

APPROVED REGULATION
OF THE STATE BOARD OF EDUCATION

LCB File No. R076-25

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

AUTHORITY: §§ 1-4, NRS 385.080 and 388.041; §§ 5-7, NRS 385.080 and 388.040.

A REGULATION relating to education; prescribing the procedure for the award of grants under a program to provide transportation assistance to pupils who attend a public school outside the zone of attendance that the pupil is otherwise required to attend and requirements governing the operation of such a program; requiring each school district to develop a process for the parents or legal guardians of certain pupils to request transportation assistance; requiring the board of trustees of each school district to submit an application to the Department of Education to implement a system of open enrollment; establishing the requirements governing the operation of a system of open enrollment; prescribing certain requirements governing a determination of the capacity for a grade level at a public school; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law: (1) authorizes the board of trustees of certain school districts to zone the school district and determine which pupils must attend each school; (2) requires the board of trustees of each school district to adopt policies and procedures governing the attendance of pupils at schools outside the zone of attendance that such pupils are otherwise required to attend; and (3) requires the Superintendent of Public Instruction to establish a process to review such policies and procedures for compliance with applicable law. (NRS 388.040) **Section 6** of this regulation establishes the process for the submission and review of such policies and procedures.

Existing law: (1) requires a school district to give priority for enrollment in a school outside the zone of attendance that a pupil is otherwise required to attend to pupils who live in the zone of attendance of certain schools that have received low ratings of performance; and (2) authorizes a school district to use a lottery to determine which pupils will be enrolled in a grade level at a public school outside the zone of attendance of those pupils. (NRS 388.040) **Section 7** of this regulation authorizes a school district, after prioritizing the pupils for which priority is required by existing law, to prioritize pupils in any manner not prohibited by law. **Section 7** also clarifies the circumstances under which a school district may use a lottery to prioritize pupils for enrollment in a grade level at a school that is outside the zone of attendance that a pupil is otherwise required to attend.

Existing law requires the board of trustees of a school district to: (1) determine the capacity for each grade level within each public school in the school district; and (2) annually publish such information on the Internet not later than 90 days before the date on which the school district will begin accepting applications from pupils to attend a public school outside the zone of attendance that a pupil is otherwise required to attend. (NRS 388.040) **Section 7** prescribes the manner in which the board of trustees of a school district must make such a determination.

Existing law requires the Department of Education, to the extent that money is available, to establish a program to award grants of money on behalf of a pupil for the purpose of providing the pupil with transportation to attend a public school located outside the zone of attendance that the pupil is otherwise required to attend. (NRS 388.041) **Section 2** of this regulation establishes the requirements for a school district or organization to be eligible to receive such a grant and the authorized uses of grant money. **Section 3** of this regulation prescribes the process to award such grants to school districts or other organizations. **Section 4** of this regulation prescribes requirements governing the operation of programs to provide transportation assistance that are funded by grants. **Section 4** also establishes the requirements for a pupil to be eligible to receive transportation assistance through such a program.

Section 1. Chapter 387 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. 1. *Pursuant to NRS 388.041, the Department shall, to the extent that money is available for this purpose, award grants of money to school districts and other organizations to support transportation to public schools outside the zone of attendance pursuant to subsection 1 of section 4 of this regulation for pupils who:*

(a) Attend a school district which has elected not to provide transportation to pupils who attend a public school outside the zone of attendance that the pupils are otherwise required to attend pursuant to paragraph (e) of subsection 2 of NRS 388.040; and

(b) Meet the requirements of subsection 2 of section 4 of this regulation.

2. *To be eligible for such a grant:*

(a) A school district must:

(1) Meet the requirements of paragraph (a) of subsection 1;

(2) Have adopted policies and procedures governing the attendance of pupils at schools outside the zone of attendance that the pupil is otherwise required to attend that have been approved by the Department pursuant to section 6 of this regulation;

(3) Administer to the parent or legal guardian of each pupil who has been approved to attend a public school outside the zone of attendance that the pupil is otherwise required to attend through a system of open enrollment implemented pursuant to section 6 of this regulation an assessment to identify the need for transportation assistance on behalf of the pupil that meets the requirements of subsection 3;

(4) Have established a process to:

(I) Determine the eligibility of pupils for transportation assistance in accordance with subsection 2 of section 4 of this regulation; and

(II) Prioritize eligible pupils in accordance with paragraph (c) of subsection 1 of section 4 of this regulation;

(5) If applicable, have entered into an agreement described in subparagraph (1) of paragraph (b) of subsection 1 of section 4 of this regulation; and

(6) Plan to use any grant of money awarded pursuant to this section for purposes authorized by subsection 4.

(b) An organization must have entered into an agreement that meets the requirements of this paragraph with one or more school districts described in paragraph (a). The agreement must:

(1) Provide for the secure sharing of data relating to pupils for the purpose of compliance with the prioritization requirements of paragraph (c) of subsection 1 of section 4

of this regulation and the eligibility requirements of subsection 2 of section 4 of this regulation; and

(2) Include contractual terms relating to insurance, liability and indemnification, as applicable.

3. An assessment administered to the parent or legal guardian of a pupil pursuant to subparagraph (3) of paragraph (a) of subsection 2 must require a parent or legal guardian completing the assessment to:

(a) Identify whether the parent or legal guardian wishes to opt into available transportation services offered by the school district or other organizations or receive reimbursement for the cost of transportation;

(b) Identify whether the pupil has any special needs with regard to transportation due to a disability or other reason; and

(c) Provide the attestation required by paragraph (b) of subsection 2 of section 4 of this regulation.

4. Money awarded through a grant pursuant to this section must be used to pay the costs for a program of transportation assistance that meets the requirements of section 4 of this regulation, which may include, without limitation, the administrative costs associated with:

(a) The assessment administered pursuant to subparagraph (3) of paragraph (a) of subsection 2; and

(b) Prioritizing pupils for transportation assistance in accordance with paragraph (c) of subsection 1 of section 4 of this regulation.

Sec. 3. 1. *A school district or organization that wishes to receive a grant pursuant to section 2 of this regulation must submit an application to the Department. The application must include:*

(a) A financially sound plan for implementing the program proposed for funding that includes, without limitation:

(1) The approximate cost of each program of transportation assistance that the school district or organization proposes to fund using the grant; and

(2) The methodology used by the school district or organization to determine the costs identified pursuant to subparagraph (1);

(b) Evidence that the program proposed for funding:

(1) Has established a means to inform a parent or guardian who opts in to transportation assistance:

(I) Whether the pupil for whom the parent or guardian is responsible is eligible for transportation assistance;

(II) Whether the pupil will receive transportation assistance;

(III) If the pupil will receive transportation assistance, the form of transportation assistance that the pupil will receive; and

(IV) If the pupil will not receive transportation assistance, any additional transportation options available in the community; and

(2) Will comply with the requirements of this section, sections 2 and 4 of this regulation and NRS 388.041;

(c) A count of the number of pupils for whom parents or guardians have opted into transportation assistance pursuant to paragraph (a) of subsection 3 of section 2 of this

regulation through the program proposed for funding and the anticipated cost to provide transportation assistance to a pupil for 1 school year; and

(d) The number of pupils described in paragraph (c) who fall into each category listed in subsection 2 based upon information disclosed by their parents or legal guardians in the assessment administered pursuant to subparagraph (3) of paragraph (a) of subsection 2 of section 2 of this regulation.

2. In awarding money to support programs that provide transportation assistance to pupils who meet the eligibility requirements set forth in subsection 2 of section 4 of this regulation, the Department shall:

(a) Give first priority to programs that will provide transportation assistance to high numbers of pupils who applied through the system of open enrollment pursuant to section 6 of this regulation to attend a public school outside the zone of attendance that the pupil is otherwise required to attend which received, in the immediately preceding school year, a rating of performance pursuant to the statewide system of accountability for public schools that is higher than the rating of performance received by the public school that the pupil is otherwise required to attend;

(b) Give secondary priority to programs that will provide transportation assistance to high numbers of pupils who:

(1) Are migrants, homeless, have been placed in foster care; or

(2) Have been identified as at risk of not graduating as of October 1 of the immediately preceding school year; and

(c) Give tertiary priority to other programs that meet the requirements of this section, sections 2 and 4 of this regulation and NRS 388.041.

Sec. 4. 1. A program of transportation assistance supported by a grant pursuant to section 2 of this regulation must:

(a) Identify the needs and determine the eligibility of pupils based upon the information disclosed by their parents or legal guardians in the assessments administered pursuant to subparagraph (3) of paragraph (a) of subsection 2 of section 2 of this regulation;

(b) Provide transportation assistance to eligible pupils through:

(1) Agreements between school districts and organizations to provide transportation to pupils that:

(I) Provide for the secure sharing of data relating to pupils for the purpose of compliance with the prioritization requirements of paragraph (c) and the eligibility requirements of subsection 2; and

(II) Include contractual terms relating to insurance, liability and indemnification, as applicable;

(2) A program developed by a school district or other organization to provide transportation directly to pupils; or

(3) The provision of reimbursement to the parents or legal guardians of pupils for the cost of transportation;

(c) Prioritize pupils who are eligible for transportation assistance through the program and whose parents or guardians opt into such transportation assistance in the order specified in subsection 2 of section 3 of this regulation; and

(d) If there is insufficient money available to provide transportation assistance to all eligible pupils whose parents or guardians have opted into transportation assistance in a level of priority identified in subsection 2 of section 3 of this regulation, award transportation

assistance to such pupils within that level of priority in the order in which the parents or guardians of the pupils opted into transportation assistance.

2. To be eligible to receive transportation assistance through a program funded pursuant to section 2 of this regulation, a pupil must:

(a) Live in the zone of attendance for a public school that received, in the immediately preceding school year, one of the two lowest ratings of performance pursuant to the statewide system of accountability for public schools; and

(b) Attest that he or she has no other viable form of transportation available to him or her.

3. For the purposes of this section and NRS 388.041, a pupil has no other viable form of transportation available to him or her if the pupil has no reliable means to:

(a) Arrive at school on time for the beginning of the school day; or

(b) Depart from school at the conclusion of the school day.

Sec. 5. Chapter 388 of NAC is hereby amended by adding thereto the provisions set forth as sections 6 and 7 of this regulation.

Sec. 6. 1. *The board of trustees of each school district shall submit to the Department an application in the form prescribed by the Department to implement a system of open enrollment pursuant to which a pupil in the school district may attend a public school outside the zone of attendance that the pupil is otherwise required to attend pursuant to NRS 388.040. Such an application must contain, without limitation, a copy of the policies and procedures described in paragraph (a) of subsection 4 of NRS 388.040.*

2. Within 30 days after receipt of an application submitted pursuant to subsection 1, the Department shall:

(a) Review and evaluate the application in accordance with a rubric to evaluate the degree to which the system of open enrollment proposed by the application complies with the requirements of NRS 388.040 and other applicable law; and

(b) Approve or deny the application and provide the applicant with the score the application received on the rubric described in paragraph (a).

3. The Department shall publish the rubric described in paragraph (a) of subsection 2 on an Internet website operated by the Department.

4. Approval of a system of open enrollment by the Department pursuant to this section remains in effect and does not require renewal. The board of trustees of the school district must reapply for approval if the board of trustees wishes to change the policies and procedures described in paragraph (a) of subsection 4 of NRS 388.040.

Sec. 7. 1. After prioritizing pupils described in sub-subparagraph (I) of subparagraph (7) of paragraph (a) of subsection 4 of NRS 388.040, the board of trustees of a school district may prioritize pupils for enrollment in a grade level within a public school for which applications exceed the capacity determined pursuant to paragraph (c) of subsection 4 of NRS 388.040 in any manner not prohibited by law.

2. Pursuant to sub-subparagraph (II) of subparagraph (7) of paragraph (a) of subsection 4 of NRS 388.040, the board of trustees of a school district may use a lottery to:

(a) Select pupils described in sub-subparagraph (I) of subparagraph (7) of paragraph (a) of subsection 4 of NRS 388.040 for enrollment in a grade level if the applications for the enrollment of such pupils in that grade level exceed the capacity determined pursuant to paragraph (c) of subsection 4 of NRS 388.040.

(b) Select pupils from another category of pupils prioritized for enrollment pursuant to subsection 1 if the number of applications for the enrollment of such pupils in a grade level exceeds the capacity remaining in that grade level after all pupils described in sub-subparagraph (I) of subparagraph (7) of paragraph (a) of subsection 4 of NRS 388.040 are enrolled.

(c) Select pupils who are not prioritized for enrollment pursuant to subsection 1 if the number of applications for the enrollment of such pupils in a grade level exceeds the capacity remaining in that grade level after all pupils described in sub-subparagraph (I) of subparagraph (7) of paragraph (a) of subsection 4 of NRS 388.040 and all pupils prioritized for enrollment pursuant to subsection 1 are enrolled.

3. When determining capacity for a grade level within a public school pursuant to paragraph (c) of subsection 4 of NRS 388.040, the board of trustees of a school district in which the public school is located:

(a) Shall base the determination on the total number of instructional teaching stations and number of seats available for each instructional teaching station for the grade level; and

(b) May also give consideration to:

(1) The subject matter of the course for which an instructional teaching station is established;

(2) The grade level for which an instructional teaching station is established;

(3) The instructional model used at an instructional teaching station; and

(4) Exigent circumstances.

4. If the capacity pursuant to subsection 3 is determined to be less than the total number of instructional teaching stations and number of seats available for each instructional

teaching station for the grade level within the public school, the board of trustees of the school district in which the public school is located shall:

*(a) Submit to the Department for approval a written explanation for the reduced capacity;
and*

(b) If the written explanation is approved, publish on the Internet website maintained by the school district the written explanation pursuant to paragraph (c) of subsection 4 of NRS 388.040.

5. For purposes of this section, “instructional teaching station” means a distinct physical location designated for a pupil or a group of pupils to engage in learning tasks facilitated by a teacher or other school employee whose duties include rendering direct educational service to pupils. Each such physical location constitutes an instructional teaching station, regardless of whether there is sufficient staff to operate the instructional teaching station.