.
 6. If known at the time of application:
 - (a) The name of each contractor, including, without limitation, an educational management organization, the board of trustees of a school district, the Nevada System of Higher Education and any business, corporation, organization or other entity, whether or not conducted for profit, with whom the *committee to form the charter school or the proposed* charter school intends to contract *or is considering contracting with* to provide any service to the charter school;

(b) A copy of the format for the contract that will be used for each contractor identified in paragraph (a), if a particular format is anticipated at the time the application is submitted;

(c) The name of a contact person for each contractor identified in paragraph (a);

(d) The telephone number and mailing address of each contractor identified in paragraph (a);
and

(e) A description of the service to be provided by the contractor.

7. If the application was prepared by a person who is not a member of the committee to form the charter school or by another entity, including, without limitation, an educational management organization, or if such a person or entity assisted the committee in preparing the application:

(a) The name of the person or entity;

(b) The name and location of any public school, private school or charter school with which the person or entity has been or is presently affiliated, including, without limitation, the street address and mailing address of that school;

(c) The dates on which the person or entity was affiliated with a school described in paragraph (b), if any such affiliation occurred;

(d) A statement indicating whether the person or entity is presently affiliated with a school described in paragraph (b) or has ceased the affiliation;

(e) If the affiliation has ceased, a statement indicating the reason for the cessation; and

(f) A detailed resume listing the qualifications of the person or entity.

Sec. 9. NAC 386.190 is hereby amended to read as follows:

386.190 If the Department reviews an application to form a charter school *for sponsorship by the board of trustees of a school district or a college or university within the Nevada System*

of Higher Education to determine whether ~~if~~ *the application* is complete pursuant to subsection 3 of NRS 386.520, the Department will provide written notice to the applicant of its determination as to whether the application is complete within ~~15 working~~ 30 days after receipt of the application.

Sec. 10. 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 ~~the~~ *pursuant to subsection 4 of NRS 386.525 after the application has been denied twice by the board of trustees of a school district or a college or university within the Nevada System of Higher Education:*

(a) *The* staff of the Department, acting on behalf of the State Board of Education, ~~will~~ *shall* verify the contents of the application by:

~~(a)~~ (1) Performing a physical inspection of the location of the proposed charter school, if applicable;

~~(b)~~ (2) Consulting with the members of the committee to form the charter school and, ~~where~~ *when* appropriate, the proposed administrators and staff members of the proposed charter school; and

~~(c)~~ (3) 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~~

(b) *The* application that is submitted to the State Board of Education must be the same application that was denied by the board of trustees , *the college or the university, as applicable,*

except that it may be revised in response to concerns stated by the board of trustees , *the college or the university, as applicable*, in its second denial of the application if such a revision does not significantly alter the application.

~~{3}~~ 2. Within 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}~~ 3. Within 30 days after an application is received by the Subcommittee on Charter Schools, the Department will provide to the applicant its findings pursuant to subsection ~~{3}~~ 2, 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}~~ 4. Within 30 days after an application is received by the Subcommittee on Charter Schools, the Department will provide to the State Board of Education:

(a) The findings of the Department pursuant to subsection ~~{3}~~ 2;

(b) ~~If applicable, the~~ *The* reasons for the first and second denial of the application by the board of trustees of a school district ~~{1}~~ *or a college or university within the Nevada System of Higher Education;*

(c) A copy of the proposed written agreement if the State Board approves the application pursuant to subsection 5 of NRS 386.527 or a copy of the proposed written agreement if the State Board approves the application pursuant to subsection 7 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-}~~ 5. Other than material required to convert a written charter issued by the State Board of Education pursuant to subsection 7 of NRS 386.527 to a written charter issued pursuant to subsection 5 of NRS 386.527, no additional application material will be accepted from the applicant after the submission referred to in ~~{subsections 1 and 2}~~ *subsection 1* unless specifically requested by the State Board, the Subcommittee on Charter Schools or the Department to assist in the review of the application.

~~{7-}~~ 6. 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}~~ :

(1) The board of trustees of a school district, any reports generated by the employees of that school district pursuant to NAC 386.200; or

(2) A college or university within the Nevada System of Higher Education, any reports generated by the employees of that institution; and

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

~~{8-}~~ 7. 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.

~~19.1~~ **8.** The State Board of Education shall not approve an application for a written charter pursuant to subsection 5 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 7 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.

~~110.1~~ **9.** 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.

~~111.1~~ **10.** 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 *the* 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. 11. 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 the date on which the State Board of Education , ~~for~~ the

board of trustees *or a college or university within the Nevada System of Higher Education* approves the application to form the charter school pursuant to subsection 1 of NRS 386.527.

Sec. 12. NAC 386.240 is hereby amended to read as follows:

386.240 1. The board of trustees of a school district , *a college or university within the Nevada System of Higher Education* or the State Board of Education may issue a written charter pursuant to subsection 7 of NRS 386.527 if the board of trustees , *the college or the university* or *the* State Board, as applicable, determines that the applicant is not prepared to commence operation on the date of issuance of the written charter. Except as otherwise provided in this subsection, a written charter issued pursuant to subsection 7 of NRS 386.527 expires 1 year after the date of issuance and is nonrenewable. A written charter issued pursuant to subsection 7 of NRS 386.527 to a charter school that is dedicated to providing educational programs and opportunities for pupils who are at risk expires 2 years after the date of issuance and is nonrenewable. If a written charter is issued pursuant to subsection 7 of NRS 386.527, a governing body must be selected and the provisions of NRS 386.549 and NAC 386.345 apply to the governing body.

2. A written charter issued pursuant to subsection 7 of NRS 386.527 must include:

(a) A notation indicating the date on which the charter expires and indicating that the charter is nonrenewable;

(b) Each reason why the charter school is not prepared to commence operation on the date of issuance of the charter;

(c) The conditions that the governing body of the charter school must satisfy to convert the written charter issued pursuant to subsection 7 of NRS 386.527 to a written charter issued pursuant to subsection 5 of NRS 386.527;

(d) The tasks that must be accomplished by the governing body of the charter school before it may submit a supplemental application to convert the written charter issued pursuant to subsection 7 of NRS 386.527 to a written charter issued pursuant to subsection 5 of NRS 386.527, including, without limitation, the timeline by which those tasks must be accomplished; and

(e) A statement by the governing body of the charter school indicating that it understands that:

(1) To receive apportionments from the State Distributive School Account, the charter school must comply with NAC 386.355;

(2) The governing body shall not authorize the attendance of pupils at the charter school unless the charter school has obtained a written charter issued pursuant to subsection 5 of NRS 386.527; and

(3) The governing body must obtain the insurance required by NAC 386.215 before commencing operation as a charter school.

3. Before the expiration of a written charter issued pursuant to subsection 7 of NRS 386.527, the holder of the charter may submit a supplemental application to the sponsor requesting that the sponsor determine whether the charter school is eligible for a written charter issued pursuant to subsection 5 of NRS 386.527. The supplemental application must be submitted not less than 30 days before the expiration of the written charter issued pursuant to subsection 7 of NRS 386.527.

Sec. 13. NAC 386.320 is hereby amended to read as follows:

386.320 If the sponsor of a charter school receives an application pursuant to subsection 2 of NRS 386.530 for renewal of the initial written charter of the charter school, the sponsor shall:

1. Within 30 days after receipt of the application, designate one or more employees of the school district , *the college or the university, as applicable*, or, if the State Board of Education is the sponsor, one or more employees of the Department, to verify the contents of the application by:

- (a) Performing a physical inspection of the location of the charter school; and
- (b) Interviewing the members of the governing body of the charter school and, ~~where~~ *when* appropriate, the administrators and staff members of the charter school.

2. Within 60 days after receipt of the application, consider the application along with any reports generated by the employees of the school district ~~for the employees of~~ , *the college or the university or* the Department, as applicable, pursuant to subsection 1 at a public meeting for which notice has been provided pursuant to chapter 241 of NRS.

Sec. 14. NAC 386.330 is hereby amended to read as follows:

386.330 If the sponsor of a charter school intends to revoke the written charter of a charter school pursuant to NRS 386.535, the sponsor shall:

1. Notify the governing body of the charter school, pursuant to subsection 2 of NRS 386.535, by certified mail. If the State Board of Education is the sponsor of the charter school, the Department will transmit written notice of the Board's intent to revoke the charter to the governing body of the charter school by certified mail. The written notice must:

- (a) Be signed by the Superintendent of Public Instruction or his designee; and
- (b) Comply with subsection 3.

2. If the board of trustees of a school district *or a college or university the Nevada System Higher Education, as applicable*, is the sponsor, submit to the Department a copy of the notice

described in subsection 1 within 5 days after providing notice to the governing body of the charter school.

3. Ensure that the notices required pursuant to subsections 1 and 2:

(a) Set forth evidence that the sponsor has made a determination pursuant to subsection 1 of NRS 386.535; and

(b) Describe the findings of the sponsor that authorize revocation of the written charter of the charter school pursuant to NRS 386.535.

Sec. 15. NAC 386.335 is hereby amended to read as follows:

386.335 1. If the governing body of a charter school makes a voluntary decision to close the charter school, the written charter of the charter school is revoked or the operation of the charter school is otherwise terminated for any reason, the governing body shall:

(a) Not less than 30 days before the closure of the charter school, provide written notice of the closure to the Department, the sponsor of the charter school and the employees of the charter school which includes:

(1) The reason for the closure;

(2) The date of the closure;

(3) The date of the meeting of the governing body on which the determination was made to close the charter school, if applicable; and

(4) The name of the ~~{trustee}~~ *administrator or other qualified person* appointed pursuant to ~~{paragraph (g)}~~ *NRS 386.536 to act as a trustee* and information on how that person may be contacted;

(b) Not less than 30 days before the closure of the charter school, provide written notice of the closure by regular mail to the parent or legal guardian of each pupil enrolled in the charter

school which includes information on how the pupil may transfer to another public school and the manner in which the records of the pupil will be transferred;

(c) Not less than 30 days before the closure of the charter school, provide written notice of the closure to the board of trustees of each school district in which a pupil enrolled in the charter school resides which includes notification of the closure of the charter school and notification that the school district may receive pupils for enrollment upon the closure;

(d) Not less than 30 days before the closure of the charter school, submit to the sponsor of the charter school all records pertinent to:

(1) The indebtedness of the charter school, if any; and

(2) Any property of the charter school that is encumbered;

(e) Ensure that all information required by NRS 386.650 for inclusion in the automated system of accountability information for Nevada is current to the date of the closure;

(f) Return any remaining restricted assets to their source, such as grant money and money contained in restricted categorical funds;

(g) ~~Appoint a member of the governing body who is a licensed teacher to act as a trustee during the process of the closure of the charter school and for 1 year after the date of closure to assume responsibility for the records of the:~~

~~(1) Charter school;~~

~~(2) Employees of the charter school; and~~

~~(3) Pupils enrolled in the charter school;~~

~~(h)~~ Create a current and projected payroll and payroll benefits commitment, listing each employee, each employment position and the amount of money required to satisfy existing contracts;

~~(h)~~ (h) Submit to the sponsor of the charter school a report of the income tax documentation for the employees of the charter school;

~~(i)~~ (i) Ensure that the outstanding obligations of the charter school are settled after closure of the charter school, including, without limitation, unemployment compensation, employee benefits, resolution of the lease agreement for the charter school, if applicable, and final balances for utilities and other costs; and

~~(j)~~ (j) Provide to the Department and the sponsor of the charter school:

(1) Not later than 6 months after closure of the charter school, the results of an independent audit, including, without limitation, the net assets and net liabilities of the charter school; and

(2) The annual report of budget required by NRS 386.600.

2. Upon notification of the closure of a charter school, the Department and the sponsor of the charter school shall each notify the governing body of the charter school of any outstanding liabilities owed by the charter school to the Department or the sponsor, as applicable.

3. If the governing body of a charter school makes a voluntary decision to close the charter school, the written charter of the charter school is revoked or the operation of the charter school is otherwise terminated for any reason:

(a) The sponsor of the charter school shall conduct a physical inspection of the charter school to confirm that all equipment, supplies and textbooks identified in the inventory of the charter school maintained pursuant to NAC 386.342 are on the premises of the charter school; and

(b) The governing body of the charter school shall ensure that all money received by the charter school from this State that is unencumbered is returned to the Department and placed in an escrow account for the purpose of satisfying any outstanding obligations of the charter school.

One year after the establishment of the escrow account, the Department will transfer the balance remaining in that account to the State Distributive School Account created pursuant to NRS 387.030.

4. If a licensed teacher who is a member of the governing body of a charter school fails to comply with subsection 1 or paragraph (b) of subsection 3, the sponsor of the charter school or the Superintendent of Public Instruction may consider whether such failure to comply constitutes grounds for suspension or revocation of the license of the teacher pursuant to NRS 391.330 and whether appropriate action is warranted in accordance with NRS 391.320 to 391.361, inclusive.

Sec. 16. 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~~ *not more than one* 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. *In no event may representatives of the same organization or business serving on the governing body constitute a majority of the members of the governing body.*

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 5 of NRS 386.549, a photocopy of his license to teach; and
- (e) An affidavit of each member indicating that he:
 - (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 4 of NRS 386.549, the governing body shall submit to the Department and to the sponsor of the charter school a copy of the minutes of the meeting. The minutes of each public meeting must be approved at the next meeting of the governing body and revised as necessary.

7. If the minutes of a meeting have not been approved by the governing body when it submits the minutes pursuant to subsection 6, the governing body shall:

(a) Submit a written statement, accompanying the minutes that are submitted pursuant to subsection 6, indicating that the minutes have not been approved and are subject to revision; and

(b) Submit to the Department and the sponsor of the charter school a copy of the approved minutes not later than 10 days after such approval.

Sec. 17. 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:

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

2. The Department ~~of Education~~ if the State Board of Education *is the sponsor of the charter school; or*

3. *The Department if a college or university within the Nevada System of Higher 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. 18. NAC 386.410 is hereby amended to read as follows:

386.410 The sponsor of a charter school shall submit to the Department a performance audit that reports the compliance of the charter school with the written charter and with the applicable statutes and regulations. The report of compliance must be submitted annually unless the charter school is eligible for a waiver from the annual submission pursuant to NRS 386.5515 and section 1 of ~~this regulation~~ *LCB File No. R135-07, which was adopted by the State Board of Education and was filed with the Secretary of State on April 17, 2008.* If the charter school submits the documentation required for a waiver pursuant to section 1 of ~~this regulation~~ *LCB File No. R135-07* and the sponsor determines that the charter school is eligible for the waiver, the charter school shall submit to the performance audit every 3 years. If the board of trustees of

a school district *or a college or university within the Nevada System of Higher Education* is the sponsor of a charter school, the report of compliance must be included in the report that is required pursuant to NRS 386.610. The 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 the number of teachers required by 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 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 the type and amount of insurance:

(a) Required by NAC 386.215.

(b) In a manner that complies with paragraph (l) of subsection 1 of NRS 386.550, which may include worker's 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.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R169-07

The Department of Education adopted regulations assigned LCB File No. R169-07 which pertain to chapter 386 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.

Notice of Workshop to Solicit Comments on Proposed Regulations was sent to approximately 200 individuals and educational organizations. A workshop was held on March 7, 2008. There was public comment.

The Notice of Intent to Act Upon a Regulation for public hearing and adoption of the amendments to New Section to Chapter 386; and Proposed amendments to NAC 386.010, 386.050, 386.090, 386, 125, 386.130, 386.190, 386.202, 386.205, 386.240, 386.320, 386.335, 386.345, 386.365, 386.410, 386.445 – Regulations relating to charter schools, revising provisions governing application to form charter school; revising provisions relating to charter school to include sponsorship by a college or university within the Nevada System of Higher Education The public hearing was conducted on May 2, 2008 to provide the opportunity for comments by affected parties and the public. There was public comment. The State Board of Education adopted the proposed amendments to the regulations with additional amendments.

2. The Number of Persons Who:

- a) Attended Each Hearing: First Workshop: 31; First Hearing: 15; Second Hearing: N/A
- b) Testified at Each Hearing: First Workshop: 5; First Hearing: 2; Second Hearing: N/A
- c) Submitted Written Statement: First Workshop: 0; First Hearing: 0; Second Hearing: N/A

A copy of any written comments may be obtained by contacting Doris Arnold, Executive Assistant, Nevada Department of Education, 775-687-9217, or by writing to the Nevada Department of Education, 700 East Fifth Street, Carson City, Nevada 89701-5096.

3. A description of how comments were solicited from affected businesses, a summary of the response and an explanation how other interested parties may obtain a copy of the summary.

Comments were solicited through the workshop notice of February 1, 2008; and the public hearing notice of March 28, 2008. At the March 7, 2008 Workshop to Solicit Comments, there was public comment to the proposed amendments to the regulation language. At the May 2, 2008 public hearing there was public comment to the proposed amendments to the regulation language.

Summary of Comments:
Workshop/Public Hearing Comments:

Workshop comments:

- (a) Terry Care, Attorney for Virtual Academy, stated that his comments regarded section 3, item 6(b) and that the regulation stemmed from the passage of AB 334, but deals with language amended by the Legislature in 2005. Senator Care expressed concerns on how the Board would determine insufficiencies to deny an application or how a contractor was considered “problematic”. Senator Care stated that his concerns with the regulations were elusive and would provide the Board the latitude to deny an application just because enough Board members felt like it.
- (b) Dr. Mike Robinson, Associate Professor, University of Nevada-Las Vegas and Insight Charter School, requested that they believe their application, which was pulled from the agenda, was a complete and compliant document and could have been approved at an earlier meeting. This is a charter school that wanted to help at-risk students and reviewed the Governing Board members of this charter school.
- (c) Dr. John Hawk, Executive Director for Nevada State High School, brought to the Board’s attention a grave concern that an error in State Proficiency Exams was made which was failing a student that actually should have passed and that the same could be said of schools in the State of Nevada. He asked the Board to take into consideration that recruiting students was of vital importance to charter schools. Dr. Hawk requested, for a third time, that charter schools be allowed to participate in workshop items. Dr. Hawk commended the State Board’s efforts.
- (d) Laura Granier, Attorney for Lionel, Sawyer, and Collins and on behalf of Nevada Connections Academy, concurred with Senator Care’s comments. Ms. Granier stated that they also hoped Nevada would be a part of the general movement by states and to have a charter application process that facilitates objective, evidence-based decision making.
- (e) Ricci Rodriguez-Elkins, Executive Director of CFCSD, stated that she was pleased to see the Department and the Board taking steps to identify specific criteria. Overall, it would assist schools and the State Board for accepting and approving new applications in the future. One concern that had not been addressed was Section 7, Item 2, Subsection 6(b) in the additional items criteria handout from the Department regarding the location of a charter school being limited to the type of schools based on the type of curriculum on instructional method of another school in the same geographical area because it would diminish the choices to families.

Public Hearing comments:

- (f) Steve Knight, Silver State High School, questioned if they would be “grandfathered in” with regard to the new regulation.

(g) Yvonne Goodson, McDonald, Carano, and Wilson, submitted letters for the record dated April 25, 2008 expressing concern that the language exceed the scope of legislative authority with regard to charter school applications.

A copy of the summary and/or minutes of the public hearing may be obtained by contacting Doris Arnold, Executive Assistant, Nevada Department of Education, 775-687-9217, or by writing to the Nevada Department of Education at 700 East Fifth Street, Carson City, Nevada 89701-5096.

4. If the regulation was adopted with or without change to any part of the proposed regulation, a summary of the reasons for adopting.

The Nevada State Board of Education adopted the proposed amendments to the regulation language at the public hearing held May 2, 2008. The reason for adopting the regulation is to comply with changes by the 2007 Nevada State Legislature in AB 334. The proposed regulation amends the individual responsible for closing a charter school from a licensed teacher to the school's administrator, added the University of Nevada System of Higher

Education as a sponsor of charter schools, and more clearly defined the process for State Board sponsorship of charter schools when applications come directly to the State Board for sponsorship.

5. The estimated economic effect of the adopted regulation on the business that it is to regulate and on the public. These must be stated separately and each case must include:

There is no economic effect on the Department of Education. Applicants may submit a charter proposal directly to the State Board for sponsorship. There is no economic effect from changing the person responsible for closing a charter school from a teacher to an administrator. There is no economic effect on the public or the business it regulates.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of this regulation.

7. A description of any regulations of other state or governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

No other state or governmental agency regulations will be overlapped or duplicated by the above noted regulation. There is no duplication or overlap of federal regulations.

8. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

There are none.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not provide for a new fee or increase an existing fee.