

**NEVADA DEPARTMENT OF EDUCATION
NEVADA STATE BOARD OF EDUCATION
FEBRUARY 28, 2022
10:00 A.M.**

Office	Address	City	Meeting Room
Department of Education	2080 E. Flamingo Rd.	Las Vegas	Room 114
Department of Education	700 E. Fifth St.	Carson	Board Room
Department of Education	Virtual	Virtual	Lifesize Link

PUBLIC NOTICE

The public is hereby noticed that the Nevada Department Education reserves the right to take agenda items out of posted order (except that public hearings will not begin earlier than posted times); items may be pulled or removed from the agenda at any time; and items may be combined for consideration. A time for public comment is provided at the beginning and at the conclusion of the meeting, and public comment will be taken under each workshop specific to that item. A time limit of three minutes will be imposed for public comments in order to afford all members of the public who wish to comment an opportunity to do so within the timeframe available. If you are unable to attend but would like to provide a written statement for public comment, please submit your statement to NVBoardEd@doe.nv.gov before the close of the Workshop. The Department reserves the right to call on individuals from the audience or to allow for testimony at any time. All individuals providing testimony must fill out a visitor card. Reasonable efforts will be made for members of the public who have disabilities and require special accommodations or assistance at the meeting. Please call Dylan Fuson, Board Secretary, at (775) 687-9224 or email at NVBoardEd@doe.nv.gov at least five business days in advance so that arrangements can be made. The support materials to this agenda are available at no charge on the Nevada Department of Education Regulation Workshops and Public Hearings [Meeting Materials page](#) (under the meeting date referenced above) or by contacting Dylan Fuson at the Nevada Department of Education Office, 700 E. 5th St, Carson City, Nevada 89701, via phone at 775-687-9224, or by email at NVBoardEd@doe.nv.gov. This public notice has been sent to all persons on the agencies mailing list for administrative regulations and posted on the Nevada Department of Education's website at <https://doe.nv.gov>, Nevada's Public Notice site at <https://notice.nv.gov>, the Nevada State Legislature's webpage at <https://leg.state.nv.us>, and physically at the Nevada Department of Education Offices and with Nevada State Library and Archives. Copies of this notice will also be emailed and/or mailed to members of the public upon request.

AGENDA

1. CALL TO ORDER

2. PUBLIC COMMENT #1

Public comment will be taken during this agenda item regarding any item appearing on the agenda. No action may be taken on a matter discussed under this item until the matter is included on an agenda as an item on which action may be taken. The Department will impose a time limit of three minutes. Please hold comments specific to a given workshop until public comment is called upon for that workshop specifically.

3. 10:00 A.M. WORKSHOP TO SOLICIT COMMENTS ON PROPOSED CHANGES TO NEVADA ADMINISTRATIVE CODE (NAC) 387.XXX WHICH PERTAINS TO THE DEFINITION OF AT RISK PUPILS (For possible action)

The proposed changes would revise the definition of At-Risk for the Pupil-Centered Funding Plan as adopted by the State Board of Education.

- Beau Bennett, State Education Funding Specialist, Office of Pupil-Centered Funding

4. 10:05 A.M. WORKSHOP TO SOLICIT COMMENTS ON PROPOSED CHANGES TO NAC 387.120 – SCHOOL CALENDAR; SUBMISSION; CONTENTS; NAC CHAPTER 387.125 – PROGRAM OF INSTRUCTION BASED ON AN ALTERNATIVE SCHEDULE; AND NAC CHAPTER 387.151 – EMERGENCY CLOSING AS DAY IN SESSION *(For possible action)*

The proposed changes relate to alternative calendars required by Senate Bill 215.

- Amelia Thibault, Management Analyst III, Office of Division Compliance

5. 10:10 A.M. WORKSHOP TO SOLICIT COMMENTS ON PROPOSED CHANGES TO NAC 389.488 – EXEMPTION FROM PHYSICAL EDUCATION *(For possible action)*

The proposed changes relate to physical education exemptions.

- Andrew Snyder, Education Programs Professional, Office of Standards and Instructional Support

6. 10:15 A.M. WORKSHOP TO SOLICIT COMMENTS ON PROPOSED CHANGES TO NAC 391.582 – APPROVAL OF COURSES COMPLETED BY APPLICANT AT REGIONALLY ACCREDITED INSTITUTION *(For possible action)*

The proposed changes would remove requirements to use certain assessments of learning goals and provide other matters properly relating thereto.

- Tina Statucki, Education Programs Professional, Office of Educator Development, Licensure, and Family Engagement (EDLiFE)

7. PUBLIC COMMENT #2

Public comment will be taken during this agenda item on any matter within the jurisdiction, control, or advisory power of the Department. No action may be taken on a matter raised under this item until the matter is included on an agenda as an item on which action may be taken. The Department will impose a time limit of three minutes.

8. ADJOURNMENT

Steve Sisolak
Governor

Jhone M. Ebert
Superintendent of
Public Instruction



Southern Nevada Office
2080 East Flamingo Rd,
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STATE OF NEVADA NEVADA DEPARTMENT OF EDUCATION

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Notice of Workshop to Solicit Comments on Proposed Regulation

The Nevada Department of Education is proposing regulation language pertaining to the Nevada Administrative Code (NAC). The Workshop has been scheduled for **Monday, February 28, 2022** via [Lifesize](#) and at the following locations: **Nevada Department of Education Offices, 700 East Fifth Street, Board Room, Carson City and 2080 East Flamingo Road, Room 114, Las Vegas, Nevada.** The purpose of the Workshop is to solicit comments from interested persons on the following general topics to be addressed in a proposed regulation:

10:00 A.M. Workshop to Solicit Comments on Proposed Amendments to NAC Chapter 387.XXX which pertains to the definition of At-Risk Pupils.

A copy of all materials relating to the proposal may be obtained at the workshop, on the Nevada Department of Education Regulation Workshops and Public hearings [Meeting Materials](#) page, by contacting Dylan Fuson, Board Secretary, Nevada Department of Education, via email at NVBoardEd@doe.nv.gov, by telephone at 775-687-9224 or in person at the Nevada Department of Education, 700 E. 5th St, Carson City, Nevada. Persons wishing to comment upon the proposed action of the Department may provide in-person testimony, submit written comment to the Department via email at NVBoardEd@doe.nv.gov, or submit their comments, data, views, or arguments in written form to the Nevada Department of Education, 700 E. 5th St, Carson City, Nevada. Comments may be submitted via email leading up to and for the duration of the workshop, and those submitted via mail must be received by the Department on or before Friday, February 25, 2022.

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SMALL BUSINESS IMPACT STATEMENT
PURSUANT TO NRS 233B.0608

DATE: February 28, 2022

RE: Workshop to Solicit Comments on Proposed Amendments to NAC Chapter 387.XXX which pertains to the definition of At-Risk Pupils.

I, Jhone M. Ebert, being the duly appointed Superintendent of Public Instruction of the Nevada Department of Education, do hereby certify, to the best of my knowledge or belief:

1. The proposed regulation regarding the definition of At-Risk Pupils is not likely to (a) impose a direct or significant economic burden upon a small business, or (b) directly restrict the formation, operation or expansion of a small business.
2. A concerted effort was made to determine any economic burden.
3. All relevant materials were reviewed, and the Department considered its history with implementing similar regulations; the proposed changes are within the scope of the Department's activities and present no significant cost of enforcement.
4. Comment has not been solicited from small businesses, and no summary of their response is provided, because small businesses are not impacted by this regulation and thus no burden or adverse economic impact can be assessed.

I hereby further certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the regulation on small businesses and that the information contained in this statement was prepared properly and is accurate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jhone M. Ebert".

Jhone M. Ebert
Superintendent of Public Instruction

Steve Sisolak
Governor

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10:05 A.M. Workshop to Solicit Comments on Proposed Amendments to NAC Chapter 387.120 – School calendar; submission; contents; NAC Chapter 387.125 – Program of instruction based on an alternative schedule; and NAC Chapter 387.151 – Emergency closing as day in session.

A copy of all materials relating to the proposal may be obtained at the workshop, on the Nevada Department of Education Regulation Workshops and Public hearings [Meeting Materials](#) page, by contacting Dylan Fuson, Board Secretary, Nevada Department of Education, via email at NVBoardEd@doe.nv.gov, by telephone at 775-687-9224 or in person at the Nevada Department of Education, 700 E. 5th St, Carson City, Nevada. Persons wishing to comment upon the proposed action of the Department may provide in-person testimony, submit written comment to the Department via email at NVBoardEd@doe.nv.gov, or submit their comments, data, views, or arguments in written form to the Nevada Department of Education, 700 E. 5th St, Carson City, Nevada. Comments may be submitted via email leading up to and for the duration of the workshop, and those submitted via mail must be received by the Department on or before Friday, February 25, 2022.

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SMALL BUSINESS IMPACT STATEMENT
PURSUANT TO NRS 233B.0608

DATE: February 28, 2022

RE: Workshop to Solicit Comments on Proposed Amendments to NAC Chapter 387.120 – School calendar; submission; contents; NAC Chapter 387.125 – Program of instruction based on an alternative schedule; and NAC Chapter 387-151 – Emergency closing as day in session.

I, Jhone M. Ebert, being the duly appointed Superintendent of Public Instruction of the Nevada Department of Education, do hereby certify, to the best of my knowledge or belief:

1. The proposed regulation regarding alternative calendars and emergency closures is not likely to (a) impose a direct or significant economic burden upon a small business, or (b) directly restrict the formation, operation or expansion of a small business.
2. A concerted effort was made to determine any economic burden.
3. All relevant materials were reviewed, and the Department considered its history with implementing similar regulations; the proposed changes are within the scope of the Department's activities and present no significant cost of enforcement.
4. Comment has not been solicited from small businesses, and no summary of their response is provided, because small businesses are not impacted by this regulation and thus no burden or adverse economic impact can be assessed.

I hereby further certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the regulation on small businesses and that the information contained in this statement was prepared properly and is accurate.

Respectfully submitted,

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Jhone M. Ebert
Superintendent of Public Instruction

NAC 387.120 School calendar: Submission; contents. ([NRS 385.080](#), [386.540](#), [386.550](#), [387.123](#), [388.090](#))

1. Before May 1 of each year, each school district shall submit a copy of its school calendar for the approaching school year to the Department. If one calendar does not apply to all its schools, the district shall submit as many calendars as are necessary for application to all its schools. If a charter school submits a school calendar pursuant to this subsection, the charter school shall, upon the request of the sponsor of the charter school or a school district in which a pupil enrolled in the charter school resides, provide a copy of the school calendar to the requester.

2. Except as otherwise provided in subsection 5 and except for a school calendar that accompanies an alternative schedule approved pursuant to [NAC 387.125](#), a school calendar must contain at least 180 school days in session. This period must be divided into 10 school months which contain not more than 20 potential school days per month. The first day of the first school month is the first day of attendance by pupils.

3. In addition to the required number of school days in session, at least 3 days must be specifically designated by the school district as contingent days to be used as school days in session if:

(a) At least 75 percent of the schools in the district are rendered inaccessible or unusable by inclement weather, *natural disaster, hazardous air conditions*, ~~or~~ uncontrollable circumstances, *or* an accident; or

(b) The Governor declares a legal holiday not anticipated in the original school calendar.

↪ If a substantial majority of the schools within a school district are closed because of any of these conditions, all of the contingent days must be used before the school district applies for an emergency closing *ingure as day in session*.

4. Any day for an organized teachers' conference for professional development convened by the board of trustees of a school district may be included in the number of school days in session required in subsection 2 with the prior approval of the Superintendent of Public Instruction. A day for an organized teachers' conference may also be declared by the Superintendent of Public Instruction. Not more than 5 days for teachers' conferences may be convened by a school district in any school year.

5. A school calendar for an adult high school program, an alternative program, a program of distance education or a program of instruction in a detention home must contain at least 180 school days in session unless the school district or governing body of the charter school, as applicable, obtains the written approval of the Superintendent of Public Instruction for a program that demonstrates progress or completion by pupils in a curriculum which is equivalent to the regular school curriculum. The approval of an adult high school program pursuant to [NAC 387.190](#), an alternative program pursuant to [NRS 388.537](#) or a program of distance education pursuant to [NAC 388.830](#) shall be deemed written approval by the Superintendent pursuant to this subsection if the approved program demonstrates progress or completion by pupils in a

curriculum that is equivalent to the regular school curriculum. For purposes of this subsection, demonstrated competency in curriculum that meets the state standards may be considered equivalent to the regular school curriculum.

[Dep't of Education, Pupil Accounting Reg., eff. 12-15-77] — (NAC A by Bd. of Education, 9-6-83; 6-23-86; R033-99, 11-3-99; A by Dep't of Education by R024-01, 11-1-2001; A by Bd. of Education by R006-02, 4-5-2002; R043-04, 7-16-2004; R137-05, 10-31-2005; R134-07, 6-17-2008)

NAC 387.125 Program of instruction based on alternative schedule. ([NRS 385.080](#), [388.090](#))

1. On or before May 1, the board of trustees of a school district ~~in a county whose population is less than 100,000~~ that wishes to offer a program of instruction based on an alternative schedule pursuant to subsection 2 of [NRS 388.090](#) shall submit to the Superintendent of Public Instruction an application and a copy of its proposed school calendar for the next school year.

~~— 2. — On or before May 1, the board of trustees of a school district in a county whose population is 100,000 or more that wishes to offer a program of instruction based on an alternative schedule pursuant to subsection 2 of [NRS 388.090](#) shall:~~

~~— (a) — Submit to the Superintendent of Public Instruction an application and a copy of its proposed school calendar for the next school year; and~~

~~— (b) — Demonstrate to the satisfaction of the Superintendent of Public Instruction that the proposed alternative schedule will apply only to a:~~

~~—— (1) — Rural portion of the county that is located in a rural geographic area which has its own identity and which is distinct and physically distant from the center of the major community in the county; or~~

~~—— (2) — Remote portion of the county that is located in a remote and isolated geographic area which has its own identity and which is distinct and physically distant from the center of the major community in the county.~~

3. A school district may not offer a program of instruction based on an alternative schedule pursuant to subsection 2 of [NRS 388.090](#) without the approval of the Superintendent of Public Instruction.

4. On or before December 31 following the end of a school year in which the school district operated under an alternative schedule approved pursuant to this section, the board of trustees of the school district shall submit to the Superintendent of Public Instruction a written report in a form prescribed by the Department. Such a report must include:

(a) A description of the alternative schedule; and

(b) An evaluation of the effect of the alternative schedule on the pupils, parents and legal guardians and the community.

(Added to NAC by Bd. of Education by R043-04, eff. 7-16-2004)

NAC 387.151 Emergency closing as day in session. (NRS 385.080, 387.123, 388.090)

1. If there is an emergency which necessitates the closing of a particular school for a day because of inclement weather, *natural disaster, hazardous air conditions*, ~~or~~ uncontrollable circumstances, *or* an accident, the day may be counted as a school day in session for that school if the Superintendent of Public Instruction finds that it is justified by the emergency. All requests for such approval must be submitted in writing to the Superintendent of Public Instruction.

2. If the closing of all schools in a school district is necessary under the conditions specified in subsection 1 and the duration of the closing exceeds the number of required contingent days, the Superintendent of Public Instruction may permit any additional day to be counted as a school day in session *if:-*

a) The district has a Department-approved program of distance education in place in accordance with NRS 388.820-874; and

b) That the district certifies in their application to the Superintendent of Public Instruction that:

- i. Students in affected school buildings for which the day in session is requested were provided distance learning*
- ii. Licensed teachers and/or substitutes will be accessible to students through the internet or by phone during regularly scheduled instructional hours*
- iii. All students have an ability to access and participate in distance learning during the days of closure; access must include access to the technology necessary to participate in distance education; accommodations for students without access must be provided*
- iv. The district shall engage in specific plans and undertake measures to maintain a continuity of services for the unique needs of English learners, students with Individualized Education Programs, students with 504 plans, and other special populations*
- v. Students must receive access to the nutrition services they are entitled to*

(Added to NAC by Bd. of Education, eff. 9-6-83; A 6-23-86)

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10:10 A.M. Workshop to Solicit Comments on Proposed Amendments to NAC Chapter 389.488 – Exemption from physical education.

A copy of all materials relating to the proposal may be obtained at the workshop, on the Nevada Department of Education Regulation Workshops and Public hearings [Meeting Materials](#) page, by contacting Dylan Fuson, Board Secretary, Nevada Department of Education, via email at NVBoardEd@doe.nv.gov, by telephone at 775-687-9224 or in person at the Nevada Department of Education, 700 E. 5th St, Carson City, Nevada. Persons wishing to comment upon the proposed action of the Department may provide in-person testimony, submit written comment to the Department via email at NVBoardEd@doe.nv.gov, or submit their comments, data, views, or arguments in written form to the Nevada Department of Education, 700 E. 5th St, Carson City, Nevada. Comments may be submitted via email leading up to and for the duration of the workshop, and those submitted via mail must be received by the Department on or before Friday, February 25, 2022.

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SMALL BUSINESS IMPACT STATEMENT
PURSUANT TO NRS 233B.0608

DATE: February 28, 2022

RE: Workshop to Solicit Comments on Proposed Amendments to NAC Chapter 389.488-
Exemption from physical education.

I, Jhone M. Ebert, being the duly appointed Superintendent of Public Instruction of the Nevada Department of Education, do hereby certify, to the best of my knowledge or belief:

1. The proposed regulation regarding exemption from physical education is not likely to (a) impose a direct or significant economic burden upon a small business, or (b) directly restrict the formation, operation or expansion of a small business.
2. A concerted effort was made to determine any economic burden.
3. All relevant materials were reviewed, and the Department considered its history with implementing similar regulations; the proposed changes are within the scope of the Department's activities and present no significant cost of enforcement.
4. Comment has not been solicited from small businesses, and no summary of their response is provided, because small businesses are not impacted by this regulation and thus no burden or adverse economic impact can be assessed.

I hereby further certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the regulation on small businesses and that the information contained in this statement was prepared properly and is accurate.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Jhone M. Ebert".

Jhone M. Ebert
Superintendent of Public Instruction

Proposed Changes to Chapter 389.488 in NAC:

NAC 389.488 Exemption from physical education. (NRS 385.080, 385.110)

1. A school district shall exempt a pupil from taking the course in physical education if the pupil requests the exemption on the basis of his or her:

- (a) Physical or mental condition, and the request is supported by a written statement from a physician;
- (b) Religious belief, and the request is supported by a written statement from the pupil's parent or guardian;
- (c) Enrollment in the **Junior Reserve Officer Training Corps or Military Science; or.**
- ~~(d) Intended enrollment in a program which is comparable to the course in physical education.~~

~~2. If a pupil requests an exemption based on his or her intended enrollment in a program which is comparable to the course in physical education, the school district shall furnish the Superintendent of Public Instruction with a syllabus of that program. Upon the Superintendent's written approval, the school district shall grant the exemption.~~

A school district shall grant a pupil not more than one credit in physical education based the pupil's intended enrollment in a program that is comparable to a high school physical education course provided the following requirements are met:

- (a) The school district furnishes the Superintendent of Public Instruction or designee with a syllabus of that program;
- (b) The program is aligned to the Nevada Academic Content Standards for physical education;
- (c) The pupil actively participates in the program for at least 120 hours; and
- (d) The school district receives written approval from the Superintendent or designee granting permission of exemption.

3. A school district shall ~~exempt~~ **grant** a pupil ~~from~~ not more than one credit in physical education if the pupil participates in interscholastic athletics, on a drill team, in a marching band, in a dance group or on a cheerleading squad if:

- (a) The activity is sponsored by the school; and
- (b) The pupil actively participates in the activity for at least 120 hours **outside of the regularly scheduled school day.**

(Added to NAC by Bd. of Education, eff. 12-16-82; A 5-4-87) — (Substituted in revision for NAC 389.070)

Add to "Definitions":

NAC 389.XXX "Exempt" defined. (NRS 385.080) "Exempt" means to release a pupil from a course requirement which others are subject.

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10:15 A.M. Workshop to Solicit Comments on Proposed Amendments to NAC Chapter 391.582 – Selection of assessments to determine extent to which learning goals of pupils were achieved; monitoring of assessments; modifications.

A copy of all materials relating to the proposal may be obtained at the workshop, on the Nevada Department of Education Regulation Workshops and Public hearings [Meeting Materials](#) page, by contacting Dylan Fuson, Board Secretary, Nevada Department of Education, via email at NVBoardEd@doe.nv.gov, by telephone at 775-687-9224 or in person at the Nevada Department of Education, 700 E. 5th St, Carson City, Nevada. Persons wishing to comment upon the proposed action of the Department may provide in-person testimony, submit written comment to the Department via email at NVBoardEd@doe.nv.gov, or submit their comments, data, views, or arguments in written form to the Nevada Department of Education, 700 E. 5th St, Carson City, Nevada. Comments may be submitted via email leading up to and for the duration of the workshop, and those submitted via mail must be received by the Department on or before Friday, February 25, 2022.

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SMALL BUSINESS IMPACT STATEMENT
PURSUANT TO NRS 233B.0608

DATE: February 28, 2022

RE: Workshop to Solicit Comments on Proposed Amendments to NAC Chapter 391.582 – Selection of assessments to determine extent to which learning goals of pupils were achieved; monitoring of assessments; modifications.

I, Jhone M. Ebert, being the duly appointed Superintendent of Public Instruction of the Nevada Department of Education, do hereby certify, to the best of my knowledge or belief:

1. The proposed regulation regarding selection and monitoring of assessments is not likely to (a) impose a direct or significant economic burden upon a small business, or (b) directly restrict the formation, operation or expansion of a small business.
2. A concerted effort was made to determine any economic burden.
3. All relevant materials were reviewed, and the Department considered its history with implementing similar regulations; the proposed changes are within the scope of the Department's activities and present no significant cost of enforcement.
4. Comment has not been solicited from small businesses, and no summary of their response is provided, because small businesses are not impacted by this regulation and thus no burden or adverse economic impact can be assessed.

I hereby further certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the regulation on small businesses and that the information contained in this statement was prepared properly and is accurate.

Respectfully submitted,

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Jhone M. Ebert
Superintendent of Public Instruction

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

LCB File No. R112-20

July 2, 2021

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

AUTHORITY: § 1, NRS 385.080, 391.465 and 391.480.

A REGULATION relating to education; removing requirements to use certain assessments of learning goals; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Education to adopt regulations establishing a statewide performance evaluation system. (NRS 391.465) Existing regulations require a school or school district to use an assessment to determine whether learning goals have been achieved by pupils that has previously been approved by the Department of Education, if practicable. (NAC 391.582) This regulation removes that requirement.

Section 1. NAC 391.582 is hereby amended to read as follows:

391.582 1. The criteria for determining which assessments a school or school district may use to determine the extent to which the learning goals of pupils were achieved pursuant to subsection 5 of NRS 391.480 are:

(a) The degree to which the assessment aligns with:

(1) The standards of content and performance established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520; and

(2) Curriculum and instruction required for the standards adopted by the State Board;

(b) Whether the assessment is appropriately rigorous to determine pupil achievement in the intended subject areas; and

(c) The validity and reliability of the assessment.

2. A school or school district that uses an assessment to determine the extent to which the learning goals of pupils were achieved pursuant to subsection 5 of NRS 391.480 shall continually monitor the use of the assessment to ensure:

(a) The reliability and validity of the assessment;

(b) That the assessment is scored accurately in a manner that produces results that allow the comparison of pupils, classes or schools; and

(c) The security of the assessment.

3. ~~If practicable, a school or school district shall use an assessment that has previously been approved by the Department pursuant to subsection 3 of NRS 391.480 to determine the extent to which the learning goals of pupils were achieved pursuant to subsection 5 of NRS 391.480.~~

~~—4.— If no assessment described in subsection 3 effectively determines the extent to which the learning goals of pupils were achieved:~~

~~—(a) If practicable, a school or school district shall use a modified version of an assessment described in subsection 3 to determine the extent to which the learning goals of pupils were achieved; and~~

~~—(b) If it is not practicable to use an assessment described in paragraph (a) to determine the extent to which the learning goals of pupils were achieved, a school or school district shall develop a new assessment to determine the extent to which the learning goals of pupils were achieved. Such an assessment must be:~~

~~——(1) Reviewed by experts to determine the validity of the assessment; and~~

~~——(2) Scored using a documented protocol that produces high reliability.~~

~~—5.—~~ As used in this section:

(a) “Reliability” means the degree to which the results of the assessment are reproducible in similar circumstances; and

(b) “Validity” means the degree to which an assessment measures pupil achievement in the intended subject area.