

**PROPOSED REGULATION OF THE
STATE BOARD OF EDUCATION**

LCB FILE NO. R133-22I

**The following document is the initial draft regulation proposed
by the agency submitted on 06/28/2022**

REQUESTED AMENDMENT TO NAC 387.XXX

SB 485 (2019)

Conditions for Reimbursement of Costs for Providing Educational Services

Rationale:

Section 1, subsection 9 of SB 485 (2019) requires the Department to adopt regulations necessary to carry out the requirements associated with reimbursement of costs for the provision of educational services by a hospital or other facility that provides residential treatment, including but not limited to the transfer of educational records.

Stakeholder engagement associated with the development of regulations as required by SB 210 (2021) identified a number of barriers regarding the provision of educational services to students who are admitted to a hospital or facility that provides residential treatment.

- Significant barriers related to communication by the hospital or facility with personnel from the school or district and with the parents or guardians of the child regarding the educational needs and services of the child were some of the most frequently identified by stakeholders across a number of agencies and fields.
- In addition, many stakeholders indicated that the lack of a plan regarding the continued education of a child who has been admitted to a hospital or facility that provides residential treatment led to difficulties when it came time to transition the child out of the hospital placement and back to a school or other educational setting.
- A number of stakeholders indicated that the needs of students with disabilities were not being met when the student is admitted to a hospital or facility that provides residential treatment, including failure to maintain an IEP during admission, and which impacted the ability of the student to transition back to a school or other educational setting following discharge.

NDE is granted authority to adopt regulations it deems necessary for the reimbursement of costs of providing educational services, and is further responsible for ensuring that the education provided to students of this state meets the standards of quality expected and enumerated in the state's laws and regulations. These proposed regulations seek to address the barriers identified through meaningful stakeholder engagement as a requirement of reimbursement to a hospital or facility for the costs of providing educational services to a child who is admitted for residential treatment.

1. If a hospital or facility requests reimbursement for the cost of providing educational services to a child who is in the custody of an agency which provides child welfare services and who is admitted pursuant to NRS 432B.6076, the plan developed pursuant to NRS 432B.60847 must be included with the request for reimbursement as required by NRS 387.1225.

2. If a hospital or facility requests reimbursement for the cost of providing educational services to a child who is admitted to a hospital or facility pursuant to NRS 387.1225, a plan for the continued education of a child must be included with the request for reimbursement as required by NRS 387.1225. The plan for the continued education of the child shall be developed by the hospital or facility in consultation with:

(a) The person or persons from the hospital or facility who serve as the educational director or liaison for school aged children who are admitted to the hospital or facility;

(b) Representatives from the public school and any school district in which the child was enrolled or which was providing services to the child when he or she was admitted, including but not limited to;

(1) For a child who is a pupil with a disability, the person or persons who are responsible for the case management of the individualized education program of the child, as applicable;

(2) A school counselor, school psychologist, school social worker, or other specialized instructional support personnel, as defined in NRS 388.890, who provides non-instructional supports to the child; and

(3) A classroom teacher who is currently providing instruction to the child;

(c) The parent or guardian of the child;

(d) The child, as developmentally appropriate, to ensure that the personal rights and wishes of the child are considered; and

(e) If the child is in the custody of an agency which provides child welfare services:

(1) Representatives from the agency which provides child welfare services, including at minimum the child's caseworker; and

(2) The educational decision maker appointed for the child pursuant to NRS 432B.462.

3. In addition to the persons identified in subsection 2, the plan for the continued education of a child who is in the custody of an agency which provides child welfare services and who is admitted to a hospital or facility which is requesting reimbursement for the cost of providing educational services may be developed may be developed, in accordance with the policies of the agency which provides child welfare services, in consultation with:

(a) The parent or parents of the child, as defined by NRS 432B.080 and in accordance with the provisions of NRS 432B.392;

(b) The person or persons who maintain a foster home, as defined by NRS 424.014, in which the child has been placed;

(c) The fictive kin of the child, as defined by NRS 432B.6205; or

(d) The relative of the child, as defined by NRS 432B.6213.

4. A copy of the plan that is developed pursuant to subsections 2 and 3:

(a) Must be provided to each individual identified in subsection 2; and

(b) May be provided to any individual identified in subsection 3, in accordance with the policies of the agency which provides child welfare services.

5. The plan developed pursuant to subsections 2 and 3 for the continued education of a child who is admitted to a hospital or facility which is requesting reimbursement for the cost of providing educational services must include, without limitation:

(a) The name, phone number, and electronic mail address for:

(1) The primary point of contact at the hospital or facility;

(2) The primary point of contact at the public school;

(3) The primary point of contact at the school district;

(4) If the child is in the custody of a child welfare agency, the child's caseworker as assigned by the agency which provides child welfare services; and

(5) If the child is in the custody of a child welfare agency, the educational decision maker appointed for the child pursuant to NRS 432B.462.

(b) The names of the person or persons at the hospital or facility, the public school and the school district, as applicable, who are responsible for each required component in the plan for the continued education of the child, including the provision of instruction.

(c) Methods, processes and timelines for communication between the persons identified pursuant to paragraph (a), including but not limited to:

(1) The frequency of communication by the hospital or facility to the primary points of contact at the public school and school district and, if the child is in the custody of an agency which provides child welfare services, the case worker, regarding the pupil's progress according to the provisions and requirements of the plan for the continued education of the child, to include at minimum weekly communications for the first 30 days

of the period of admission, and bi-weekly communications for each period of admission beyond the first 30 days;

(2) Agreements regarding timelines for responding to inquiries or requests for information on the part of any of the primary points of contact identified pursuant to paragraph (a), to include at minimum provisions for providing a response within 3 business days; and

(3) Provisions for ensuring that the educational records and personally identifiable information of the pupil is safeguarded in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232 and 34 CFR Part 99, and the Protection of Pupil Rights Amendment, at 34 CFR Part 98.

(d) Mechanisms for the transfer of instructional materials to the hospital or facility from the public school and school district in which the child was enrolled or which was providing services to the child when he or she was admitted, including provisions for:

(1) Processes and timelines for the transfer of instructional materials, including but not limited identification of which entity will assume financial responsibility for any costs incurred as a result of the transfer of instructional materials;

(2) The identification of persons within the hospital or facility and the public school who are responsible for the transfer of instructional materials;

(3) The safe storage and maintenance of instructional materials by the hospital or facility, including but not limited to any electronic devices provided by the public school for the purposes of the pupil's education while they are admitted and provisions for replacement by the hospital or facility of any instructional materials that are lost or

damaged as a result of the actions of the hospital or facility while the child is admitted;

(4) The safe storage and transfer of educational records by the hospital or facility to the public school and school district, in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232 and 34 CFR Part 99, and the Protection of Pupil Rights Amendment, at 34 CFR Part 98; and

(e) Provisions regarding the pupil's ability to demonstrate satisfactory completion of required courses, including but not limited to:

(1) The average number of instructional hours per week that must be provided to the child while the child is admitted, including adjusted instructional hours in alignment with national best practices for home hospital services, and mechanisms for modifying the number of adjusted instructional hours per week based on the mental health needs and functioning level of the pupil;

(2) Methods for recording the attendance of the pupil according to the identified number of instructional hours that must be provided to the child while the child is admitted;

(3) For pupils in grade 11 or grade 12, any modifications to a course of study that will assist the pupil to satisfy the requirements for graduation, pursuant to NRS 389.330, including through mutual agreement by the pupil and the pupil's parent or legal guardian;

(4) The consideration of how non-academic programming and activities provided by the hospital or facility as a component of the child's treatment may be counted toward elective credits required for promotion or graduation, including but not limited to requirements for physical education; and

(5) The consideration of arrangements for shared instructional responsibilities between the public or private school and the hospital or facility, including but not limited to options for web-based or virtual instruction provided by the public or private school or another online school that has been approved by the Department, or a hybrid approach that incorporates both in-person and web-based or virtual learning.

(6) Any means by which a pupil who is in foster care may receive full or partial credit, pursuant to NRS 389.320 and NRS 388A.489, and in accordance with procedures adopted by the board of trustees of each school district and the sponsor of each charter school pursuant to subsection 2 of NRS 389.320;

(f) The educational services and instruction that will be provided to the child while they are admitted to a hospital or facility, including but not limited to:

(1) Academic instruction which will assist the pupil to maintain current educational functioning and skills and to prevent the pupil from falling behind their peers;

(2) Instructional content that is aligned with the state's academic standards for public schools, as defined in NRS 389.500 to 389.540, inclusive;

(3) The method or methods by which the instructional content will be provided, including but not limited to in-person individual instruction, in-person small group or classroom instruction, web-based or virtual instruction, or some combination thereof;

(4) The identification of current or previous challenges experience by the pupil in accessing instruction and instructional content, including behaviors the pupil has engaged in to avoid or escape instruction;

(5) The inclusion of strategies and methods that have been effective in supporting the pupil in successfully accessing instruction and instructional content and the successful completion of assignments by the pupil;

(6) Consideration of the needs of pupils who are English learners, as defined in NRS 388.405 to 388.413, inclusive; and

(7) Mechanisms and processes for responding to instances in which the transfer of instructional materials is delayed due to unexpected events or an unexpected inability to access technology required for the completion of instruction, included provisions for notifying the public or private school in accordance with the requirements of paragraph (c) of this section;

(g) Processes for monitoring, recording and reporting the progress of the pupil in meeting the educational services and instructional goals identified in pursuant to paragraph (f), including but not limited to:

(1) The frequency and method by which the hospital or facility will provide reports of progress by the pupil to the primary points of contact included in paragraph (a);

(2) Mechanisms and processes for the identification of instances in which the plan for the continued education of the child shall be reviewed and considered for revision if the pupil not making satisfactory academic progress or is experiencing learning loss; and

(3) Consideration by the hospital or facility the inclusion of regular meetings to review the child's academic progress as a component of the child's treatment plan, including with the child's parent or parents and, if the child is in the custody of an agency which provides child welfare services, the person or persons who maintain the foster home and the child's

fictive kin or the child's relative, as applicable and in accordance with the policies of the agency which provides child welfare services.

(h) Provisions and timelines for the transfer and review of the plan for the continued education of the child if the child's admission to a hospital or facility is changed to a different hospital or facility prior to discharge of the child from residential treatment.

(i) Provisions and timelines that will be followed prior to the discharge of a child from the hospital or facility, including a requirement that the hospital or facility provide written notice to the school or other educational setting in which the child will receive instruction after discharge at least 10 days before the anticipated date of discharge of the child from the hospital or facility.

6. To facilitate compliance with the provisions of subsection 5, the Department shall post on the Internet website maintained by the Department and review at least annually a list of resources that reflect nationally accepted best practices for the development of a plan for the continued education of a child while the child remains enrolled in a public or private school or the school district yet is admitted to a hospital or facility which provides residential treatment.