

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

LCB FILE NO. R009-25I

**The following document is the initial draft regulation proposed
by the agency submitted on 06/02/2025**

Program for Persons With Disabilities With Unique Needs - NAC sections 388.460 - 388.488

NAC sections 388.460 through 388.488 must be repealed because they explicitly reference and were designed to implement NRS sections 395.30, 395.40, 395.50, and 395.60, which have since been repealed. Maintaining regulations that are directly tied to non-existent statutory authority creates confusion and lacks a legal basis for their continued enforcement. The outdated application process for out-of-district placement described in these NAC sections has also been replaced by the CASE process, as outlined in NRS 388.5223 - 388-5243 and its implementing regulations, NAC 388.319 and NAC 388.323. Therefore, to ensure regulatory accuracy, consistency with current law, and to avoid confusion, NAC sections 388.460 through 388.488 should be repealed.

~~[Program for Persons With Disabilities With Unique Needs~~

~~—NAC 388.460—Definitions. (NRS 385.080, 388.419)—As used in this chapter, unless the context otherwise requires:~~

~~—1.—“Person with a disability” means a person who has:~~

~~—(a)—A hearing impairment;~~

~~—(b)—A visual impairment;~~

~~—(c)—An orthopedic impairment;~~

~~—(d)—A health impairment;~~

~~—(e)—A speech and language impairment;~~

~~—(f)—An intellectual disability;~~

~~—(g)—An emotional disturbance;~~

~~—(h)—Multiple impairments;~~

~~—(i)—Learning disabilities;~~

~~—(j)—Traumatic brain injury;~~

~~—(k)—An autism spectrum disorder; or~~

~~—(l)—Developmental delays.~~

~~—2.—“Residential school” means an institution, a foster home or other facility which is located in or outside the county school district of a person with a disability and in which he or she receives room and board and special education for his or her particular disability.~~

~~—3.—“Special education program” has the meaning ascribed to it in NRS 388.5219.~~

~~—[Bd. of Education, Handicapped Persons § 2, eff. 2-12-81]— (NAC A 3-14-96; A by Bd. of Education by R017-18, 1-30-2019)— (Substituted in revision for NAC 395.010)~~

~~—**NAC 388.462—Psychological and educational evaluation of persons with disabilities.** (NRS 385.080)~~

~~—1.—A county school district shall conduct a comprehensive psychological and educational evaluation of each person with a disability whom it considers for placement outside the district pursuant to NRS 388.5211 to 388.5243, inclusive:~~

~~—2.—Such an evaluation must be conducted every 3 years or more frequently if conditions warrant or if requested by the person with a disability, his or her parents, parent, guardian or residential school:~~

~~—[Bd. of Education, Handicapped Persons § 3, eff. 2-12-81]— (NAC A 3-14-96)— (Substituted in revision for NAC 395.020)~~

~~—**NAC 388.464—Individualized educational programs: Preparation; purpose; review or revision.** (NRS 385.080)~~

~~—1.—The county school district shall prepare an individualized educational program for each person with a disability whom it considers for placement outside the district.~~

~~—2.—The individualized program aids in determining the person’s eligibility for benefits under NRS 388.5211 to 388.5243, inclusive, and in identifying an appropriate educational program for the person:~~

~~—3.—In any meeting for review or revision of the individualized program, the county school district shall provide for representation from the residential school concerning its special program of education:~~

~~—[Bd. of Education, Handicapped Persons § 4, eff. 2-12-81]— (NAC A 3-14-96)— (Substituted in revision for NAC 395.030)~~

~~—**NAC 388.466—Determination by administrative staff; application to board of trustees.** (NRS 385.080)—The administrative staff of a county school district shall determine whether an appropriate educational program is available within the district. If it is determined that there is not a program available, the staff shall verify that all~~

requirements for eligibility set forth in ~~NRS 388.5223~~ have been met and submit the application to the board of trustees of the district:

~~—[Bd. of Education, Handicapped Persons § 6, eff. 2-12-81]— (NAC A 2-1-85)—
(Substituted in revision for NAC 395.040)~~

~~—NAC 388.468—Submission of documents by board of trustees to Superintendent of Public Instruction. (NRS 385.080)—The board of trustees of the county school district shall send the following documents to the Superintendent of Public Instruction:~~

~~—1.—The individualized educational program for the person with a disability:~~

~~—2.—Parental agreement to accept responsibility for the medical, dental and personal expenses of the person with a disability:~~

~~—3.—A signed authorization from the person with a disability, his or her parents, parent or guardian allowing the Department of Education to obtain and release confidential information about the person to other residential schools:~~

~~—4.—The comprehensive evaluation of the person with a disability provided by the school district:~~

~~—5.—A summary of the previous actions taken by the school district to provide an appropriate education for the person with a disability:~~

~~—[Bd. of Education, Handicapped Persons § 9, eff. 2-12-81]— (NAC A 3-14-96)—
(Substituted in revision for NAC 395.060)~~

~~—NAC 388.470—Receipt of application; Superintendent of Public Instruction authorized to request further evaluation. (NRS 385.080)—After receiving the application and supporting documents, the Superintendent of Public Instruction may request that a further evaluation of the person with a disability be conducted at state expense:~~

~~—[Bd. of Education, Handicapped Persons § 10, eff. 2-12-81]— (NAC A 3-14-96)—
(Substituted in revision for NAC 395.080)~~

~~—NAC 388.472—Confidentiality of records by Department of Education. (NRS 385.080)—The Department of Education will keep confidential all records of transactions pertaining to the person with a disability. All information which can be identified as related to the person with a disability will be treated in a secure and confidential manner:~~

~~—[Bd. of Education, Handicapped Persons § 16, eff. 2-12-81]— (NAC A 3-14-96)—
(Substituted in revision for NAC 395.090)~~

~~—NAC 388.474—Rejection of application. (NRS 385.080)—If the Superintendent of Public Instruction does not approve an application, he or she shall return it to the board of trustees of the county school district for reevaluation.~~

~~—[Bd. of Education, Handicapped Persons § 11, eff. 2-12-81]—(Substituted in revision for NAC 395.100)~~

~~—NAC 388.476—Approval of application; selection of educational program. (NRS 385.080)—Upon approval of an application by the Superintendent of Public Instruction, the Department of Education will select an educational program based on the following criteria:~~

~~—1.—The person must be educated in the least restrictive environment which is appropriate for him or her.~~

~~—2.—The placement must be the least expensive to the State of those possible placements which are equally appropriate.~~

~~—[Bd. of Education, Handicapped Persons § 12, eff. 2-12-81]—(Substituted in revision for NAC 395.110)~~

~~—NAC 388.478—Procedure when appropriate educational program not readily available. (NRS 385.080)—If an appropriate educational program is not readily available for the person with a disability, the Superintendent of Public Instruction shall so notify the person, his or her parents, parent or guardian and the county school district. The Department of Education will search for an appropriate educational placement for the person until:~~

~~—1.—The person's placement is accomplished in an appropriate program;~~

~~—2.—The person's application is withdrawn by his or her parents, parent or guardian; or~~

~~—3.—The person is no longer eligible to receive benefits under NRS 388.5223 to 388.5243, inclusive.~~

~~—[Bd. of Education, Handicapped Persons § 13, eff. 2-12-81]—(NAC A 3-14-96)—(Substituted in revision for NAC 395.120)~~

~~—NAC 388.480—Transportation expenses. (NRS 385.080)—The Department of Education will provide, by reimbursement, for the expenses of transportation:~~

~~—1.—Of the person with a disability and his or her parents, parent or guardian for the initial trip to a residential school and their return trip home; and~~

~~—2.—Of the person with a disability and one parent or an escort for subsequent trips to and from the residential school at the beginning and ending of each school year and during holidays and recesses scheduled by the school which are of 2 days duration or longer.~~

~~—[Bd. of Education, Handicapped Persons § 14, eff. 2-12-81]—(NAC A 3-14-96)—
(Substituted in revision for NAC 395.130)~~

~~—NAC 388.482—Annual assessment and report of progress; visit by staff member; license of residence or school required. (NRS 385.080)~~

~~—1.—Each county school district shall, at least annually, determine the progress of each person with a disability from the school district who has received placement pursuant to NRS 388.5223 to 388.5243, inclusive. The school district shall:~~

~~—(a)—Review, at least annually and in accordance with subsection 3 of NAC 388.464, the individualized educational program for the person;~~

~~—(b)—Examine the person's report cards and other reports of his or her progress; and~~

~~—(c)—Submit an annual report concerning the person's progress to the Department of Education.~~

~~—2.—Staff members of the Department or county school district shall, to review the educational program and placement of such persons with disabilities, conduct a visit at least annually to each place of residence or education in which a person with a disability from the district has been assigned for special education and shall submit to the Superintendent of Public Instruction a report of the visit. The Superintendent shall send a copy of the report to the school district of the person with a disability and to the person's parents, parent or guardian.~~

~~—3.—No person with a disability will be placed in a residence or school which does not maintain appropriate licenses from the state in which it is located.~~

~~—[Bd. of Education, Handicapped Persons § 17, eff. 2-12-81]—(NAC A 3-14-96)—
(Substituted in revision for NAC 395.140)~~

~~—NAC 388.484—Proposal of school district to return person with disability to school district; federal money for proposal; restriction on use of money in subsequent years. (NRS 385.080)~~

~~—1.—Each school district shall submit a proposal to the Department of Education describing special education and related services designed to return a person with a disability to the school district and the cost of such services.~~

~~—2.—If federal money is sufficient to pay the cost of the proposal, the Superintendent of Public Instruction shall make the necessary arrangements for the school district to provide the services described in its proposal:~~

~~—3.—Unless authorized by law, federal money provided pursuant to subsection 2 must not be used to pay for special education and related services offered by the school district in subsequent years:~~

~~—(Added to NAC by Bd. of Education, eff. 3-14-96) — (Substituted in revision for NAC 395.145)~~

~~—NAC 388.486—Change of address, telephone number or marital status. (NRS 385.080)—Each such parent or guardian shall immediately notify the county school district and the Department of Education of any change in his or her address, telephone number or marital status:~~

~~—[Bd. of Education, Handicapped Persons § 15, eff. 2-12-81] — (Substituted in revision for NAC 395.150)~~

~~—NAC 388.488—Continuation of benefits: Annual certification and notification by superintendent of school district; determination by Superintendent of Public Instruction; notice of ineligibility. (NRS 385.080)~~

~~—1.—The superintendent of each school district shall annually certify, and notify the board of trustees of the district, with regard to each person with a disability from the school district who is receiving benefits pursuant to NRS 388.5223 to 388.5243, inclusive, that:~~

~~—(a)—The person has an individualized educational program developed in accordance with chapter 388 of NAC; and~~

~~—(b)—After a review of the educational needs of the person and a review of the available resources of the local school district, it has been determined that an appropriate educational program is not available locally and, therefore, the person requires the continuation of benefits:~~

~~—2.—A determination concerning the continued eligibility of a person with a disability for benefits must be made by the Superintendent of Public Instruction based upon the following considerations:~~

~~—(a)—A current individualized educational program that is submitted to the Department of Education by a school district; and~~

~~—(b)—Information provided by the residential school or program attended by the person:~~

~~—3.—Written notification must be provided to the school district if the Superintendent of Public Instruction determines that the person with a disability is no longer eligible for benefits.~~

~~—[Bd. of Education, Handicapped Persons § 5, eff. 2-12-81]—(NAC A 3-14-96)—
(Substituted in revision for NAC 395.160)]~~