

**PROPOSED REGULATION OF THE
SUPERINTENDENT OF PUBLIC INSTRUCTION**

LCB File No. R136-15

March 16, 2016

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

AUTHORITY: §§1-3, NRS 385.200, 386.540 and 386.588; §§4-6, NRS 385.200, 391.033 and 391.100; §§7-9, NRS 385.200, 392A.090 and 392A.107.

A REGULATION relating to education; interpreting the term “offense involving moral turpitude” for certain purposes relating to the hiring and licensing of personnel to work in a public school; prescribing the length of time that a felony or an offense involving moral turpitude will be considered related to a position at a public school; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Superintendent of Public Instruction to prescribe regulations for conducting all necessary proceedings for which the Superintendent is responsible. (NRS 385.200) Existing law also requires each applicant for licensure as a teacher or other educational personnel or for the renewal of such a license and each applicant for employment at a charter school or university school for profoundly gifted pupils who does not hold such a license to undergo a criminal background check. (NRS 386.588, 391.033, 392A.107) A license may be granted to the applicant or the applicant may be employed, as applicable, if: (1) the reports on the criminal history of the applicant do not indicate that the applicant has been convicted of a felony or an offense involving moral turpitude; or (2) the reports on the criminal history of the applicant indicate that the applicant has been convicted of such an offense but the Superintendent of Public Instruction determines that the conviction is not related to the position for which the applicant applied or is currently employed, as applicable. (NRS 386.588, 391.033, 392A.107) Existing law also authorizes the board of trustees of a school district to ask the Superintendent of Public Instruction to require a person licensed by the Superintendent who has taken a leave of absence from employment to undergo a criminal background check if the board of trustees has probable cause to believe that the person has committed a felony or an offense involving moral turpitude during his or her absence. (NRS 391.100) **Sections 2, 5 and 8** of this regulation prescribe the crimes that are deemed offenses involving moral turpitude for the purposes of issuing a license, employment of an unlicensed person by a charter school or university school for profoundly gifted pupils or performing a background check on a licensed employee who has taken a leave of absence. **Sections 3, 6 and 9** of this regulation prescribe the length of time that the Superintendent of Public Instruction may consider a conviction for a felony or an offense

involving moral turpitude related to a position in a county school district, charter school or university school for profoundly gifted pupils.

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. *As used in NRS 386.588, the Superintendent of Public Instruction interprets the term “offense involving moral turpitude” to mean:*

- 1. Any offense of a sexual nature, including, without limitation, a violation of NRS 200.364 to 200.373, inclusive, 200.378, 200.700 to 200.760, inclusive, 201.160 to 201.190, inclusive, 201.210, 201.220, 201.230, 201.235 to 201.254, inclusive, 201.256 to 201.2655, inclusive, 201.295 to 201.450, inclusive, or 201.470 to 201.560, inclusive, or sections 2 to 6.5, inclusive, of Assembly Bill No. 49, chapter 399, Statutes of Nevada 2015, at page 2233.*
- 2. Any offense involving involuntary servitude or trafficking in persons, including, without limitation, a violation of NRS 200.463 to 200.469, inclusive.*
- 3. Any offense of a violent nature, including, without limitation, a violation of NRS 200.010 to 200.300, inclusive, 200.380 to 200.450, inclusive, or 200.471 to 200.490, inclusive.*
- 4. A violation of immigration laws, including, without limitation, 8 U.S.C. § 1325.*
- 5. Unlawful possession or use of a firearm, explosive or other weapon, including, without limitation, a violation of NRS 202.257 to 202.440, inclusive, or 202.750 to 202.840, inclusive.*
- 6. Terrorism, including, without limitation, a violation of NRS 202.441 to 202.449, inclusive.*
- 7. Abuse, neglect or endangerment of a child or abuse, neglect, exploitation, isolation or abandonment of an older person or vulnerable person, including, without limitation, a violation of NRS 200.508 to 200.5085, inclusive, 200.5099, 200.50995 or 201.110.*
- 8. Arson, including, without limitation, a violation of NRS 205.010 to 205.055, inclusive.*

- 9. Burglary or receipt of stolen property, including, without limitation, a violation of NRS 205.060 to 205.080, inclusive, 205.273, 205.2745 or 205.275.*
- 10. Kidnapping or false imprisonment, including, without limitation, a violation of NRS 200.310 to 200.359, inclusive, or 200.460.*
- 11. Aiding or harboring a fugitive, including, without limitation, doing so in violation of NRS 195.030 or 199.100.*
- 12. Identity theft, including, without limitation, a violation of NRS 205.461 to 205.4651, inclusive.*
- 13. Any offense committed under color of authority, including, without limitation, a violation of NRS 197.200.*
- 14. Bribery, extortion or coercion, including, without limitation, a violation of NRS 197.010 to 197.110, inclusive, 201.570, 205.320, 205.322 or 207.190.*
- 15. Manufacturing, cultivation or distribution of a controlled substance, including, without limitation, a violation of NRS 453.316 to 453.348, inclusive.*
- 16. Cruelty to animals, including, without limitation, a violation of NRS 574.100 to 574.120, inclusive.*
- 17. Possession of a controlled substance, including, without limitation, a violation of NRS 453.336.*
- 18. Contributing to the delinquency of a minor, including, without limitation, a violation of NRS 201.110.*
- 19. Fraud, including, without limitation, a violation of NRS 205.2747, 205.330 to 205.460, inclusive, 205.46513 to 205.4657, inclusive, 205.506, 205.520 to 205.810, inclusive, 205.880, 205.900, 205.920, 205.940, 205.950 or 205.960.*

20. *Embezzlement, including, without limitation, a violation of NRS 205.300 to 205.312, inclusive.*
21. *Forgery or counterfeiting, including, without limitation, a violation of NRS 205.085 to 205.217, inclusive, 205.2705, 205.481, 205.492 or 205.965.*
22. *Grand larceny, including, without limitation, a violation of NRS 205.220 to 205.230, inclusive.*
23. *Theft or facilitating theft, including, without limitation, a violation of NRS 205.0821 to 205.0835, inclusive, 205.267, 205.270, 205.2707, 205.2715, 205.860, 205.910, 205.930 or 205.970.*
24. *Driving under the influence of alcohol or a prohibited substance, including, without limitation, a violation of NRS 484C.110, 484C.120, 484C.130 or 488.400 to 488.520, inclusive.*
25. *Petit larceny, including, without limitation, a violation of NRS 205.240.*
26. *Attempt, conspiracy or solicitation to commit any offense listed in this section.*
27. *Any offense that is substantially similar to an offense listed in this section, whether committed in this State or another jurisdiction.*

Sec. 3. *The Superintendent or his or her designee may determine that a conviction of an applicant for any position with a charter school is related to the position for which the applicant has applied pursuant to NRS 386.588 if the applicant was convicted of a felony or an offense involving moral turpitude:*

1. *Regardless of when the conviction occurred, if the conviction is for an offense listed in subsections 1 to 16, inclusive, of section 2 of this regulation, attempt, solicitation or conspiracy to commit such an offense or a substantially similar offense, whether committed in this State or another jurisdiction.*

2. Less than 10 years before the date of the application if, except as otherwise provided in subsection 3, the conviction is for an offense listed in subsections 17 to 24, inclusive, of section 2 of this regulation, attempt, solicitation or conspiracy to commit such an offense or a substantially similar offense, whether committed in this State or another jurisdiction.

3. Less than 5 years before the date of the application if the conviction is:

(a) The first conviction of the applicant for an offense listed in subsection 24 of section 2 of this regulation or a substantially similar offense, whether committed in this State or another jurisdiction.

(b) For an offense listed in subsection 25 of section 2 of this regulation, attempt, solicitation or conspiracy to commit such an offense or a substantially similar offense, whether committed in this State or another jurisdiction.

Sec. 4. Chapter 391 of NAC is hereby amended by adding thereto the provisions set forth as sections 5 and 6 of this regulation.

Sec. 5. *As used in NRS 391.033 and 391.100, the Superintendent of Public Instruction interprets the term “offense involving moral turpitude” to mean:*

1. Any offense of a sexual nature, including, without limitation, a violation of NRS 200.364 to 200.373, inclusive, 200.378, 200.700 to 200.760, inclusive, 201.160 to 201.190, inclusive, 201.210, 201.220, 201.230, 201.235 to 201.254, inclusive, 201.256 to 201.2655, inclusive, 201.295 to 201.450, inclusive, or 201.470 to 201.560, inclusive, or sections 2 to 6.5, inclusive, of Assembly Bill No. 49, chapter 399, Statutes of Nevada 2015, at page 2233.

2. Any offense involving involuntary servitude or trafficking in persons, including, without limitation, a violation of NRS 200.463 to 200.469, inclusive.

3. *Any offense of a violent nature, including, without limitation, a violation of NRS 200.010 to 200.300, inclusive, 200.380 to 200.450, inclusive, or 200.471 to 200.490, inclusive.*
4. *A violation of immigration laws, including, without limitation, 8 U.S.C. § 1325.*
5. *Unlawful possession or use of a firearm, explosive or other weapon, including, without limitation, a violation of NRS 202.257 to 202.440, inclusive, or 202.750 to 202.840, inclusive.*
6. *Terrorism, including, without limitation, a violation of NRS 202.441 to 202.449, inclusive.*
7. *Abuse, neglect or endangerment of a child or abuse, neglect, exploitation, isolation or abandonment of an older person or vulnerable person, including, without limitation, a violation of NRS 200.508 to 200.5085, inclusive, 200.5099, 200.50995 or 201.110.*
8. *Arson, including, without limitation, a violation of NRS 205.010 to 205.055, inclusive.*
9. *Burglary or receipt of stolen property, including, without limitation, a violation of NRS 205.060 to 205.080, inclusive, 205.273, 205.2745 or 205.275.*
10. *Kidnapping or false imprisonment, including, without limitation, a violation of NRS 200.310 to 200.359, inclusive, or 200.460.*
11. *Aiding or harboring a fugitive, including, without limitation, doing so in violation of NRS 195.030 or 199.100.*
12. *Identity theft, including, without limitation, a violation of NRS 205.461 to 205.4651, inclusive.*
13. *Any offense committed under color of authority, including, without limitation, a violation of NRS 197.200.*
14. *Bribery, extortion or coercion, including, without limitation, a violation of NRS 197.010 to 197.110, inclusive, 201.570, 205.320, 205.322 or 207.190.*

- 15. Manufacturing, cultivation or distribution of a controlled substance, including, without limitation, a violation of NRS 453.316 to 453.348, inclusive.*
- 16. Cruelty to animals, including, without limitation, a violation of NRS 574.100 to 574.120, inclusive.*
- 17. Possession of a controlled substance, including, without limitation, a violation of NRS 453.336.*
- 18. Contributing to the delinquency of a minor, including, without limitation, a violation of NRS 201.110.*
- 19. Fraud, including, without limitation, a violation of NRS 205.2747, 205.330 to 205.460, inclusive, 205.46513 to 205.4657, inclusive, 205.506, 205.520 to 205.810, inclusive, 205.880, 205.900, 205.920, 205.940, 205.950 or 205.960.*
- 20. Embezzlement, including, without limitation, a violation of NRS 205.300 to 205.312, inclusive.*
- 21. Forgery or counterfeiting, including, without limitation, a violation of NRS 205.085 to 205.217, inclusive, 205.2705, 205.481, 205.492 or 205.965.*
- 22. Grand larceny, including, without limitation, a violation of NRS 205.220 to 205.230, inclusive.*
- 23. Theft or facilitating theft, including, without limitation, a violation of NRS 205.0821 to 205.0835, inclusive, 205.267, 205.270, 205.2707, 205.2715, 205.860, 205.910, 205.930 or 205.970.*
- 24. Driving under the influence of alcohol or a prohibited substance, including, without limitation, a violation of NRS 484C.110, 484C.120, 484C.130 or 488.400 to 488.520, inclusive.*
- 25. Petit larceny, including, without limitation, a violation of NRS 205.240.*

26. Attempt, conspiracy or solicitation to commit any offense listed in this section.

27. Any offense that is substantially similar to an offense listed in this section, whether committed in this State or another jurisdiction.

Sec. 6. The Superintendent or his or her designee may determine that a conviction of an applicant for any position with a county school district or charter school is related to the position for which the applicant has applied pursuant to NRS 391.033 if the applicant was convicted of a felony or an offense involving moral turpitude:

1. Regardless of when the conviction occurred, if the conviction is for an offense listed in subsections 1 to 16, inclusive, of section 5 of this regulation, attempt, solicitation or conspiracy to commit such an offense or a substantially similar offense, whether committed in this State or another jurisdiction.

2. Less than 10 years before the date of the application if, except as otherwise provided in subsection 3, the conviction is for an offense listed in subsections 17 to 24, inclusive, of section 5 of this regulation, attempt, solicitation or conspiracy to commit such an offense or a substantially similar offense, whether committed in this State or another jurisdiction.

3. Less than 5 years before the date of the application if the conviction is:

(a) The first conviction of the applicant for an offense listed in subsection 24 of section 5 of this regulation or a substantially similar offense, whether committed in this State or another jurisdiction.

(b) For an offense listed in subsection 25 of section 5 of this regulation, attempt, solicitation or conspiracy to commit such an offense or a substantially similar offense, whether committed in this State or another jurisdiction.

Sec. 7. Chapter 392A of NAC is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this regulation.

Sec. 8. *As used in NRS 392A.107, the Superintendent of Public Instruction interprets the term “offense involving moral turpitude” to mean:*

- 1. Any offense of a sexual nature, including, without limitation, a violation of NRS 200.364 to 200.373, inclusive, 200.378, 200.700 to 200.760, inclusive, 201.160 to 201.190, inclusive, 201.210, 201.220, 201.230, 201.235 to 201.254, inclusive, 201.256 to 201.2655, inclusive, 201.295 to 201.450, inclusive, or 201.470 to 201.560, inclusive, or sections 2 to 6.5, inclusive, of Assembly Bill No. 49, chapter 399, Statutes of Nevada 2015, at page 2233.*
- 2. Any offense involving involuntary servitude or trafficking in persons, including, without limitation, a violation of NRS 200.463 to 200.469, inclusive.*
- 3. Any offense of a violent nature, including, without limitation, a violation of NRS 200.010 to 200.300, inclusive, 200.380 to 200.450, inclusive, or 200.471 to 200.490, inclusive.*
- 4. A violation of immigration laws, including, without limitation, 8 U.S.C. § 1325.*
- 5. Unlawful possession or use of a firearm, explosive or other weapon, including, without limitation, a violation of NRS 202.257 to 202.440, inclusive, or 202.750 to 202.840, inclusive.*
- 6. Terrorism, including, without limitation, a violation of NRS 202.441 to 202.449, inclusive.*
- 7. Abuse, neglect or endangerment of a child or abuse, neglect, exploitation, isolation or abandonment of an older person or vulnerable person, including, without limitation, a violation of NRS 200.508 to 200.5085, inclusive, 200.5099, 200.50995 or 201.110.*
- 8. Arson, including, without limitation, a violation of NRS 205.010 to 205.055, inclusive.*

- 9. Burglary or receipt of stolen property, including, without limitation, a violation of NRS 205.060 to 205.080, inclusive, 205.273, 205.2745 or 205.275.*
- 10. Kidnapping or false imprisonment, including, without limitation, a violation of NRS 200.310 to 200.359, inclusive, or 200.460.*
- 11. Aiding or harboring a fugitive, including, without limitation, doing so in violation of NRS 195.030 or 199.100.*
- 12. Identity theft, including, without limitation, a violation of NRS 205.461 to 205.4651, inclusive.*
- 13. Any offense committed under color of authority, including, without limitation, a violation of NRS 197.200.*
- 14. Bribery, extortion or coercion, including, without limitation, a violation of NRS 197.010 to 197.110, inclusive, 201.570, 205.320, 205.322 or 207.190.*
- 15. Manufacturing, cultivation or distribution of a controlled substance, including, without limitation, a violation of NRS 453.316 to 453.348, inclusive.*
- 16. Cruelty to animals, including, without limitation, a violation of NRS 574.100 to 574.120, inclusive.*
- 17. Possession of a controlled substance, including, without limitation, a violation of NRS 453.336.*
- 18. Contributing to the delinquency of a minor, including, without limitation, a violation of NRS 201.110.*
- 19. Fraud, including, without limitation, a violation of NRS 205.2747, 205.330 to 205.460, inclusive, 205.46513 to 205.4657, inclusive, 205.506, 205.520 to 205.810, inclusive, 205.880, 205.900, 205.920, 205.940, 205.950 or 205.960.*

20. *Embezzlement, including, without limitation, a violation of NRS 205.300 to 205.312, inclusive.*
21. *Forgery or counterfeiting, including, without limitation, a violation of NRS 205.085 to 205.217, inclusive, 205.2705, 205.481, 205.492 or 205.965.*
22. *Grand larceny, including, without limitation, a violation of NRS 205.220 to 205.230, inclusive.*
23. *Theft or facilitating theft, including, without limitation, a violation of NRS 205.0821 to 205.0835, inclusive, 205.267, 205.270, 205.2707, 205.2715, 205.860, 205.910, 205.930 or 205.970.*
24. *Driving under the influence of alcohol or a prohibited substance, including, without limitation, a violation of NRS 484C.110, 484C.120, 484C.130 or 488.400 to 488.520, inclusive.*
25. *Petit larceny, including, without limitation, a violation of NRS 205.240.*
26. *Attempt, conspiracy or solicitation to commit any offense listed in this section.*
27. *Any offense that is substantially similar to an offense listed in this section, whether committed in this State or another jurisdiction.*

Sec. 9. *The Superintendent or his or her designee may determine that a conviction of an applicant for any position with a charter school is related to the position for which the applicant has applied with a university school for profoundly gifted pupils pursuant to NRS 392A.107 if the applicant was convicted of a felony or an offense involving moral turpitude:*

1. *Regardless of when the conviction occurred, if the conviction is for an offense listed in subsections 1 to 16, inclusive, of section 8 of this regulation, attempt, solicitation or conspiracy to commit such an offense or a substantially similar offense, whether committed in this State or another jurisdiction.*

2. Less than 10 years before the date of the application if, except as otherwise provided in subsection 3, the conviction is for an offense listed in subsections 17 to 24, inclusive, of section 8 of this regulation, attempt, solicitation or conspiracy to commit such an offense or a substantially similar offense, whether committed in this State or another jurisdiction.

3. Less than 5 years before the date of the application if the conviction is:

(a) The first conviction of the applicant for an offense listed in subsection 24 of section 8 of this regulation or a substantially similar offense, whether committed in this State or another jurisdiction.

(b) For an offense listed in subsection 25 of section 8 of this regulation, attempt, solicitation or conspiracy to commit such an offense or a substantially similar offense, whether committed in this State or another jurisdiction.