

**ADOPTED REGULATION OF THE
DEPARTMENT OF EDUCATION**

LCB File No. R108-15

Effective

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

AUTHORITY: §§1-5, 12, 13, 16 and 17, NRS 388B.060; §§6, 7 and 9, NRS 388B.060 and 388B.200; §8, NRS 388B.060, 388B.200 and 388B.210; §§10 and 11, NRS 388B.060 and 388B.210; §14, NRS 388B.060 and 388B.230; §15, NRS 388B.060 and 388B.260; §§18 and 19, NRS 388B.060 and 388B.220.

A REGULATION relating to education; establishing the process for selecting public schools for conversion to achievement charter schools; prescribing the procedure by which an operator will be selected for an achievement charter school; prescribing the order of priority for enrolling pupils in an achievement charter school; authorizing homeschooled children and opt-in children to participate in classes and extracurricular activities at an achievement charter school under certain conditions; clarifying provisions of law governing improvements to the building in which an achievement charter school operates; providing that multiple achievement charter schools may be considered one achievement charter school for purposes of its designation as a local educational agency; authorizing the early termination of a contract to operate an achievement charter school under certain conditions; making various other changes relating to achievement charter schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the conversion of certain underachieving public schools into achievement charter schools and establishes the procedure for the operation of achievement charter schools. (Chapter 388B of NRS) Existing law authorizes the Department of Education to adopt any regulations necessary or convenient to carry out these provisions. (NRS 388B.060)

Existing law establishes the criteria by which a public school is eligible for conversion to an achievement charter school, which include pupil achievement and school performance at the school being unsatisfactory as determined by the Department pursuant to criteria established by regulation of the Department. (NRS 388B.200) **Section 6** of this regulation prescribes the criteria that the Department will use to make such a determination. **Section 6** requires the Department to publish annually a list of public schools that are eligible for conversion to an achievement charter school. **Section 7** of this regulation authorizes the Executive Director of the Achievement School District to enter into a memorandum of understanding with a public school that is eligible for

conversion to an achievement charter school but is not selected for such conversion. If the public school complies with the memorandum of understanding, the Executive Director will not include the school on the list of schools that are eligible for conversion to an achievement charter school for the school year following the school year in which the memorandum of understanding expires.

Existing law requires the Executive Director to solicit and consider input from parents of pupils enrolled in a public school and other members of the community in which the school is located: (1) before designating the school for conversion to an achievement charter school; and (2) before selecting a charter management organization, educational management organization or other person to operate the achievement charter school. (NRS 388B.200, 388B.210) **Section 8** of this regulation prescribes the procedure that the Executive Director must use to solicit such input.

Section 9 of this regulation prescribes the dates by which the Executive Director must annually: (1) submit the list of public schools for continued eligibility for conversion to an achievement charter school to the State Board of Education for approval; and (2) select public schools for conversion to achievement charter schools. **Section 9** also authorizes the State Board to consider any relevant information, including historic achievement data, when considering which schools to approve for final consideration for conversion by the Executive Director.

Existing law requires the Department to adopt regulations that prescribe the process by which a charter management organization, educational management organization or other person may apply to operate an achievement charter school. (NRS 388B.210) **Section 10** of this regulation establishes the requirements to apply for approval to operate an achievement charter school and the procedure by which the Executive Director will review and approve such applications. **Section 11** of this regulation prescribes the process by which: (1) a charter management organization, educational management organization or other person whose application for approval as an operator has been approved may apply to operate a public school selected for conversion to an achievement charter school; and (2) the Executive Director will select an applicant to operate the school.

Section 12 of this regulation: (1) authorizes the parent or guardian of any child who resides within this State to apply for enrollment at an achievement charter school; and (2) establishes the order of priority in which applicants must be enrolled in the achievement charter school.

Existing law: (1) requires the governing body of a charter school to authorize a child enrolled in a public school of a school district or a private school, a homeschooled child or an opt-in child to participate in a class that is not otherwise available to the child or an extracurricular activity at the charter school if space is available and certain other requirements are met; (2) provides that, if the governing body of a charter school authorizes a child enrolled in a public school of a school district or a private school, a homeschooled child or an opt-in child to participate in a class or extracurricular activity, the charter school is not required to provide transportation for the child to the class or activity; (3) authorizes the governing body to revoke such authorization if the governing body determines that the child has failed to comply with applicable statutes, rules or regulations; and (4) authorizes the governing body of a charter school to require proof of the identity of a homeschooled or opt-in child before granting such

authorization. (NRS 388A.471) **Section 13** of this regulation requires the governing body of an achievement charter school to allow such a child to participate in a class or an extracurricular activity under the same conditions.

Existing law: (1) provides that an achievement charter school must continue to operate in the same building in which the school operated before being converted to an achievement charter school; (2) requires the governing body of the achievement charter school to pay costs related to maintenance and operation of the building; and (3) requires the board of trustees of the school district in which the school is located to pay all capital expenses. (NRS 388B.230) **Section 14** of this regulation provides that: (1) any repair or construction that is necessary for the continued operation of an achievement charter school that has a cost exceeding \$15,000 shall be deemed to be a capital expense; and (2) if an achievement charter school is converted to a public school under the governance of the board of trustees of a school district or a standard charter school, any fixtures, improvements or other tangible assets added to the building in which the achievement charter school operates by the governing body must remain with the building after the school is converted.

Existing law requires the board of trustees of a school district, upon the request of the Executive Director, to provide certain services to an achievement charter school. (NRS 388B.260) **Section 15** of this regulation authorizes the Executive Director and the operator of an achievement charter school to consult with the board of trustees of a school district concerning available services and any fees for such services.

Existing law provides that each achievement charter school is deemed a local educational agency for the purpose of receiving money available from federal and state categorical grant programs. (NRS 388B.240) **Section 16** of this regulation provides that, if a charter management organization, educational management organization or other person operates more than one achievement charter school, the group of achievement charter schools operated by such an operator may, at the option of the operator, be deemed to be one local educational agency for the purpose of receiving such money.

Section 17 of this regulation requires the Executive Director to enter into an Achievement Charter School Performance Compact, which is an agreement that includes statistical goals for an achievement charter school, with the operator of an achievement charter school. **Section 17** also requires the Executive Director to review the performance of an achievement charter school during the fourth school year in which the school operates as an achievement charter school. If the Executive Director concludes, as a result of the review, that the achievement charter school has not met the goals set forth in the Achievement Charter School Performance Compact, **section 17** requires the Executive Director to terminate the contract with the operator to operate the achievement charter school.

Existing law authorizes the reconstitution of the governing body of a charter school, the revocation of a written charter or the termination of a charter contract if the sponsor of a charter school determines that: (1) the charter school, its officers or its employees have failed to comply with generally accepted standards of fiscal management or violated the terms of the written charter, charter contract or a statute or regulation concerning charter schools; (2) the charter school is financially impaired such that it cannot continue to operate; (3) reconstitution,

revocation or termination is necessary to protect the health and safety of pupils or school personnel or to prevent damage or loss of property of the school district or the community in which the charter school is located; or (4) the charter school has persistently underperformed. (NRS 388A.330) **Section 18** of this regulation authorizes the Executive Director to terminate a contract to operate an achievement charter school for these reasons.

Section 19 of this regulation provides for notification of the operator of an achievement charter school whose contract is terminated and the parents of pupils enrolled in such an achievement charter school. **Section 19** also authorizes the operator of an achievement charter school whose contract is terminated to appeal the decision to the Department and provides for the selection of a new operator of such an achievement charter school.

Section 1. Chapter 388B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 19, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Achievement Charter School Performance Compact” means a written agreement between an operator and the Executive Director that clearly defines the expectations and goals for the achievement charter school operated by the operator.*

Sec. 4. *“Executive Director” has the meaning ascribed to it in NRS 388B.040.*

Sec. 5. *“Operator” means a charter management organization, educational management organization or other person who operates an achievement charter school.*

Sec. 6. 1. *The Department may determine that pupil achievement and school performance at a public school is unsatisfactory pursuant to paragraph (c) of subsection 1 of NRS 388B.200 and is eligible for conversion to an achievement charter school if the school:*

(a) Has received, for the most recent school year for which data is available, an annual rating established as the lowest possible rating indicating underperformance of a public

school, as determined by the Department pursuant to the statewide system of accountability for public schools;

(b) Has received, for the most recent school year for which data is available, an annual rating established as the second lowest possible rating indicating underperformance of a public school and demonstrates a downward trend in pupil achievement and school performance, as determined by the Department pursuant to the statewide system of accountability for public schools;

(c) Was rated in the lowest 10 percent of schools in this State in pupil achievement and school performance for an identified subgroup of pupils for the most recent school year for which data is available, as determined by the Department pursuant to the statewide system of accountability for public schools;

(d) Regardless of its rating, is located within a school district that has an attendance matriculation pattern that will result in pupils, from kindergarten through grade 12, attending more than one school that has received, for the most recent school year for which data is available, the lowest possible rating indicating under performance of a public school, as determined by the Department pursuant to the statewide system of accountability for public schools; or

(e) Has been identified by the board of trustees of the school district in which the school is located as underperforming after an initial review and analysis conducted by the board.

2. The Department will publish a list of the public schools that are eligible for conversion to an achievement charter school:

(a) On or before October 15, 2016; and

(b) On or before October 1 each year thereafter.

Sec. 7. 1. *On or before march 31 of a year in which a public school is eligible for conversion to an achievement charter school pursuant to section 6 of this regulation but is not selected for conversion, the Executive Director may enter into a memorandum of understanding with the principal of the school. If the school meets the requirements of the memorandum of understanding, the Executive Director must not include the public school on the list of the public schools that are eligible for conversion to an achievement charter school for the school year immediately following the school year in which the memorandum of understanding expires.*

2. A memorandum of understanding entered into pursuant to subsection 1 must:

(a) Prescribe recommendations intended to cause the public school to rapidly improve pupil performance and school achievement;

(b) Prescribe goals for pupil performance and school achievement; and

(c) Provide that, if the public school does not meet the goals prescribed pursuant to paragraph (b), the public school will be eligible for conversion to an achievement charter school for the school year immediately following the school year in which the memorandum of understanding expires.

3. Before entering into a memorandum of understanding pursuant to subsection 1, the Executive Director must consult with the board of trustees of the school district in which the school is located.

Sec. 8. 1. *Before selecting a public school for conversion to an achievement charter school, the Executive Director must solicit and consider input from parents of pupils enrolled in the public school and other members of the community in which the public school is located as required pursuant to subsection 3 of NRS 388B.200.*

2. Before approving an application to operate an achievement charter school, the Executive Director must solicit the input of parents of the pupils enrolled in the public school as required pursuant to subsection 1 of NRS 388B.210.

3. To comply with the requirement to solicit input from parents and pupils as described in subsections 1 and 2, the Executive Director shall:

(a) Hold in-person meetings in the community;

(b) Solicit input from parents and pupils using strategies and practices for effective parental involvement developed by the Office of Parental Involvement and Family Engagement pursuant to NRS 385.635; and

(c) Take any other reasonable measures he or she deems appropriate.

Sec. 9. *1. The Executive Director shall submit the list of public schools described in subsection 2 of NRS 388B.200 to the State Board for its approval as required pursuant to that subsection:*

(a) On or before November 15, 2016; and

(b) On or before October 31 of each year thereafter.

2. Before selecting a school for inclusion on the list described in subsection 1, the Executive Director must consult with the board of trustees of the school district in which the school is located.

3. When the State Board considers whether to approve a school for consideration for conversion to an achievement charter school pursuant to subsection 2 of NRS 388B.200, the State Board may consider any relevant information, including, without limitation, historical data concerning the school that is maintained pursuant to the statewide system of accountability for public schools.

4. On or before February 1 of each year, the Executive Director shall select the public schools for conversion to achievement charter schools from the list of public schools approved by the State Board.

5. When the Executive Director notifies a public school that the school has been selected for conversion to an achievement charter school, the Executive Director must also notify the State Board, the board of trustees of the school district in which the school is located and each charter management organization, educational management organization or other person whose application for approval as an operator has been approved pursuant to section 10 of this regulation.

Sec. 10. *1. A charter management organization, educational management organization or other person may apply to the Executive Director for approval as an operator by completing and submitting an application to the Executive Director on a form prescribed by the Department, which must include, without limitation, the proposed:*

- (a) Mission and goals of the achievement charter school;*
- (b) School model and academic plan for the achievement charter school;*
- (c) Performance goals for pupils enrolled in the achievement charter school;*
- (d) Leadership team and governing body of the achievement charter school;*
- (e) Plan to involve and engage the parents and families of pupils enrolled in the achievement charter school; and*
- (f) Financial plan and policies of the achievement charter school.*

2. Each application submitted pursuant to subsection 1 must:

(a) Demonstrate a clear and high quality plan for the achievement charter school that prescribes the intended organizational structure of the achievement charter school and includes measurable goals; and

(b) Provide a clear basis for assessing the ability of the applicant to carry out the plan for the achievement charter school.

3. The Executive Director shall:

(a) Accept applications submitted pursuant to subsection 1 on a rolling basis throughout the year;

(b) At least once each year, review the applications submitted pursuant to subsection 1;

(c) At least 60 days before reviewing the applications, provide notice to the Department of the date on which the review of the applications will begin, which the Department will post on its Internet website;

(d) Approve applications that meet the requirements of this section which he or she determines are of the highest quality and most likely to improve pupil achievement and school performance at the achievement charter school;

(e) Notify each charter management organization, educational management organization or other person who submitted an application whether the application is approved or denied; and

(f) When practicable, obtain assistance from independent reviewers to review applications pursuant to this subsection.

4. Any application submitted pursuant to subsection 1 during a period in which the Executive Director is reviewing applications pursuant to subsection 3 will be reviewed during the next review period.

5. Any decision of the Executive Director to approve or deny an application submitted pursuant to subsection 1 is final and may not be appealed.

Sec. 11. 1. After the Executive Director provides notice identifying the public schools that have been selected for conversion to an achievement charter school pursuant to section 9 of this regulation, a charter management organization, educational management organization or other person whose application for approval as an operator has been approved pursuant to section 10 of this regulation, including, without limitation, an operator that currently operates an achievement charter school, may apply to operate one or more of the public schools selected for conversion by completing and submitting to the Department an application on a form prescribed by the Department. A charter management organization, educational management organization or other person may submit one application to operate more than one achievement charter school.

2. After considering the input received from the parents of pupils enrolled in a public school selected for conversion to an achievement charter school pursuant to subsection 1 of NRS 388B.210, the Executive Director shall select a charter management organization, educational management organization or other person to operate the achievement charter school based on the ability of the charter management organization, educational management organization or other person to meet the identified educational needs of the pupils enrolled in, and to improve pupil achievement and school performance at, the achievement charter school.

3. If an operator wishes to expand an achievement charter school, including, without limitation, by opening another location of the achievement charter school, the operator may request that the Executive Director amend the contract to operate the achievement charter school entered into pursuant to paragraph (d) of subsection 1 of NRS 388B.210. The

Executive Director may grant such a request if the Executive Director determines that the expansion:

(a) Is in the best interests of the pupils in this State; and

(b) Would primarily serve pupils who are enrolled in public schools that meet the requirements to be eligible for conversion to an achievement charter school prescribed in NRS 388B.200 and subsection 1 of section 6 of this regulation.

4. Any decision of the Executive Director to approve or deny an application or a request to amend a contract to operate an achievement charter school pursuant to this section is final and may not be appealed.

Sec. 12. *1. An application to enroll in an achievement charter school may be submitted annually to the governing body of the achievement charter school by the parent or legal guardian of any child who resides in this State.*

2. If, after enrolling the pupils who were enrolled in a public school before it was converted to an achievement charter school as required by NRS 388B.230, the achievement charter school has the capacity to enroll additional pupils and the board of trustees of the school district in which the achievement charter school is located has established zones of attendance pursuant to NRS 388.040, a pupil who resides within the zone of attendance established for the school before the school was converted to an achievement charter school must be enrolled in the achievement charter school before a pupil who does not reside within that zone of attendance.

3. If, after enrolling pupils that it is required to enroll pursuant to subsection 2 and NRS 388B.230, the achievement charter school has the capacity to enroll additional pupils, the achievement charter school:

(a) Except as otherwise provided in paragraph (b), must enroll pupils in the same order of priority prescribed for a charter school pursuant to NRS 388A.453 and 388A.456.

(b) May enroll pupils with a household income that is less than 185 percent of the federally designated level signifying poverty who reside within the zone of attendance established pursuant to NRS 388.040 for a school that was included on the most recent list of schools published pursuant to section 6 of his regulation.

Sec. 13. *Upon the request of a parent or legal guardian of a child who is enrolled in a public school of a school district or a private school, or a parent or legal guardian of a homeschooled child or opt-in child, the governing body of an achievement charter school must authorize the child to participate in a class or extracurricular activity at the achievement charter school to the same extent that a charter school would be required to allow such a child to participate pursuant to NRS 388A.471.*

Sec. 14. 1. *Any repair to a building or construction that is necessary for the continued operation of an achievement charter school in the same building in which the school operated before being converted to an achievement charter school that has a cost of more than \$15,000 and has a useful life of at least 1 year shall be deemed to be a capital expense and must be paid by the board of trustees of the school district in which the achievement charter school is located, as required pursuant to NRS 388B.230.*

2. If an achievement charter school is converted to a public school under the governance of the board of trustees of a school district or a charter school subject to the provisions of chapter 388A of NRS, any fixtures, improvements or other tangible assets added by the governing body of the achievement charter school to the building used by the achievement

charter school must remain with the building after the school ceases to operate as an achievement charter school.

Sec. 15. *The Executive Director or an operator may consult with the board of trustees of a school district concerning services made available by the school district to an operator of an achievement charter school that is located within the school district and any fee charged for such services.*

Sec. 16. *If an operator operates more than one achievement charter school, the group of achievement charter schools operated by the operator may, at the option of the operator, be deemed to be one local educational agency as described in NRS 388B.240.*

Sec. 17. 1. *When the Executive Director enters into a contract with an operator to operate an achievement charter school pursuant to paragraph (d) of subsection 1 of NRS 388B.210, the Executive Director shall also enter into an Achievement Charter School Performance Compact with the operator. The Achievement Charter School Performance Compact must include, without limitation, clear quantifiable goals concerning:*

(a) Improving attendance and reducing truancy and transiency of pupils enrolled in the achievement charter school;

(b) Improving the performance of pupils enrolled in the achievement charter school on examinations that measure the achievement and proficiency of pupils; and

(c) If the achievement charter school is a high school, improving the rate of graduation from the achievement charter school and reducing the rate at which pupils drop out of the achievement charter school.

2. *The Executive Director shall review the academic, financial and organizational performance of an achievement charter school during the fourth school year of operation as*

an achievement charter school. This review must include, without limitation, a determination of whether the achievement charter school has met the expectations and goals set forth in the Achievement Charter School Performance Compact.

3. If, as a result of the review conducted pursuant to subsection 2, the Executive Director concludes that the achievement charter school:

(a) Has met the goals set forth in the Achievement Charter School Performance Compact, the operator must continue to operate the achievement charter school until the expiration of the contract to operate the achievement charter school.

(b) Has not met the goals set forth in the Achievement Charter School Performance Compact, the Executive Director may, after the end of the school year, terminate the contract to operate the achievement charter school and enter into a contract with a different operator to operate the achievement charter school.

Sec. 18. *1. On or before July 15 of each year, the Executive Director shall conduct a performance review of each achievement charter school.*

2. In addition to the circumstances under which a contract to operate a charter school may be terminated pursuant to section 16 of this regulation, the Executive Director may terminate a contract to operate an achievement charter school before the expiration of the contract if the Executive Director determines that:

(a) The achievement charter school, its officers or its employees:

- (1) Committed a material breach of the terms and conditions of the contract;*
- (2) Failed to comply with generally accepted standards of fiscal management;*
- (3) Failed to comply with any statute or regulation applicable to achievement charter schools; or*

(4) Has persistently underperformed, as measured by the performance standards and goals set forth in the Achievement Charter School Performance Compact;

(b) The achievement charter school has filed a voluntary petition of bankruptcy, is adjudicated bankrupt or insolvent or is otherwise financially impaired such that the achievement charter school cannot continue to operate;

(c) There is reasonable cause to believe that termination of the contract is necessary to protect the health and safety of the pupils enrolled in the achievement charter school or persons who are employed by the achievement charter school from jeopardy or to prevent damage to or loss of the property of the school district or the community in which the achievement charter school is located; or

(d) The operator of the achievement charter school or an employee thereof, the governing body of the achievement charter school or an employee of the achievement charter school has at any time made a material misrepresentation or omission concerning any information disclosed to the Executive Director, the Achievement School District or any representative or employee thereof.

Sec. 19. 1. *If the Executive Director determines that a contract to operate an achievement charter school should be terminated pursuant to section 17 or 18 of this regulation, the Executive Director shall, on or before March 31 following the date of the decision, notify the operator of the achievement charter school of the decision to terminate the contract.*

2. *Not later than 30 days after receiving notice pursuant to subsection 1, the operator of the achievement charter school may appeal the decision of the Executive Director to the Department.*

3. An operator whose contract to operate an achievement charter school is terminated pursuant to section 17 or 18 of this regulation shall, on or before May 31 following receipt of the notice pursuant to subsection 1, notify the parents of each pupil enrolled in the achievement charter school of the termination of the contract.

4. If a contract to operate an achievement charter school is terminated pursuant to section 17 or 18 of this regulation, the Executive Director must select a new operator in accordance with the procedure prescribed in section 11 of this regulation.