

**REVISED ADOPTED REGULATION OF THE
STATE BOARD OF EDUCATION**

LCB File No. R131-22

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

AUTHORITY: §§ 1-8 and 11, NRS 385.080; § 9, NRS 385.080 and 387.1225; § 10, NRS 385.080 and 388.419; § 12, NRS 385.080 and 432B.60847.

A REGULATION relating to education; prescribing requirements relating to planning for and monitoring the education of certain children who are admitted to and discharged from a facility which provides residential treatment for mental illness; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes: (1) certain licensed health care facilities to request reimbursement from the Department of Education for services provided to a child; and (2) the adoption of regulations to facilitate such requests. (NRS 387.1225) If a child in the custody of an agency which provides child welfare services is admitted to a psychiatric hospital, existing law requires the psychiatric hospital, in consultation with the public or private school in which the child was enrolled, any school district in which the child was enrolled or which was providing services to the child when he or she was admitted to the psychiatric hospital, the agency which provides child welfare services and any person responsible for the education of the child, to develop a plan for the continued education of the child while the child remains enrolled in the public or private school or the school district yet is admitted to the psychiatric hospital. (NRS 432B.60847) **Sections 2-8** of this regulation define certain terms relevant to the education of children who are admitted to mental health facilities. **Section 9** of this regulation requires a psychiatric hospital that has requested or intends to request reimbursement from the Department for educational services provided to a child who is in the custody of an agency which provides child welfare services to: (1) begin consulting to develop the plan for the continued education of the child not later than 3 school days after the admission of the child to the psychiatric hospital; and (2) include certain items in the plan.

Before a child who is in the custody of an agency which provides child welfare services is admitted by a court to a facility which provides residential treatment for mental illness, existing law requires the public or private school or school district in which the child was enrolled or which was providing services to the child when the child was admitted to perform certain duties, including convening a meeting to consider the appropriateness of the placement. (NRS 432B.60847) **Section 10** of this regulation requires the inclusion of certain persons at such a meeting regarding a child who is a pupil with a disability and authorizes the inclusion of certain additional persons at such a meeting. **Section 10** requires the persons who attend such a meeting to provide guidance to the agency which provides child welfare services and the court

concerning the placement of the child. When providing such guidance, **section 10** requires those persons to consider: (1) certain factors relating to the ability of the facility to provide an appropriate education for the child; and (2) any measures necessary to facilitate the return of the child to that school or transition to another school or other appropriate educational setting following discharge from the facility. **Section 11** of this regulation recommends the inclusion of similar persons, the provision of similar guidance and the consideration of similar factors and measures at such a meeting regarding a child who is not a pupil with a disability.

While a child who is in the custody of an agency which provides child welfare services is admitted to a facility which provides residential treatment for mental illness, existing law requires the public or private school or school district in which the child was enrolled or which was providing services to the child when he or she was admitted to monitor the child's progress. (NRS 432B.60847) **Section 10** requires such a school or school district to: (1) establish certain measures to facilitate such monitoring and ensure that the child receives educational services that meet the requirements of applicable law; and (2) revise the individualized education program of the child if necessary.

If a child who is in the custody of an agency which provides child welfare services is admitted to a facility which provides residential treatment for mental illness, existing law requires the public or private school or school district in which the child was enrolled or which was providing services to the child when the child was admitted to the facility to participate in discharge planning for transitioning the child into a school or any other educational setting. (NRS 432B.60847) **Section 12** of this regulation requires such a school or school district to prepare a written discharge plan for the continued education of the child and provide the written discharge plan to certain persons.

Section 1. Chapter 388 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 12, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Agency which provides child welfare services” has the meaning ascribed to it in NRS 432B.030.*

Sec. 4. *“Fictive kin” has the meaning ascribed to it in NRS 432B.0657.*

Sec. 5. *“Foster home” has the meaning ascribed to it in NRS 424.014.*

Sec. 6. *“Integrated student support” has the meaning ascribed to it in NRS 388.885.*

Sec. 7. *“Parent” has the meaning ascribed to it in NRS 432B.080.*

Sec. 8. *“Relative” has the meaning ascribed to it in NRS 432B.6213.*

Sec. 9. *A psychiatric hospital that has requested or intends to request reimbursement from the Department pursuant to NRS 387.1225 for the cost of providing educational services to a child described in subsection 1 of NRS 432B.60847 must:*

1. Begin the consultation required by subsection 1 of NRS 432B.60847 not later than 3 school days after the child is admitted to the psychiatric hospital; and

2. Include in the plan for the continued education of the child developed pursuant to subsection 1 of NRS 432B.60847:

(a) An assessment of the credits that the child is anticipated to earn during the current semester; and

(b) Steps to ensure that the child receives credit for work that the child completes while admitted to the psychiatric hospital.

Sec. 10. *1. An individualized education program meeting convened pursuant to paragraph (a) of subsection 3 of NRS 432B.60847:*

(a) Must include each member of the individualized education program team, as defined in 20 U.S.C. § 1414(d)(1)(B), established for the child, including, without limitation, each member of the individualized education program team who is an employee of a school or school district; and

(b) May additionally include, to the extent allowed under federal law:

(1) The child;

(2) A parent of the child;

(3) A person who conducts a foster home in which the child was residing immediately before the child was admitted to a facility which provides residential treatment for mental illness;

(4) The caseworker of the agency which provides child welfare services who has been assigned to the child;

(5) The attorney appointed pursuant to NRS 432B.420 to represent the child;

(6) The single point of contact designated by the relevant local education agency pursuant to NRS 388E.135;

(7) A fictive kin of the child;

(8) A relative of the child; or

(9) Any additional persons invited by the educational decision maker appointed for the child pursuant to NRS 432B.462.

2. The persons described in subsection 1 shall provide guidance to the agency which provides child welfare services and the court concerning the appropriateness of a residential placement under federal law as it relates to the educational needs of the child.

3. When providing guidance pursuant to subsection 2, the persons described in subsection 1 shall consider the ability of the facility which provides residential treatment for mental illness to:

(a) Comply with the individualized education program or services plan established for the child;

(b) Comply with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and any regulations adopted pursuant thereto;

(c) Comply with NRS 388.417 to 388.5243, inclusive, and any regulations adopted pursuant thereto; and

(d) Provide or ensure access to any integrated student supports that the child needs.

4. At an individualized education program meeting convened pursuant to paragraph (a) of subsection 3 of NRS 432B.60847, the public or private school or school district described in that subsection shall:

(a) Establish the measures that will be taken to:

(1) Ensure that the child receives educational services that meet the requirements of state and federal law while the child is admitted to the facility which provides residential treatment for mental illness; and

(2) Monitor the academic progress of the child while the child is admitted to the facility which provides residential treatment for mental illness, as required by paragraph (c) of subsection 3 of NRS 432B.60847, in a manner that satisfies the requirements of 34 C.F.R. §§ 300.111 or 300.131, as applicable; and

(b) Revise the individualized education program of the child if necessary.

5. When performing the duties required by subsection 3 of NRS 432B.60847, a public or private school and any other persons involved in the performance of those duties shall consider any measures necessary to facilitate the return of the child to the school or the transition of the child to another school or other appropriate educational setting upon discharge from the facility which provides residential treatment for mental illness.

6. In monitoring the progress of a child pursuant to paragraph (c) of subsection 3 of NRS 432B.60847, a public or private school or school district described in subsection 3 of NRS 432B.60847 shall:

(a) Ensure that the monitoring is conducted in a manner that satisfies the requirements of 34 C.F.R. §§ 300.111 or 300.131, as applicable;

(b) Monitor the progress of the child on the individualized education program or services plan established for the child; and

(c) Monitor the credits earned by the child and the number of those credits accepted by the relevant local education agency.

Sec. 11. 1. *In addition to the persons described in paragraph (b) of subsection 3 of NRS 432B.60847, a meeting to consider the appropriateness of the residential placement of a child who is not a pupil with a disability must include the educational decision maker appointed for the child pursuant to NRS 432B.462, as required by that section. The meeting may additionally include, without limitation:*

(a) The child;

(b) A parent of the child;

(c) A person who conducts a foster home in which the child was residing immediately before the child was admitted to a facility which provides residential treatment for mental illness;

(d) The caseworker of the agency which provides child welfare services who has been assigned to the child;

(e) The attorney appointed pursuant to NRS 432B.420 to represent the child;

(f) The single point of contact designated by the relevant local education agency pursuant to NRS 388E.135;

(g) A fictive kin of the child;

(h) A relative of the child; and

(i) Any additional persons invited by the educational decision maker appointed for the child pursuant to NRS 432B.462.

2. The persons described in subsection 1 may provide guidance to the agency which provides child welfare services and the court concerning the appropriateness of a residential placement. In doing so, such persons may consider the ability of the facility which provides residential treatment for mental illness to:

(a) Provide for the educational needs of the child, including, without limitation, access to any integrated student supports that the child needs; and

(b) Prevent any violation of the educational rights of the child under federal and state law.

3. When performing the duties required by subsection 3 of NRS 432B.60847 with respect to a child who is not a pupil with a disability, a public or private school and any other persons involved in the performance of those duties may consider any measures necessary to facilitate the return of the child to the school or the transition of the child to another school or other appropriate educational setting upon discharge from the facility which provides residential treatment for mental illness. Such measures may include, without limitation, monitoring:

(a) The progress of the child; and

(b) The credits earned by the child and the number of those credits accepted by the relevant local education agency.

Sec. 12. *Before a child is discharged from a facility which provides residential treatment for mental illness, the public or private school or school district described in subsection 3 of NRS 432B.60847 shall:*

1. Prepare a written discharge plan for the continued education of the child after the child is discharged. The written discharge plan must include, without limitation:

- (a) A safety plan, if recommended by the facility or otherwise deemed appropriate by the school or school district;*
- (b) The academic schedule of the child, which must be appropriate for the child based on the educational goals and needs of the child;*
- (c) A statement of whether, upon discharge, the child will need to be evaluated or reevaluated to determine whether the child is or remains a pupil with a disability;*
- (d) Recommendations regarding the creation or revision of an individualized education program or other accommodation under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794;*
- (e) A plan to support the continuity of services for the child under 34 C.F.R. §§ 300.111 or 300.131, as applicable;*
- (f) Recommendations from the facility regarding academic supports for the child;*
- (g) If applicable, plans for follow-up meetings with any clinicians who are providing or have provided services to the child;*
- (h) If applicable, plans for communicating with the school nurse concerning the needs of the child for medication;*
- (i) Procedures for transferring credit for work completed while the child was admitted to the facility; and*
- (j) If necessary, a plan for the child to earn credits necessary for graduation that the child was unable to earn while he or she was admitted to the facility.*

2. Provide a copy of the written discharge plan prepared pursuant to subsection 1 to:

- (a) The educational decision maker appointed for the child pursuant to NRS 432B.462;*

- (b) The caseworker of the agency which provides child welfare services who has been assigned to the child;*
- (c) The attorney appointed pursuant to NRS 432B.420 to represent the child; and*
- (d) The single point of contact designated by the relevant local education agency pursuant to NRS 388E.135.*