

**THIRD REVISED ADOPTED REGULATION OF THE
DEPARTMENT OF EDUCATION**

LCB File No. R108-15

Effective

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

AUTHORITY: §§1-6, 18, 23 and 26, NRS 388B.060; §§7, 8, 13 and 15, NRS 388B.060 and 388B.200; §§9-12, NRS 388B.060, 388B.200 and 388B.220; §14, NRS 388B.060, 388B.200 and 388B.210; §§16, 17 and 25, NRS 388B.060 and 388B.210; §§19-21 and 27-30, NRS 388B.060 and 388B.220; §22, NRS 388B.060 and 388B.230; §24, NRS 388B.060, 388B.230 and 388B.260; §31, NRS 388B.060 and 388B.400.

A REGULATION relating to education; authorizing the Achievement School District to contract with certain professional and technical personnel; providing the process for selecting schools for conversion to achievement charter schools; authorizing a parent or legal guardian to petition to convert a public school to an achievement charter school or take certain other actions concerning an underperforming school; providing for performance compacts between a school district and the Department of Education; providing for the selection of an operator of an achievement charter school; establishing the priority for the enrollment of pupils at an achievement charter school; making various other changes concerning the operation and financing of an achievement charter school and a contract to operate an achievement charter school; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the conversion of certain underachieving public schools into achievement charter schools and establishes the procedure for the operation of achievement charter schools. (Chapter 388B of NRS) Existing law requires the Department of Education to adopt any regulations necessary or convenient to carry out these provisions. (NRS 388B.060)

Existing law establishes the Achievement School District within the Department for the purpose of sponsoring achievement charter schools. (NRS 388B.100, 388B.220) **Section 6** of this regulation authorizes the Executive Director of the Achievement School District to contract for the services of a consultant or other professional or technical personnel to carry out its duties.

Existing law establishes the criteria which makes a public school eligible for conversion to an achievement charter school, which include unsatisfactory pupil achievement and school performance at the public school, as determined by the Department pursuant to criteria established by regulation of the Department. (NRS 388B.200) **Section 7** of this regulation prescribes the criteria that the Department will use to make such a determination. **Section 7** also requires the board of trustees of a school district to provide the Executive Director with the name

and contact information of the parents or legal guardians of each pupil who is enrolled in a public school that is eligible for conversion to an achievement charter school. **Section 8** of this regulation requires the Department and the board of trustees of each school district to publish annually a list of public schools that are eligible for conversion to an achievement charter school. **Section 9** of this regulation authorizes any parent or legal guardian to circulate and submit a petition containing recommendations for: (1) converting a public school to an achievement charter school; (2) the Department and the board of trustees of a school district to enter into a performance compact concerning a public school that is underachieving; and (3) the Executive Director to terminate the contract to operate an achievement charter school that is underachieving. **Section 10** of this regulation prescribes the requirements for gathering signatures and circulating such a petition. **Section 11** of this regulation prescribes actions that the Executive Director and State Board of Education must take to verify and approve a petition. **Section 12** of this regulation prescribes the effects of such a petition if found to be valid.

Section 13 of this regulation requires the Department to offer to negotiate a performance compact with the board of trustees of a school district to address certain underperforming public schools within the school district that are eligible for conversion to an achievement charter school but are not selected for such conversion. A public school that is subject to a performance compact will not be selected for conversion to an achievement charter school during the term of the performance compact. The Department may terminate a performance compact if, as the result of an annual review, the Department determines that the public school has not made adequate progress toward the goals prescribed in the performance compact.

Existing law requires the Executive Director to solicit and consider input from parents of pupils enrolled in a public school and other members of the community in which the public school is located before: (1) designating the public school for conversion to an achievement charter school; and (2) selecting a charter management organization, educational management organization or other person to operate the achievement charter school. (NRS 388B.200, 388B.210) **Section 14** of this regulation: (1) also requires the Executive Director to solicit such input from the legal guardians of pupils; and (2) prescribes the procedure that the Executive Director must use to solicit such input from the parents and guardians of pupils.

Section 15 of this regulation prescribes the dates by which the Executive Director must annually: (1) submit the list of public schools for continued eligibility for conversion to achievement charter schools to the State Board for approval; and (2) select public schools for conversion to achievement charter schools. **Section 15** also requires the State Board to consider any relevant information, including historical achievement data, when considering which public schools to approve for final consideration for conversion by the Executive Director.

Existing law requires the Department to adopt regulations that prescribe the process by which a charter management organization, educational management organization or other person may apply to operate an achievement charter school. (NRS 388B.210) **Section 16** of this regulation establishes the requirements to apply for approval to operate an achievement charter school and the procedure by which the Executive Director shall review and approve such applications. **Section 17** of this regulation prescribes the process by which: (1) an operator that has been approved may apply to the Department to operate a public school selected for conversion to an achievement charter school; (2) the Executive Director shall select an applicant

to operate the achievement charter school; and (3) an operator of an achievement charter school may apply to the Executive Director to expand the achievement charter school.

Existing regulations impose certain requirements concerning the operation and financing of charter schools. (NAC 386.205-386.223, 386.329, 386.341, 386.3415, 386.342, 386.357, 386.365, 386.400, 386.407, 386.450-386.472) **Section 18** of this regulation makes these requirements also applicable to achievement charter schools. **Section 19** of this regulation prescribes certain requirements concerning the membership of the governing body of an achievement charter school, and **sections 20 and 21** of this regulation prescribe certain duties of the governing body.

Section 22 of this regulation: (1) authorizes the parent or guardian of any child who resides within this State to apply for enrollment at an achievement charter school; (2) prohibits the governing body of an achievement charter school from limiting the enrollment of pupils in the school except in certain circumstances; and (3) establishes the order of priority in which applicants must be enrolled in the achievement charter school.

Existing law requires the governing body of a charter school to authorize a child enrolled in a public school of a school district or a private school, a homeschooled child or an opt-in child to participate in a class that is not otherwise available to the child or an extracurricular activity at the charter school if space is available and certain other requirements are met. Existing law also provides that the charter school is not required to provide transportation for any such child to the class or activity and authorizes the governing body to revoke such authorization if the governing body determines that the child has failed to comply with applicable statutes, rules or regulations. (NRS 388A.471) **Section 23** of this regulation similarly requires the governing body of an achievement charter school to allow such a child to participate in a class or an extracurricular activity at the achievement charter school under the same conditions.

Existing law provides that an achievement charter school must continue to operate in the same building in which the school operated before being converted to an achievement charter school and requires the governing body of the achievement charter school to pay costs related to maintenance and operation of the building. Existing law requires the board of trustees of the school district in which the school is located to pay all capital expenses. (NRS 388B.230) **Section 24** of this regulation provides that: (1) the board of trustees of the school district in which an achievement charter school is located continues to own the building in which the school operates; (2) the governing body of an achievement charter school is required to enter into an agreement with the board of trustees of the school district in which the school is located concerning maintenance of the building; (3) any repair or construction that is necessary for the continued operation of an achievement charter school that has a cost exceeding \$15,000 shall be deemed to be a capital expense; and (4) if an achievement charter school is converted to a public school under the governance of the board of trustees of a school district or a standard charter school, any fixtures, improvements or other tangible assets added to the building in which the achievement charter school operates by the governing body must remain with the building after the school is converted.

Existing law requires the board of trustees of a school district, upon the request of the Executive Director, to perform certain services relating to the operation of an achievement

charter school. (NRS 388B.260) **Section 24** authorizes the Executive Director or the operator of an achievement charter school to consult with the board of trustees of the school district in which the achievement charter school is located concerning available services and any fees that must be paid for such services.

Section 25 of this regulation requires the contract between the Executive Director and the operator of an achievement charter school to include clear and quantifiable statistical goals for the achievement charter school. **Section 26** of this regulation requires the principal of an achievement charter school to: (1) annually report to the Executive Director certain information concerning the performance and operation of the achievement charter school; and (2) conduct at least two annual meetings with parents and legal guardians of pupils. **Section 26** also requires the governing body of an achievement school to procure an annual audit of the school. **Section 28** of this regulation requires the Executive Director to conduct an annual performance review of an achievement charter school. If the Executive Director concludes, as a result of the performance review, that the achievement charter school has not met the performance goals set forth in the contract to operate the achievement charter school, **section 27** of this regulation: (1) authorizes the Executive Director to renegotiate the contract with the operator or terminate the contract and enter into another contract to operate the achievement charter school in certain circumstances; and (2) requires the Executive Director to notify the parents and legal guardians of pupils that the school has not met those goals and that they may submit a petition recommending the termination of the contract to operate the achievement charter school.

Existing law authorizes the reconstitution of the governing body of a charter school, the revocation of a written charter or the termination of a charter contract if the sponsor of a charter school determines that: (1) the charter school, its officers or its employees have failed to comply with generally accepted standards of fiscal management or violated the terms of the written charter, charter contract or a statute or regulation concerning charter schools; (2) the charter school is financially impaired such that it cannot continue to operate; (3) reconstitution, revocation or termination is necessary to protect the health and safety of pupils or school personnel or to prevent damage to or loss of property of the school district or the community in which the charter school is located; or (4) the charter school has persistently underperformed. (NRS 388A.330) **Section 28** of this regulation authorizes the Executive Director to terminate a contract to operate an achievement charter school for those reasons.

Section 29 of this regulation provides for notification of the operator of an achievement charter school whose contract is terminated and the parents and legal guardians of pupils enrolled in such an achievement charter school. **Section 29** also authorizes the operator of an achievement charter school whose contract is terminated to appeal the decision to the Department and provides for the selection of a new operator of such an achievement charter school if the contract is terminated. **Section 30** of this regulation imposes certain obligations on the governing body of an achievement charter school in the event that the governing body or operator decides to cease operating the achievement charter school or the contract to operate the achievement charter school is terminated.

Existing law requires the board of trustees of a school district to grant a leave of absence to a licensed employee who wishes to accept or continue employment with an achievement charter school (NRS 388B.400) **Section 31** of this regulation prohibits a board of trustees that

grants such a leave of absence from terminating the employee for the purpose of reducing its workforce due to unforeseen economic circumstances.

Section 1. Chapter 388B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 31, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 31, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Executive Director” has the meaning ascribed to it in NRS 388B.040.*

Sec. 4. *“Operator” means a charter management organization, educational management organization or other person who is approved to operate an achievement charter school pursuant to section 16 of this regulation.*

Sec. 5. *“Performance compact” means a written agreement between the board of trustees of a school district and the Department relating to pupil achievement and school performance at a public school that is entered into in accordance with section 13 of this regulation.*

Sec. 6. *To the extent that money is available for that purpose, the Executive Director may contract for the services of a consultant or other professional or technical personnel to carry out the provisions of chapter 388B of NRS and sections 2 to 31, inclusive, of this regulation.*

Sec. 7. *1. In addition to a public school that is eligible for conversion to an achievement charter school pursuant to paragraph (a) or (b) of subsection 1 of NRS 388B.200, the Department may determine that pupil achievement and school performance at a public school is unsatisfactory pursuant to paragraph (c) of subsection 1 of NRS 388B.200 and that the public school is eligible for conversion to an achievement charter school if:*

(a) The public school has been identified by the Department for comprehensive support and improvement pursuant to 20 U.S.C. § 6311(c)(4)(D)(i);

(b) The board of trustees of a school district recommends a public school that is located within the district for consideration for conversion to an achievement charter school;

(c) The public school has received, for the most recent school year for which data is available, an annual rating established as the lowest rating possible indicating underperformance of a public school; or

(d) The public school has received, for the most recent school year for which data is available, an annual rating established as the second lowest rating possible indicating underperformance of a public school and has demonstrated a downward trend in pupil achievement and school performance, as determined by the Department pursuant to the statewide system of accountability for public schools.

2. If the Executive Director determines that a public school is eligible for conversion to an achievement charter school, the Executive Director shall notify the board of trustees of the school district in which the public school is located. Not later than 5 business days after receiving such notification, the board of trustees shall provide the Executive Director with the name, address, telephone number and any other contact information known to the board of trustees of each parent or legal guardian of a pupil who is enrolled in the public school in a manner that complies with all federal and state laws concerning the privacy of information.

Sec. 8. *1. On or before September 15, 2018, and September 15 of each year thereafter, the Department will post conspicuously on its Internet website a list of the public schools that are eligible for conversion to an achievement charter school pursuant to subsection 1 of NRS 388B.200. The list must identify:*

(a) Interventions being carried out in accordance with a plan developed pursuant to 20 U.S.C. § 6311 to improve pupil achievement and school performance at each public school that appears on the list; and

(b) Each public school for which a petition may be filed pursuant to paragraph (a) of subsection 1 of section 9 of this regulation.

2. Upon publication of the list described in subsection 1, the board of trustees of each school district shall post conspicuously on its Internet website:

(a) A copy of the list published pursuant to subsection 1;

(b) A statement that each public school on the list is eligible to enter into a performance compact or be converted to an achievement charter school;

(c) A summary of the relevant provisions of sections 9, 10 and 11 of this regulation; and

(d) For each public school located in the district that meets the criteria for eligibility for conversion to an achievement charter school prescribed by paragraph (c) or (d) of subsection 1 of section 7 of this regulation and does not meet the criteria for eligibility for conversion to an achievement charter school prescribed in paragraph (a) or (b) of subsection 1 of NRS 388B.200 or paragraph (a) or (b) of subsection 1 of section 7 of this regulation, the number of signatures required for a petition submitted pursuant to paragraph (a) of subsection 1 of section 9 of this regulation for the petition to be considered valid.

Sec. 9. 1. The parent or legal guardian of a pupil who is enrolled at a school may submit to the Executive Director a petition recommending:

(a) Except as otherwise provided in this paragraph, if the school is a public school that meets the criteria for eligibility for conversion to an achievement charter school prescribed by paragraph (c) or (d) of subsection 1 of section 7 of this regulation, that the public school be

converted to an achievement charter school or that the Department and the board of trustees of the school district in which such a public school is located enter into a performance compact concerning the public school. Such a petition must be submitted to the Executive Director on or before November 15 of the school year in which the public school is eligible for conversion to an achievement charter school. Such a petition may not be submitted on behalf of a public school that has been determined eligible for conversion to an achievement charter school pursuant to paragraph (a) or (b) of subsection 1 of NRS 388B.200 or paragraph (a) or (b) of subsection 1 of section 7 of this regulation.

(b) If the school is an achievement charter school that has not met the performance goals set forth in the contract to operate the achievement charter school and the contract has been in effect for at least 2 full school years, that the Executive Director terminate the contract and enter into a contract with a different operator to operate the achievement charter school or convert the achievement charter school to a public school under the governance of the board of trustees of the school district in which the school is located. Such a petition must not be circulated until the Executive Director provides the notice required by paragraph (c) of subsection 2 of section 27 of this regulation and must be submitted to the Executive Director not later than 60 days thereafter.

2. A petition submitted pursuant to paragraph (a) of subsection 1 requesting the Department and the board of trustees to enter into a performance compact must include a summary of the terms of the proposed performance compact, including, without limitation, the proposed goals for pupil achievement and school performance and the proposed action to be included pursuant to subsection 2 of section 13 of this regulation. If the petition requests

designation of the public school as an empowerment school, the board of trustees of the school district in which the school is located must approve that action before the petition is circulated.

3. A petition submitted pursuant to paragraph (b) of subsection 1 requesting the Executive Director to convert an achievement charter school to a public school under the governance of the board of trustees of the school district in which the school is located may further request that the school be designated a turnaround school pursuant to NRS 388G.400 or an empowerment school as defined in NRS 388G.010. If the petition requests designation of the public school as an empowerment school, the board of trustees of the school district in which the school is located must approve that action before the petition is circulated.

Sec. 10. *1. A petition circulated pursuant to section 9 of this regulation may be signed by only one parent or legal guardian of a pupil who is enrolled at the school that is the subject of the petition. Such a parent or legal guardian may sign the petition only one time for each child of the parent or legal guardian who is enrolled at the school.*

2. To be valid, a petition circulated pursuant to section 9 of this regulation must:

(a) Be in the form prescribed by the State Board. The State Board shall post the required form of a petition on its Internet website.

(b) Designate at least one petitioner and not more than three petitioners to represent all of the persons who sign the petition and to whom the Executive Director shall provide notice of his or her determination concerning the validity of the petition.

(c) Include a number of signatures greater than 50 percent of the number of pupils who are enrolled at the school that is the subject of the petition.

3. A person shall not sign a petition circulated pursuant to section 9 of this regulation on behalf of another person. Each signature must be accompanied by:

- (a) The printed name and address of the person;*
- (b) The date on which the person signed the petition; and*
- (c) The printed name of the child of the person or for whom the person serves as a legal guardian who is enrolled at the school.*

4. Any person who conducts any activity relating to a petition described in section 9 of this regulation:

(a) On school property must comply with any applicable policies of the school and the school district and must not conduct such activity on school property during school hours.

(b) Shall not attempt to coerce or harass in any manner or offer a gift, reward or other incentive or make a threat, including, without limitation, a threat relating to immigration status, or false statement to induce any person to sign or refrain from signing the petition.

5. A school or school district shall take reasonable measures to protect pupils and employees from retaliation or harassment relating to a petition described in section 9 of this regulation.

6. The board of trustees of a school district, a school district or employee thereof or a public school shall not use any public money to participate in an organized effort to support or oppose a petition described in section 9 of this regulation. An employee of a school district shall not participate in such an effort during working hours. This subsection shall not be construed to prohibit such an employee from participating in such an effort or otherwise supporting or opposing a petition outside of his or her working hours.

Sec. 11. 1. When a petition is submitted to the Executive Director pursuant to section 9 of this regulation, the petition is final and a signature may not be removed or rescinded. Not

later than 15 days after receiving such a petition, the Executive Director shall determine whether the petition is valid by:

(a) Verifying the signatures on the petition and preparing a written summary of the verification, which must include the number of signatures on the petition that have been verified; and

(b) Determining whether the petition meets the requirements of section 10 of this regulation. Each signature that meets those requirements shall be presumed valid but is subject to additional review and may be declared invalid after such review.

2. After determining whether a petition is valid pursuant to subsection 1, the Executive Director shall mail a copy of the written summary and his or her determination to each representative designated in the petition pursuant to subsection 2 of section 10 of this regulation and notify the State Board.

3. On or before December 31 immediately following receipt of the notice from the Executive Director pursuant to subsection 2, the State Board shall adopt a resolution approving the petition if it determines that the petition is valid. The State Board shall notify the board of trustees of the school district in which the school that is the subject of the petition is located of the adoption of the resolution.

Sec. 12. *If the Executive Director determines that a petition is valid pursuant to section 11 of this regulation and the petition was submitted pursuant to:*

1. Paragraph (a) of subsection 1 of section 9 of this regulation and recommends that a public school be converted to an achievement charter school, the Executive Director and the State Board shall consider the petition when determining whether to convert the public school to an achievement charter school pursuant to NRS 388B.200 and section 15 of this regulation.

2. Paragraph (a) of subsection 1 of section 9 of this regulation and recommends the Department and the board of trustees of a school district in which a public school is located to enter into a performance compact concerning the public school, the Department and the board of trustees of the school district in which the public school is located may enter into a performance compact that becomes effective at the beginning of the next school year that includes the terms included in the petition pursuant to subsection 2 of section 9 of this regulation.

3. Paragraph (b) of subsection 1 of section 9 of this regulation and recommends the termination of the contract of an operator, the Executive Director may terminate the contract. If the Executive Director terminates the contract, the board of trustees of the school district in which the school is located must take any other action necessary to effectuate the recommendations included in the petition pursuant to subsection 3 of section 9 of this regulation.

Sec. 13. *1. The Department will offer to negotiate a performance compact with the board of trustees in which a public school is located if:*

(a) The public school is determined to be eligible for conversion to an achievement charter school pursuant to NRS 388B.200 and is not selected for such conversion; and

(b) A valid petition is submitted pursuant to paragraph (a) of subsection 1 of section 9 of this regulation recommending that the Department and the board of trustees of the school district in which such a public school is located enter into a performance compact concerning the public school.

2. A performance compact entered into pursuant to subsection 1 must:

(a) Have a term of 3 school years.

(b) Prescribe goals for pupil achievement and school performance at the public school that is the subject of the performance compact.

(c) Require the public school to take one of the following actions intended to cause the school to rapidly improve pupil achievement and school performance:

(1) Receive designation as an empowerment school as defined in NRS 388G.010.

(2) Receive designation as a turnaround school pursuant to NRS 388G.400.

(3) Adopt a plan that includes evidence-based strategies for improving pupil achievement and school performance. Such a plan must be developed by the principal of the public school:

(I) In consultation with other administrators and teachers of the public school and the Department; and

(II) With input from parents and legal guardians of pupils enrolled in the public school and other members of the community in which the public school is located.

(d) Enter into a partnership with a nonprofit organization to provide evidence-based services to pupils that are aligned to a comprehensive plan for improving pupil achievement and school performance.

(e) Any other evidence-based action deemed appropriate by the Department.

3. A public school that is subject to a performance compact will not be selected for conversion to an achievement charter school during the term of the performance compact.

4. The Department will annually review a public school that has entered into a performance compact to determine the amount of progress that the public school has made towards the goals for pupil achievement and school performance set forth in the performance compact. If, as a result of such a review, the Department determines that the public school has

not made adequate progress toward those goals, the Department may terminate the performance compact. Such termination becomes effective immediately.

5. If the Department terminates a performance compact pursuant to subsection 4, the Department may negotiate a new performance compact with the board of trustees of the school district. If the Department and the board of trustees do not enter into a new performance compact and the public school is eligible for conversion to an achievement charter school pursuant to NRS 388B.200, the public school may be converted to an achievement charter school.

6. Not later than 15 days after the final ratings for each public school in this State are released pursuant to NRS 385A.720, as amended by section 5 of Senate Bill No. 247, chapter 158, Statutes of Nevada 2017, at page 723, the principal of a public school that was subject to a performance compact for the immediately preceding school year shall submit to the board of trustees of the school district in which the public school is located and the State Board a report that includes:

(a) An explanation of whether the public school met the goals for pupil achievement and school performance prescribed in the performance compact;

(b) A description of programs to support higher pupil achievement and school performance that have been implemented since entering into the performance compact; and

(c) A description of parental involvement and family engagement at the public school, which must describe:

(1) The extent to which parental involvement and family engagement aligns to the policy of parental involvement adopted by the State Board and the policy of parental

involvement and family engagement adopted by the board of trustees of the school district in which the public school is located pursuant to NRS 392.457; and

(2) The observed impact of parental involvement and family engagement on pupil achievement and school performance at the public school.

7. The principal of a public school that is subject to a performance compact shall hold:

(a) One meeting at the beginning of each school year for which the public school is subject to the performance compact to solicit input from parents and legal guardians of pupils enrolled at the public school; and

(b) One meeting at the end of each school year for which the public school is subject to the performance compact to provide to the parents and legal guardians of pupils enrolled at the public school a review of the performance of the public school.

8. The board of trustees of a school district and the State Board shall post on their respective Internet websites any report submitted pursuant to subsection 6.

9. As used in this section, “evidence-based” has the meaning ascribed to it in 20 U.S.C. § 7801.

Sec. 14. 1. *Before selecting a public school for conversion to an achievement charter school, the Executive Director must solicit and consider input from parents and legal guardians of pupils enrolled in the public school and other members of the community in which the public school is located as required pursuant to subsection 3 of NRS 388B.200. The Executive Director shall solicit input from a majority of parents and legal guardians of pupils enrolled in the public school.*

2. Before approving an application to operate an achievement charter school, the Executive Director must solicit the input of parents and legal guardians of pupils enrolled in the public school as required pursuant to subsection 1 of NRS 388B.210.

3. To comply with the requirement to solicit input from parents and legal guardians of pupils as described in subsections 1 and 2, the Executive Director shall:

(a) Hold and appear in at least one meeting in the community in which the public school is located;

(b) Solicit input from parents and legal guardians of pupils enrolled in the public school using strategies and practices for effective parental involvement and family engagement developed by the Office of Parental Involvement and Family Engagement pursuant to NRS 385.635; and

(c) Take any other reasonable measures he or she deems appropriate.

Sec. 15. *1. On or before December 1 of each year, the Executive Director shall submit the list of not less than 20 percent of the public schools that are eligible for conversion to an achievement charter school developed pursuant to NRS 388B.200 to the State Board for its approval. Before selecting a public school for inclusion on the list, the Executive Director must consult with the board of trustees of the school district in which the public school is located.*

2. When determining whether to approve a public school for consideration for conversion to an achievement charter school as required by subsection 2 of NRS 388B.200, the State Board shall consider any relevant information, including, without limitation, historical data concerning the public school that is maintained pursuant to the statewide system of accountability for public schools and any efforts by the board of trustees of the school district

in which the public school is located to improve pupil achievement and school performance at the public school.

3. Not later than 30 days after approving a public school for consideration for conversion to an achievement charter school as required by subsection 2 of NRS 388B.200, the State Board shall notify the board of trustees of the school district in which the school is located and each charter management organization, educational management organization or other person whose application for approval as an operator has been approved pursuant to section 16 of this regulation.

4. On or before February 1 of each year, the Executive Director shall select the public schools to be converted to achievement charter schools from the list of public schools approved by the State Board pursuant to subsection 2 of NRS 388B.200. The Executive Director shall comply with all federal and state laws concerning equality and civil rights that prohibit discrimination when selecting a public school for conversion to an achievement charter school.

5. When the Executive Director notifies a public school that the public school has been selected for conversion to an achievement charter school pursuant to subsection 4 of NRS 388B.200, the Executive Director must also notify the State Board, the board of trustees of the school district in which the public school is located and each charter management organization, educational management organization and any other person whose application for approval as an operator has been approved pursuant to section 16 of this regulation.

Sec. 16. *1. A charter management organization, educational management organization or other person may apply to the Executive Director for approval to become an operator by*

completing and submitting an application to the Executive Director on a form prescribed by the Department, which must describe, without limitation, the proposed:

- (a) Mission and goals of the achievement charter school;*
- (b) School model and academic plan for the achievement charter school;*
- (c) Performance goals for pupils enrolled at the achievement charter school;*
- (d) Leadership team for and governing body of the achievement charter school;*
- (e) Plan to involve and engage the parents or legal guardians and families of pupils enrolled in the achievement charter school; and*
- (f) Financial plan and policies of the achievement charter school.*

2. In addition to meeting the requirements of subsection 1, if an applicant operates other schools, the application must include data concerning the demographics of each such school and pupil achievement and school performance at each such school.

3. Each application submitted pursuant to subsection 1 must:

(a) Demonstrate a clear and high-quality plan for the achievement charter school that prescribes the intended organizational structure of the achievement charter school and includes measurable goals; and

(b) Provide a clear basis for assessing the ability of the applicant to carry out the plan for the achievement charter school.

4. The Executive Director shall:

(a) Accept applications submitted pursuant to subsection 1 throughout the year;

(b) At least once each year, review the applications submitted pursuant to subsection 1;

(c) At least 60 days before reviewing the applications, provide notice to the Department of the date on which the review of the applications will begin, which the Department will post on its Internet website;

(d) Approve applications that meet the requirements of this section and which he or she determines are of the highest quality and most likely to improve pupil achievement and school performance at the achievement charter school;

(e) Notify each charter management organization, educational management organization or other person who submitted an application pursuant to this section whether the application is approved or denied;

(f) If practicable, obtain assistance from independent reviewers to review applications pursuant to this subsection; and

(g) Notify the State Board and the board of trustees of each school district in which a school that is eligible for conversion to an achievement charter school is located upon approving an application pursuant to paragraph (d).

5. An application submitted pursuant to subsection 1 during a period in which the Executive Director is reviewing applications pursuant to subsection 4 must be reviewed during the next period for review.

6. Any decision of the Executive Director to approve or deny an application submitted pursuant to subsection 1 is final and may not be appealed.

Sec. 17. *1. After the State Board provides notice of the public schools that have been approved for consideration for conversion to an achievement charter school pursuant to subsection 3 of section 15 of this regulation, an operator, including, without limitation, an operator that currently operates an achievement charter school, may apply to operate one or*

more of the public schools approved for consideration for conversion to an achievement charter school by completing and submitting to the Department an application on a form prescribed by the Department. An operator may submit one application to operate more than one achievement charter school.

2. After considering the input received from the parents and legal guardians of pupils enrolled in a public school selected for conversion to an achievement charter school pursuant to subsection 1 of NRS 388B.210 and section 15 of this regulation, the Executive Director shall select an operator for each school selected by the Executive Director for conversion to an achievement charter school based on the ability of the operator to meet the identified educational needs of the pupils enrolled in, and to improve pupil achievement and school performance at, the achievement charter school.

3. To expand an achievement charter school, including, without limitation, opening another campus of the achievement charter school, the operator may request that the Executive Director amend the contract to operate the achievement charter school entered into pursuant to paragraph (d) of subsection 1 of NRS 388B.210. The Executive Director may grant such a request if the Executive Director determines that the expansion:

(a) Is in the best interests of the pupils in this State; and

(b) Would primarily serve pupils who are enrolled in public schools that meet the requirements to be eligible for conversion to an achievement charter school prescribed in NRS 388B.200.

4. Any decision of the Executive Director to approve or deny an application or a request to amend a contract to operate an achievement charter school submitted pursuant to this section is final and may not be appealed.

Sec. 18. 1. *Except as otherwise provided in this section, the provisions of NAC 386.010 to 386.472, inclusive, are not applicable to an achievement charter school.*

2. The provisions of NAC 386.205 to 386.223, inclusive, 386.329, 386.341, 386.3415, 386.342, 386.357, 386.365, 386.400, 386.407 and 386.450 to 386.472, inclusive, apply to achievement charter schools.

Sec. 19. 1. *The membership of the governing body of an achievement charter school must not include:*

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

(b) Except as otherwise provided in subsection 2:

(1) A person who is related by blood or marriage to an employee of the governing body or operator of the achievement charter school.

(2) A person who is related by blood or marriage to another member of the governing body.

(c) Except as otherwise provided in subsection 3, any person who:

(1) Owns, operates, is employed by or receives compensation from a corporation, business, organization or other entity that enters into a contract with the governing body or operator of the achievement charter school; or

(2) Is related by blood or marriage to a person described in subparagraph (1).

2. The governing body of an achievement charter school may apply to the Executive Director for approval to have one or more members of the governing body be related by blood or marriage to:

(a) An employee of the governing body or operator of the achievement charter school; or

(b) Another member of the governing body.

↪ The Executive Director may grant such approval for good cause shown and may make its approval contingent upon the governing body agreeing to additional oversight or conditions.

3. A person described in paragraph (c) of subsection 1 may serve on the governing body if the person has entered into a contract with the governing body that complies with the provisions of NRS 332.800 to provide supplies to the achievement charter school. The governing body shall maintain documentation of the terms of such a contract.

4. The Executive Director shall prescribe an application to be submitted to the Executive Director by newly appointed members of the governing body of the achievement charter school. Each newly appointed member of the governing body of an achievement charter school shall, not later than 5 business days after appointment, submit to the Executive Director his or her application. If the Executive Director denies the application, the term of the member terminates immediately and the operator must appoint a different person to replace the member whose application was denied.

5. For the purposes of chapter 281A of NRS, the members of the governing body of an achievement charter school are public officers, as defined in NRS 281A.160.

6. The governing body of an achievement charter school governs the achievement charter school, maintains overall control of the achievement charter school and is responsible for the operation of the achievement charter school, including, without limitation, critically evaluating the performance of a contractor for the achievement charter school and selecting another contractor if the contractor is not performing his or her duties or services in a satisfactory manner.

7. The governing body of an achievement charter school shall notify the Executive Director of any change in the membership of the governing body not later than 5 business days after the change occurs.

Sec. 20. *The governing body of an achievement charter school shall ensure that:*

1. Pupils who earn academic credit at the school can readily transfer that credit to a comparable school without penalty.

2. The educational services provided by the school to pupils with a disability comply with the requirements set forth in chapters 388 and 395 of NRS and NAC 388.150 to 388.450, inclusive.

3. The Department and the Executive Director receive, within 30 days after the first day of school, a list of the names and qualifications of all persons who are or will be employed by the achievement charter school.

4. Copies of the policies of the achievement charter school concerning the attendance of pupils are:

(a) Distributed to each new pupil at the beginning of the school year and to each new pupil who enters school during the school year; and

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

5. If the achievement charter school intends to offer automobile driver education classes, the governing body procures insurance as required pursuant to subsection 4 of NRS 389.090.

6. Pupils enrolled in the achievement charter school receive the following minimum numbers of minutes of instruction per day, including recess but excluding lunch:

(a) For pupils enrolled in kindergarten, 120 minutes.

(b) For pupils enrolled in grades 1 and 2, 240 minutes.

(c) For pupils enrolled in grades 3 to 6, inclusive, 300 minutes.

(d) For pupils enrolled in grades 7 to 12, inclusive, 330 minutes.

Sec. 21. 1. *The governing body of an achievement charter school shall ensure that a permanent record for each pupil enrolled in the achievement charter school is maintained in a separate file. The permanent record must contain:*

(a) The record of attendance of the pupil;

(b) The grades received by the pupil;

(c) The certificate of immunization of the pupil; and

(d) Any other records related directly to the academic progress of the pupil.

2. *The governing body of an achievement charter school shall ensure that records maintained pursuant to subsection 1 are kept in a location that is safe and secure and affords reasonable protection from:*

(a) Fire;

(b) Misuse; and

(c) Access by unauthorized persons.

3. *If the operator or governing body of an achievement charter school voluntarily decides to cease operating the achievement charter school or the Executive Director decides to terminate a contract to operate an achievement charter school pursuant to section 12, 27 or 28 of this regulation, the operator of the achievement charter school shall, for each pupil enrolled in the achievement charter school, forward the permanent record of the pupil to the office that maintains pupil records for the school district in which the pupil resides.*

Sec. 22. 1. Each year the governing body of an achievement charter school shall determine enrollment at the school in the manner provided pursuant to this section and NRS 388B.230.

2. The governing body of an achievement charter school shall not limit the enrollment of pupils in the achievement charter school to a specified number of pupils unless:

(a) The contract to operate the achievement charter school identifies the maximum number of pupils the achievement charter school may enroll or a specific ratio of pupils to teachers for the achievement charter school;

(b) The achievement charter school limits the enrollment of pupils to a number that corresponds with the maximum capacity of persons allowed to occupy the facility of the achievement charter school as determined by the building, fire or health authority which inspected the facility; or

(c) The achievement charter school has obtained written permission from the Executive Director to limit the enrollment of pupils.

3. If an achievement charter school has the capacity to enroll additional pupils after enrolling pupils who were enrolled in the school before it was converted to an achievement charter school as required by NRS 388B.230, a pupil who resides within the zone of attendance established for the school pursuant to NRS 388.040, if a zone of attendance has been established, may be enrolled in the achievement charter school before a pupil who does not reside within that zone of attendance.

4. If, after enrolling any pupils pursuant to subsection 3, an achievement charter school has the capacity to enroll additional pupils, the achievement charter school:

(a) Except as otherwise provided in paragraph (b), may enroll pupils in the same order of priority prescribed for a charter school pursuant to NRS 388A.453 and 388A.456.

(b) May enroll pupils with a household income that is less than 185 percent of the federally designated level signifying poverty who reside within the zone of attendance established pursuant to NRS 388.040 for a public school that was included on the most recent list of public schools eligible for conversion to an achievement charter school published pursuant to section 8 of this regulation before enrolling other pupils.

5. When enrolling pupils, an achievement charter school shall not discriminate as prohibited by subsection 4 of NRS 388B.060, as amended by section 20 of Senate Bill No. 188, chapter 197, Statutes of Nevada 2017, at page 1072.

Sec. 23. Upon the request of a parent or legal guardian of a child who is enrolled in a public school of a school district or a private school, or a parent or legal guardian of a homeschooled child or opt-in child, the governing body of an achievement charter school must authorize the child to participate in a class or extracurricular activity at the achievement charter school to the same extent provided for a charter school pursuant to NRS 388A.471.

Sec. 24. 1. The board of trustees of the school district in which an achievement charter school is located continues to own the building in which the achievement charter school operates pursuant to subsection 2 of NRS 388B.230. The governing body of an achievement charter school shall enter into an agreement with the board of trustees of the school district in which the achievement charter school is located, which must include, without limitation:

(a) A clear description of the maintenance for which the governing body will assume responsibility in accordance with NRS 388B.230;

(b) Provisions delineating the responsibility for any necessary renovations and building improvements, which must comply with subsection 2 and NRS 388B.230;

(c) Any requirements concerning the maintenance of insurance and warranties;

(d) A requirement that a representative of the board of trustees conduct an annual inspection of the property on which the achievement charter school operates to ensure that the property is maintained in accordance with the agreement;

(e) A requirement that, when the achievement charter school ceases to be operated by the operator for any reason, a representative of the board of trustees will inspect the property on which the achievement charter school operates and take an inventory of any property of the school district that is missing or damaged; and

(f) Provisions governing the reimbursement to the school district for any property of the school district found to be missing or damaged during the inspection described in paragraph (d) or (e).

2. Construction or a repair to a building in which an achievement charter school operates shall be deemed a capital expense for the purposes of subsection 2 of NRS 388B.230 if the construction or repair:

(a) Has a cost of more than \$15,000;

(b) Has a useful life of at least 5 years;

(c) Is intended to extend the useful life of the building; and

(d) Meets any applicable standards prescribed by the Building Owners and Managers Association International or its successor organization.

3. If a public school is converted to an achievement charter school, any fixtures, improvements or other tangible assets added by the board of trustees of the school district to

the building used by the achievement charter school must remain with the building after the school begins to operate as an achievement charter school.

4. If an achievement charter school is converted to a public school under the governance of the board of trustees of a school district or a charter school subject to the provisions of chapter 388A of NRS, any fixtures, improvements or other tangible assets added by the governing body of the achievement charter school to the building used by the achievement charter school must remain with the building after the school ceases to operate as an achievement charter school.

5. The Executive Director or an operator may consult with the board of trustees of a school district concerning services made available by the school district to an operator of an achievement charter school that is located within the school district and any fee charged for such services.

Sec. 25. *A contract to operate an achievement charter school entered into pursuant to paragraph (d) of subsection 1 of NRS 388B.210 must include, without limitation, clear quantifiable goals for:*

1. Improving attendance and reducing the truancy and transiency of pupils enrolled in the achievement charter school;

2. Improving the performance of pupils enrolled in the achievement charter school on examinations that measure the achievement and proficiency of pupils; and

3. If the achievement charter school is a high school, improving the rate of graduation at the achievement charter school and reducing the rate at which pupils drop out of the achievement charter school.

Sec. 26. 1. Not later than 15 days after the final ratings for each public school in this State are released pursuant to NRS 385A.720, as amended by section 5 of Senate Bill No. 247, chapter 158, Statutes of Nevada 2017, at page 723, the principal of an achievement charter school that received a rating for a school year in which the school operated as an achievement charter school shall submit to the Executive Director a report that includes:

(a) An explanation of whether the achievement charter school met the goals for pupil achievement and school performance prescribed in the contract to operate the achievement charter school entered into pursuant to paragraph (d) of subsection 1 of NRS 388B.210;

(b) A description of programs to support higher pupil achievement and school performance that have been implemented since entering into the contract to operate the achievement charter school; and

(c) A description of parental involvement and family engagement at the achievement charter school, which must describe:

(1) The extent to which parental involvement and family engagement aligns to the policy of parental involvement adopted by the State Board and the policy of parental involvement and family engagement adopted by the State Board pursuant to NRS 392.457; and

(2) The observed impact of parental involvement and family engagement on pupil achievement and school performance at the achievement charter school.

2. The principal of an achievement charter school shall hold:

(a) One meeting at the beginning of each school year to solicit input from parents and legal guardians of pupils enrolled at the achievement charter school; and

(b) One meeting at the end of each school year to provide to the parents and legal guardians of pupils enrolled at the public school a review of the performance of the achievement charter school.

3. The governing body of an achievement charter school shall cause the achievement charter school to be audited on an annual basis and submit the report of the audit to the Department, the Legislative Counsel Bureau and the Executive Director pursuant to NAC 387.775.

Sec. 27. If, as a result of the performance review of an achievement charter school conducted pursuant to section 28 of this regulation, the Executive Director concludes that the achievement charter school:

1. Has met the goals set forth in the contract to operate the achievement charter school pursuant to section 25 of this regulation, the operator must continue to operate the achievement charter school under the contract to operate the achievement charter school.

2. Has not met the goals set forth in the contract to operate the achievement charter school, the Executive Director:

(a) May renegotiate the contract of the operator to operate the achievement charter school.

(b) May, after the end of the school year, terminate the contract of the operator to operate the achievement charter school and enter into a contract with a different operator to operate the achievement charter school.

(c) Shall notify the parent or legal guardian of each pupil enrolled in the achievement charter school. Such notification must be accompanied by:

(1) A summary of the relevant provisions of sections 9, 10 and 11 of this regulation; and

(2) The number of signatures required on a petition circulated pursuant to paragraph (b) of subsection 1 of section 9 of this regulation for the petition to be considered valid.

Sec. 28. 1. Each year, the Executive Director shall conduct a performance review of each achievement charter school which includes, without limitation, a review of the academic, financial and organizational performance of the achievement charter school and whether the achievement charter school has met the goals set forth in the contract to operate the achievement charter school pursuant to section 25 of this regulation.

2. In addition to the circumstances under which a contract to operate an achievement charter school may be terminated pursuant to subsection 3 of section 12 of this regulation and subsection 2 of section 27 of this regulation, the Executive Director may terminate a contract to operate an achievement charter school before the expiration of the contract if the Executive Director determines that:

(a) The achievement charter school, its officers or its employees:

- (1) Committed a material breach of the terms and conditions of the contract;*
- (2) Failed to comply with generally accepted standards of fiscal management;*
- (3) Failed to comply with any statute or regulation applicable to achievement charter schools; or*
- (4) Has persistently underperformed, as measured by the performance goals set forth in the contract to operate the achievement charter school;*

(b) The achievement charter school has filed a voluntary petition of bankruptcy, is adjudicated bankrupt or insolvent or is otherwise financially impaired to the extent that the achievement charter school cannot continue to operate;

(c) There is reasonable cause to believe that termination of the contract is necessary to protect the health and safety of the pupils enrolled in the achievement charter school or persons who are employed by the achievement charter school from jeopardy or to prevent damage to or loss of the property of the school district or the community in which the achievement charter school is located; or

(d) The operator of the achievement charter school or an employee thereof, the governing body of the achievement charter school or an employee of the achievement charter school has at any time made a material misrepresentation or omission concerning any information disclosed to the Executive Director, the Achievement School District or any representative or employee thereof.

Sec. 29. 1. If the Executive Director decides to terminate a contract to operate an achievement charter school pursuant to section 12, 27 or 28 of this regulation, the Executive Director shall, on or before March 31 following the date of the decision, notify the operator of the achievement charter school of the decision to terminate the contract.

2. The operator of the achievement charter school may appeal the decision of the Executive Director to the Department if the appeal is requested within 60 days after receiving notice pursuant to subsection 1 or May 31, whichever is sooner.

3. An operator whose contract to operate an achievement charter school is terminated pursuant to section 12, 27 or 28 of this regulation shall, on or before May 31 following receipt of the notice pursuant to subsection 1, notify the parents and legal guardians of each pupil enrolled in the achievement charter school of the termination of the contract.

4. If a contract to operate an achievement charter school is terminated pursuant to section 12, 27 or 28 of this regulation, the Executive Director must select a new operator in accordance with section 17 of this regulation.

Sec. 30. 1. If the operator or governing body of an achievement charter school makes a voluntary decision to cease operating the achievement charter school, the governing body shall, not less than 30 days before the operator ceases operating the achievement charter school, provide written notice to the Department and the Executive Director of the reason for ceasing operation and the date on which the operator will cease operating the achievement charter school.

2. If the operator or governing body of an achievement charter school makes a voluntary decision to cease operating the achievement charter school or the Executive Director decides to terminate a contract to operate an achievement charter school pursuant to section 12, 27 or 28 of this regulation, the governing body of the achievement charter school shall:

(a) Ensure that all information required by NRS 385A.820 for inclusion in the automated system of accountability information for Nevada is current to the date that the operator ceases operating the achievement charter school.

(b) Ensure that the outstanding obligations of the achievement charter school are settled after the operator ceases operating the achievement charter school, including, without limitation, unemployment compensation, employee benefits, resolution of the lease agreement for the achievement charter school, if applicable, and final balances for utilities and other costs.

(c) Ensure that all money received by the achievement 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 achievement 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.

(d) Provide to the Department and the Executive Director:

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

(2) The annual report of budget required by NRS 388A.345 and 388B.250.

3. If the operator or governing body of an achievement charter school makes a voluntary decision to cease operating the achievement charter school or the Executive Director decides to terminate a contract to operate an achievement charter school pursuant to section 12, 27 or 28 of this regulation:

(a) The Department and the Executive Director shall each notify the governing body of the achievement charter school of any outstanding liabilities owed by the achievement charter school to the Department or the achievement school district, as applicable.

(b) The Executive Director shall conduct a physical inspection of the achievement charter school to confirm that all equipment, supplies and textbooks are on the premises of the achievement charter school.

Sec. 31. *If a licensed employee of the board of trustees of a school district is granted a leave of absence to accept or continue employment with an achievement charter school pursuant to NRS 388B.400, the board of trustees must not terminate the employee for the purpose of reducing its workforce due to unforeseen economic circumstances.*