

**ADOPTED REGULATION OF THE
STATE PUBLIC CHARTER SCHOOL AUTHORITY**

LCB File No. R087-16

Effective December 21, 2016

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

AUTHORITY: §§1 and 2, NRS 388A.438.

A REGULATION relating to charter schools; requiring the State Public Charter School Authority to expend certain money from a gift, grant, bequest or donation in accordance with the terms of the gift, grant, bequest or donation; revising the periods during which an application for a loan from the Account for Charter Schools must be submitted and the dates on which the Authority must determine the balance of money in the Account; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law: (1) requires the State Public Charter School Authority to adopt regulations prescribing the deadline for submission of an application for a loan from the Account for Charter Schools; and (2) allows the Authority to adopt such other regulations as it deems necessary to carry out the provisions of law relating to the Account. (NRS 388A.438) **Section 1** of this regulation requires the Authority, to the extent permitted by law, to expend money obtained from a gift, grant, bequest or donation which requires terms different from those established by the Authority in accordance with the terms of the gift, grant, bequest or donation. **Section 2** of this regulation revises the deadlines for submission of an application to the Authority for a loan from the Account. **Section 2** also revises the dates upon which the Authority must determine the balance of money in the Account.

Section 1. Chapter 386 of NAC is hereby amended by adding thereto a new section to read as follows:

Notwithstanding the provisions of NAC 386.420 to 386.445, inclusive, if a gift, grant, bequest or donation which requires the use of criteria, timelines, interest rates or repayment terms which differ from those established by the State Public Charter School Authority results in the deposit of money from a source other than the State General Fund into the Account, the

State Public Charter School Authority shall, to the extent permitted by law, expend the money in accordance with the terms of the gift, grant, bequest or donation.

FIRST
PARALLEL
SECTION

Sec. 2. NAC 386.435 is hereby amended to read as follows:

386.435 1. ~~{Aa}~~ *Except as otherwise provided in this subsection, an* application for a loan from the Account must be submitted by the governing body of a charter school to the State Public Charter School Authority on or after January 1 and on or before March 15 *or on or after July 1 and on or before October 15* of the calendar year in which the loan will be made. *The State Public Charter School Authority may, upon request of the governing body of a charter school and for good cause shown, accept an application for a loan from the Account at any time.* The State Public Charter School Authority shall not accept an application for a loan from the Account unless the State Public Charter School Authority has determined pursuant to subsection 2 that the balance of money in the Account is \$5,000 or more. An application must include:

- (a) The name of the charter school.
- (b) The name, address and telephone number of the person whom the State Public Charter School Authority may contact regarding the application.
- (c) The proposal of the charter school to repay the loan, consistent with NAC 386.445.
- (d) A description of:
 - (1) The financial needs of the charter school;
 - (2) The business plan for the charter school;
 - (3) The effect that receipt of the loan will have on the operation of the charter school; and
 - (4) The effect, if any, that receipt of the loan will have on the ability of the governing body or the charter school to obtain other financial assistance from public and private sources.

(e) A list of the anticipated expenses for which the money obtained from the loan will be used.

(f) A budget for the charter school for the fiscal year in which the loan is received and for each fiscal year of the proposed period for repayment of the loan. The budget must:

- (1) Include an identification of all sources of revenue and expenses;
- (2) Include the cost for repayment of the loan; and
- (3) Be accompanied by a written narrative explaining each of the assumptions made in developing the budget.

(g) If the charter school is an operational charter school:

- (1) A statement of the financial history of the applicant; and
- (2) Three credit references for the applicant.

(h) If a member of the governing body has or had an association or affiliation with another charter school in this State or another state, a statement of the financial history of the charter school with which the member has or had such an association or affiliation. The provisions of this paragraph apply regardless of whether the member has terminated the association or affiliation.

(i) A statement of the monthly cash flow for the operation of the charter school, including, without limitation, an identification of the amount and timing of receipt of revenue relating to the amount and timing of expenditures.

(j) A resolution of the governing body authorizing submission of the application.

(k) If the charter school is sponsored pursuant to subsection 5 or 7 of NRS ~~386.527,~~ [388A.270](#), a letter of endorsement from the sponsor of the charter school.

(1) Any other information the *Executive* Director of the State Public Charter School Authority determines is necessary.

2. On or before *January 1 and* July 1 of each year, the State Public Charter School Authority shall determine the balance of money in the Account. If the State Public Charter School Authority determines that the balance of money in the Account is \$5,000 or more, the State Public Charter School Authority shall provide notice of that fact and the availability of loans from the Account to each charter school that has been issued a written charter or has a charter contract executed pursuant to NRS ~~386.527~~ *388A.270*.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
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1. A clear and concise explanation of the need for the adopted regulation.

SB509, codified in NRS 388A, requires the State Public Charter School Authority to adopt regulations prescribing the deadline for submission of an application for a loan from the Account for Charter Schools and allows the Authority to adopt such other regulations as it deems necessary to carry out the provisions of law related to the Account. The proposed regulation revises the deadlines for an application for a loan from the Account, revises the dates on which the Authority must determine the balance of money in the Account, and requires that, to the extent permitted by law, the Authority may expend money obtained by a grant, gift, bequest, or donation which requires terms different than those established by the Authority in accordance with the terms of the grant, gift, bequest, or donation. Following the passage of SB509, the Authority began accepting and approving charter school during a summer and a winter cycle and adopted a policy to allow high performing charter schools to submit outside of those windows on an invitational basis. This practice reflected in R089-16A, resulted in a significant delay between when charter applications were approved and when some schools could apply for the loan fund. As a result of that delay, a number of schools elected to seek out more expensive financing options. The adopted regulation will allow the Authority to better manage the loan application process and provide schools with additional options on when to submit loan applications on timelines that complement the charter application approval process. By clarifying loan application submission deadlines, the Authority will be able to distribute loan dollars to schools in a more timely manner. Additionally, the regulation provides that in the event that the Authority receives a gift, donation, or bequest to the Account for Charter Schools that has different requirements than those outlined in the general language of the regulation, the terms of the gift, grant, or bequest will govern. This change provides the Authority with the flexibility that may be necessary to comply with such unique requirements without necessitating additional changes to the regulation.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

The SPCSA held a regulation workshop on January 8, 2016 to solicit public comment on the proposed regulation. The SPCSA sent the proposed regulation to interested stakeholders and published it to the SPCSA website on October 5, 2016 for further comment from the public. The SPCSA held public comment at the November 4, 2016 Regulation hearing where interested parties were welcome to submit testimony regarding the proposed regulations.

3. The number of persons who:

- (a) Attended each hearing:** Carson City – 2 / Las Vegas - 10
- (b) Testified at each hearing:** Carson City – 1 / Las Vegas - 1
- (c) Submitted written comments:** See attached

4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**
- (a) **Name;**
Victoria Neer
Kara Hendricks
 - (b) **Telephone number;**
Neer: 775-826-4200
Hendricks: 702-792-3773
 - (c) **Business address;**
Neer: 555 Double R Blvd Reno NV 89508
Hendricks: 3773 Howard Hughes Parkway #400 North, Las Vegas, NV 89169
 - (d) **Business telephone number;**
SEE B
 - (e) **Electronic mail address;**
Neer: N/A
Hendricks: hendricksk@gtlaw.com
 - (f) **Name of entity or organization represented.**
Neer: Nevada Connections Academy
Hendricks: Nevada Virtual Academy

Both Ms. Neer and Ms. Hendricks provided comment during the regulation hearing, but it did not pertain to this proposed regulation.

5. **A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**
The SPCSA posted the proposed regulation, notice of intent to act and small business impact statement on its website. It called for interested parties including small businesses for explanation of how the proposed regulations may impact their business.
6. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**
The Regulation was modified at the hearing.
7. **The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:**
- (1) **Both adverse and beneficial effects;**
NONE
 - (2) **Both immediate and long-term effects.**
NONE
8. **The estimated cost to the agency for enforcement of the proposed regulation:**
There is no cost to the agency for the enforcement of the proposed regulation.
9. **A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or**

overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There is no duplication or overlap of regulations of state or local government agencies.

- 10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

The proposed regulation does not include provisions that are more stringent than a federal regulation that regulates the same activity.

- 11. 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.**

The proposed regulation does not establish a new fee or increases an existing fee of the State Public Charter School Authority.