

LCB File No. R065-99

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

Explanation: Matter in italics is new; matter in brackets is material to be omitted.

AUTHORITY: NAC 385.080, 389.015

Chapter 389 of NAC is hereby amended by adding the provisions as follows with an effective date of July 1, 1999.

GENERAL PROVISIONS

NAC 389.011 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 389.015 to 389.050, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Bd. of Education, eff. 12-16-82; a 1-26-90)

NAC 389.015 “Adjusted diploma” defined. “Adjusted diploma” means a diploma which evidences the graduation from high school of a handicapped pupil after he has met special requirements or adjusted standards.

(Added to NAC by Bd. of Education, eff. 12-16-82)

NAC 389.017 “Adult standard diploma” defined. “Adult standard diploma” includes a diploma which evidences the graduation from high school of a person who has met the requirements for graduation through:

1. A program of adult education established by a school district; or

2. An alternative program for the education of pupils at risk of dropping out of high school established by a school district pursuant to NRS 388.537.

(Added to NAC by Bd. of Education, eff. 12-16-82; A by R067-97, 12-10-97)

NAC 389.020 “Demonstrate” defined. “Demonstrate” means the ability to define, identify or list the major components of a subject and, if the subject is part of an activity, to perform the activity in accordance with commonly held standards or, when applicable, to standards set by government or industry.

(Added to NAC by Bd. of Education, 12-26-90, eff. 9-2-92)

NAC 389.035 “Standard diploma” defined. “Standard diploma” means a diploma which evidences a pupil’s graduation from high school but which is not an adjusted diploma or an adult standard diploma.

(Added to NAC by Bd. of Education, eff. 12-16-82)

NAC 389.040 “Unit of credit” defined. “Unit of credit” means an amount of credit which is awarded to a pupil for his successful completion of a course containing at least 120 hours of instruction or the equivalent.

(Added to NAC by Bd. of Education, eff. 12-16-82)

NAC 389.XXX “Norm Referenced Test” defined. “Norm referenced test” means testing in which student performance is compared to the performance of a representative group of students of the same age, ability and diversity.

NAC 389.XXX “Criteria Referenced Test” defined. “Criteria referenced test” means testing in which student performance is compared to a standard level of expected performance. The expected level of performance is determined prior to the administration of the test and is based on the educational standards and the purpose of the test.

NAC 389.XXX “Nevada High School Proficiency Examination” defined. “Nevada High School Proficiency Examination” means a criteria referenced test that reflects the educational standards and level of performance that are expected of all students who graduate from high school in the state of Nevada, in the areas of writing, mathematics and reading.

ADMINISTRATION OF ACHIEVEMENT AND PROFICIENCY EXAMINATIONS

NAC 389.049 Definitions. (NRS 385.080, 385.391, 389.015) As used in NAC 389.049 to 389.083, inclusive, unless the context otherwise requires:

1. “Grade 11” means the third and fourth semesters before the anticipated graduation of a pupil.

2. “Grade 12” means the final two semesters before the anticipated graduation of a pupil.

(Added to NAC by Bd. of Education, eff. 10-9-93; A by R115-97, 12-10-97; A by Dept of Education by R046-98, 5-29-98)

NAC 389.051 Times for administration; special administration. (NRS 385.080, 389.015)

1. Except as otherwise provided in subsection 2, the board of trustees of each school district shall administer the examinations required by NRS 389.015 in each public school in that district which has the appropriate grades at the following times:

(a) For grades 4, 8 and 10, the *norm referenced* examinations in reading, language, mathematics and science must be administered ~~[between October 2 and October 27]~~ *in October*.

(b) For grades 4 and 8, the *criteria referenced* examination in writing must be administered on the date specified by the department of education.

(c) For grade 11, the *Nevada High School Proficiency E[e]* examination in writing must be administered ~~[on the second Wednesday]~~ in February.

~~[(d) For grade 11, the examinations in reading and mathematics must be administered at some time Monday through Thursday during the week of:~~

~~——(1) The first Wednesday in October; and~~

~~——(2) The third Thursday in April for pupils who must pass the examinations to graduate.]~~

(d) ~~[(e)]~~ For *grade 12 and Adult*, the *Nevada High School Proficiency E[e]* examination in writing must be administered ~~[to pupils who must pass the examination to graduate, on the second Wednesday]~~ *at the same time as designated by the department* in February, ~~[the third Thursday]~~ in April, ~~[the third Thursday]~~ in ~~[June]~~ *the summer* and ~~[the first Wednesday]~~ in October.

(e) ~~[(f)]~~ For *grade 11, 12 and Adult*, the *Nevada High School Proficiency E[e]* examinations in reading and mathematics must be administered ~~[to pupils who must pass the examinations to graduate,]~~ at the same time *as designated by the department* ~~[Monday through Thursday during the week of the second Wednesday]~~ in February, ~~[the third Thursday]~~ in April, ~~[the third Thursday]~~ in ~~[June]~~ *the summer* and ~~[the first Wednesday]~~ in October.

~~[(g) For adults, the examination in writing must be administered to pupils who must pass the examination to graduate, on the second Wednesday in February, the third Thursday in April, the third Thursday in June and the first Wednesday in October.]~~

~~—(h) For adults, the examinations in reading and mathematics must be administered to pupils who must pass the examinations to graduate, at some time Monday through Thursday during the week of the second Wednesday in February, the third Thursday in April, the third Thursday in June and the first Wednesday in October.]~~

2. Not later than May 1 of each year, the board of trustees of a school district in which a school with a 22-month school program is located shall, if pupils who attend the school are not expected to be in session on one of the dates prescribed in subsection 1 for the administration of an examination, consult with the ~~[proficiency testing unit of the]~~ department of education to establish another date for the administration of that examination. The *Standards, Curricula and Assessments Team* ~~[proficiency testing unit]~~ shall provide the board of trustees with written confirmation of the date agreed upon pursuant to this subsection *not later than June 1*.

3. The assessment of a pupil whose primary language is not English pursuant to NAC 389.063 must be administered before the earliest date on which the pupil would be required to take the proficiency examination required for his grade level if his primary language was English.

4. The department of education may schedule a special administration of any examination required to be passed for graduation if:

- (a) The person taking the examination is a pupil in grade 12;
- (b) That person, through no fault of his own, was not able to take the examination at its most recent administration; and
- (c) No regular administration of the examination is scheduled before the date on which the person is otherwise eligible to graduate.

5. Criteria referenced assessments in English Language Arts, mathematics and science for grades 3 and 5 will be administered in May of each year on dates specified by the department of education.

6. All assessments required by the department of education that are to be used to assess students in the state of Nevada must be:

(a) Aligned with the Nevada educational standards;

(b) Capable of providing trend data over a period of time;

(c) Valid and measure what is intended;

(d) Fair for all potential test takers and recognize gender, cultural, and language differences to the extent practicable;

(e) Useful in determining student performance relative to a particular standard;

(f) Within the state's requirement for cost and testing time;

(g) The kind of assessment types that most appropriately measure the content and performance standards; and,

(h) Within the accommodation guidelines for special needs populations established by the Office of Civil Rights.

7. Assessment data must be reported in a way that is clear to parents and teachers, avoiding the use of technical terms. Professional development for teachers regarding the interpretation of assessment results must be provided.

(Added to NAC by Bd. of Education, eff. 3-9-88; A 9-15-98; 9-13-91; 19-8-93, eff. 9-1-94; 11-17-95; R115-97, 12-10-97; R115-97, 12-10-97, eff. 7-1-98; R019-98, 4-17-98; R019-98, 4-17-98, eff. 7-1-98)

NAC 389.052 Determination of whether pupil is exempt from taking examinations. (NRS

385.391) A school shall determine whether a pupil is exempt from taking the examinations administered pursuant to NRS 389.015 in accordance with NAC 389.063, subsection 4 of NRS 389.017 and the current edition of the “Guidelines for the Conduct of the Nevada Proficiency Examination Program” published by the department of education.

(Added to NAC by Dept. of Education by R046-98, eff. 5-29-98)

NAC 389.054 Confidentiality and security of testing materials. (NRS 385.080, 389.015)

1. The board of trustees of each school district shall ensure that the employees of the school district who have access to the materials necessary to administer the examinations required by NRS 389.015 are familiar with:

(a) The provisions of this section and subsection 7 of NRS 389.015; and

(b) Any instructions that are issued by the department of education relating to the confidentiality of those materials.

2. A person shall not make *or distribute* copies of the questions contained in the examinations required by NRS 389.015 or the approved answers used for grading them unless that person has received written authorization to do so from the publisher of the examination and the department of education.

3. Before the examinations required by NRS 389.015 are distributed to the schools in which the examinations will be administered, the board of trustees shall ensure that the materials used to administer the examinations and the approved answers used for grading them are stored in such a manner that only those persons to whom the materials and answers may be disclosed pursuant to subsection 7 of NRS 389.015 have access to them.

4. The questions contained in the examinations required by NRS 389.015 must not be distributed to the schools in which the examinations will be administered until such time as is necessary to allow the schools adequate time to prepare to administer the examinations.

5. The principal of each school in which an examination is delivered shall ensure that:

(a) The questions contained in the examination are stored in a secure location and are not distributed until the examination is administered; and

(b) The materials used to administer the examination are stored in a secure manner before the end of the day on which the examination is administered.

6. On or before September 15 of each year, the principal of each public school shall submit to the department a statement that the principal will ensure that the school complies with the provisions of this section and any instructions issued by the department relating to the confidentiality of testing materials. The statement required pursuant to this subsection must be on a form prescribed by the department.

7. The examinations required by NRS 389.015 must be administered:

(a) In a public facility that is approved by the board of trustees of the school district; and

(b) By employees of the school district who are designated to administer the examinations by the board of trustees of the school district.

(Added to NAC by Bd. of Education by R115-97, eff. 12-10-97)

NAC 389.056 Procedures for administration. (NRS 385.080, 389.015) Achievement and proficiency examinations must be administered as follows:

1. For grades 4, 8 and 10, the reading, mathematics, language and science examinations must be administered pursuant to the instructions in “Comprehensive Test of Basic Skills,

TerraNova, Test Directions for Teachers: Level 14/22,” copyright 1996 by CTB/McGraw-Hill. If a pupil with a disability in grade 4, 8 or 10 is required to take the examination, he must be included in the regular administration of the examination if he can be adequately tested under acceptable accommodations as set forth in the “Nevada Proficiency Examination Program, TerraNova Grades 4, 8, and 10 Test Coordinator’s Manual,” copyright 1997 by CTB/McGraw-Hill.

2. For grade 4, the examination in writing must be administered pursuant to the instruction in the current edition of “Administration Manual: Nevada Fourth Grade Proficiency Examination in Writing,” adopted by the department of education.

3. For grade 8, the examination in writing must be administered pursuant to the instructions in the current edition of “Administration Manual: Nevada Eighth Grade Proficiency Examination in Writing,” adopted by the department of education.

4. For grades 11 and above, the examinations must be administered pursuant to the instruction in the current edition of “Administration Manual: Nevada High School Proficiency Examination Mathematics, Reading and Writing,” adopted by the department of education.

(Added to NAC by Bd. of Education, eff. 3-9-88; A 9-15-89; 12-11-89; 9-13-91; 10-8-93; eff. 9-1-94; 11-17-95; R115-97, 12-10-97; R019098, 4-17-98)

NAC 389.0565 Use of calculators on examinations. (NRS 385.080, 389.015)

1. Except as otherwise provided in subsections **2 and 3**, calculators may not be used by pupils taking the **norm referenced test** [~~Nevada Proficiency Examination in Mathematics~~] or the Nevada High School Proficiency Examination in Mathematics.

2. Each school district shall provide the pupils in a 4th grade, 8th grade or 10th grade class within the district with the option of using calculators on Part 2 of the “Mathematics Composite” portion of the Comprehensive Test of Basic Skills, TerraNova Complete Battery Plus, if the pupils are routinely authorized to use calculators on other examinations administered to the class.

3. Special education students who have the use of calculators for assessment as part of their Individual Education Plan (IEP) may use a calculator while doing the Nevada High School Proficiency Examination in Mathematics.

4. Effective with school year 2000-2001, the use of calculators may be permitted on the Nevada High School Proficiency Examination in Mathematics on any portion of the test identified by the department of education.

(Added to NAC by Bd. of Education by R115-97; eff. 12-10-97;A by R019-98, 4-17-98)

NAC 389.057 Eligibility for reexamination.

1. A pupil who fails a proficiency examination administered during grade 11 is eligible to be reexamined ~~[during grade 12]~~ at the time that the examination is administered pursuant to NAC 389.051.

2. If the pupil does not pass a proficiency examination before the completion of grade 12, he may be reexamined any time that the test is administered to adults pursuant to NAC 389.051 after providing proof to the school district that he has completed appropriate remedial study.

(Added to NAC by Bd. of Education, eff. 10-8-93)

NAC 389.058 Reporting of results to department of education. (NRS 385.080, 389.015)

1. Except as otherwise provided in subsection 2, a private entity that has contracted with the state board of education to score the examinations pursuant to paragraph (d) of subsection 2 of NRS 389.015 shall report the results of the examinations in writing to the department of education.

2. The provisions of subsection 1 do not apply to the results of examinations administered to:

(a) Pupils whose primary language is not English. The number of such pupils who are examined pursuant to NAC 389.063 must be reported separately by the private entity scoring the examinations based on the answer sheet submitted to the entity by the school district for each pupil examined pursuant to NAC 389.063.

(b) Pupils who are enrolled in a program of special education pursuant to NRS 388.440 to NRS .520, inclusive, and who are not gifted or talented pupils.

(Added to NAC by Bd. Of Education, eff. 9-15-89; A 12-11-89; 9-12-91; 10-8-93, eff. 9-1-94; R115-97, 12-10-97)

NAC 389.059 Restriction on reporting scores of individual pupils; reporting of aggregated scores.

1. Except as otherwise provided by a specific statute or regulation, the department of education shall not report the scores achieved by an individual pupil on an examination required by NRS 389.015 to a person or governmental agency.

2. The department may report the aggregated scores of five or more pupils. ~~For the purpose of reporting the scores of pupils:~~

~~— (a) The scores of two or more groups that contain fewer than five pupils may be combined if the total number of pupils equals five or more; and~~

~~— (b) The scores of a group that contains fewer than five pupils may be combined with the scores of a group that contains five or more pupils.]~~

(Added to NAC by Bd. of Education, eff. 9-13-91)

NAC 389.061 Specific examinations required. (NRS 385.080, 389.015) Except as otherwise provided in NAC 389.063, the following examinations must be used as examinations of achievement and proficiency:

1. For grade 4:

(a) The “Reading Composite,” “Mathematics Composite,” “Language Composite” and “Science” portions of Level 14, Comprehensive Test of Basic Skills, TerraNova Complete Battery Plus.

(b) The Nevada Proficiency Examination in Writing for the Fourth Grade prescribed by the department of education for each testing period.

2. For grade 8:

(a) The “Reading Composite,” “Mathematics Composite,” “Language Composite” and “Science” portions of Level 18, Comprehensive Test of Basic Skills, TerraNova Complete Battery Plus.

(b) The Nevada Proficiency Examination in Writing for the Eighth Grade prescribed by the department of education for each testing period.

3. For grade 10:

(a) The “Reading Composite,” “Mathematics Composite,” “Language Composite” and “Science” portions of Level 20, Comprehensive Test of Basic Skills, TerraNova Complete Battery Plus.

4. For grades 11 and above:

(a) The Nevada High School Proficiency Examination in Reading;

(b) The Nevada High School Proficiency Examination in Mathematics; and

(c) The Nevada High School Proficiency Examination in Writing for the Eleventh Grade and Above,

prescribed by the department of education for each testing period.

(Added to NAC by Bd. of Education, eff. 3-9-88; A 9-15-89; 12-11-89; 9-13-91; 10-8-93, eff. 9-1-94; F115-97, 12-10-97; R019-98, 4-17-98)

NAC 389.063 Assessment of proficiency in English of pupils whose primary language is not English (NRS 385.080, 389.015)

1. Each school district shall use the “Language Assessment Scales-Oral,” copyright 1990 by CTB/McGraw-Hill, and the “Language Assessment Scales-Reading/Writing,” copyright 1990 by CTB/McGraw-Hill, to assess the proficiency in English language of pupils whose primary language is not English. Except as otherwise provided in subsections 2 and 3, the assessment must be used as the examination of achievement and proficiency for such pupils in grades 4, 8 and 10.

2. If a pupil in grade 4 is assessed at a level III or above as a result of the oral examination administered pursuant to subsection 1 and at a level II or above as a result of the

examination of reading and writing administered pursuant to subsection 1, he must also be required to complete the examinations required by NAC 389.061.

3. If a pupil in grade 8 or 10 is assessed at a level III or above as a result of the oral examination administered pursuant to subsection 1, at a level III or above as a result of the reading portion of the examination of reading and writing administered pursuant to subsection 1 and at a level II or above as a result of the writing portion of the examination in reading and writing administered pursuant to subsection 1, he must also be required to complete the examinations required by NAC 389.061.

4. If a pupil is assessed below a level III on the oral examination administered pursuant to subsection 1, he is not required to complete the examination of reading and writing prescribed in subsection 1.

(Added to NAC by Bd. of Education, eff. 9-13-91; A 10-8-93, eff. 9-1-4; R115-97, 12-10-97; R019-98, 4-17-98)

NAC 389.065 Scores indicating failure to demonstrate adequate achievement (NRS 385.080, 389.015) A pupil who earns any of the following scores on the examinations administered pursuant to NRS 389.015 has not demonstrated adequate achievement:

1. For grade 4, 8 or 10, a score on the *norm referenced test* ~~[examination]~~ in reading, mathematics, language or science at or below the 25th percentile of the national norms for that examination.

2. For grade 4, a score on a trait on the examination in writing of below 3 indicates inadequate achievement for that trait only and not for all traits on the examination in writing.

3. For grade 8, a score on one or more of the traits that are separately scored on the examination in writing of below 3.

(Added to NAC by Bd. of Education, eff. 3-9-88; A 9-15-89 9-13-91; 10-8-93, eff. 9-1-94; R115-97, 12-10-97; R019-98, 4-17-98)

NAC 389.071 Proficiency examinations in writing: Eleventh grade and above; eighth grade.

1. Each edition of the Nevada High School Proficiency Examination in Writing for the Eleventh Grade and Above to be used after the fall of 1988, must require pupils to write on two topics to be chosen from the following styles of writing:

- (a) Descriptive or narrative writing;
- (b) Expository writing; or
- (c) Persuasive writing.

2. Each edition of the Nevada Proficiency Examination in Writing for the Eighth Grade must require pupils to write on one topic to be chosen from the following styles of writing:

- (a) Descriptive writing;
- (b) Narrative writing;
- (c) Expository writing; or
- (d) Persuasive writing.

(Added to NAC by Bd. of Education, eff. 3-9-88; A 9-13-91; 10-8-93, eff. 9-1-94)

NAC 389.076 Nevada High School Proficiency Examination in Reading. (NRS 385.080, 389.015)

1. Each edition of the Nevada High School Proficiency Examination in Reading to be used after the spring of 1997 *through the summer of 2001* must assess pupils' abilities to:

- (a) Read to obtain information;
- (b) *Read* to understand literature; and
- (c) Read materials that assist them in performing a task.

2. Pupils may be tested in the areas listed in subsection 1 for:

- (a) Their abilities to comprehend the meaning of the material they have read;
- (b) Their abilities to understand the intent of the author of the material they have read;
- (c) Their abilities to form an opinion regarding the material they have read; and
- (d) Their abilities to respond critically to the ideas expressed in the material they have read.

3. Passages on the examination may include selections:

- (a) Relating to literature, social studies, science, mathematics, occupational education, computer education and other areas of study included in the pupils' curriculum; and
- (b) From informational materials such as periodicals, manuals, handbooks and other publications.

~~[4.—All questions on the examination must be presented as multiple choice questions.]~~

(Added to NAC by Bd. of Education, eff. 3-9-88; A 9-15-89; R115-97, 12-10-97)

NAC 389.081 Nevada High School Proficiency Examination in Mathematics. (NRS 385.080, 389.015)

1. Each edition of the Nevada High School Proficiency Examination in Mathematics to be used after the spring of 1997 *through the summer of 2001* must assess pupils' skills in the following areas:

(a) Adding, subtracting, multiplying and dividing whole numbers, decimals, fractions and percentages using a single step;

(b) Adding, subtracting, multiplying and dividing whole numbers, decimals, fractions and percentages using multiple steps;

(c) Using formulas and simple equations;

(d) Solving problems involving measurements;

(e) Geometry; and

(f) Solving problems using information obtained from tables, charts, printouts, graphs, maps and scales.

2. The examination must also assess the pupils':

(a) Understanding of mathematical concepts;

(b) Knowledge of the procedures to be used to solve a problem; and

(c) Abilities to reason and solve problems.

3. The examination must emphasize the ability to solve problems and to perform calculations in the following areas of mathematics:

(a) Numbers and operations;

(b) Measurements;

(c) Geometry;

- (d) Data analyses, probabilities and statistics; and
- (e) Algebra and functions.

~~[4. All questions on the examination must be presented as multiple choice questions.]~~

(Added to NAC by Bd. of Education, eff. 3-9-88; A 9-15-89; R115-97, 12-10-97)

NAC 389.083 Maintenance of results of examinations and list of names and scores.

1. A school district shall keep the results of all examinations administered pursuant to NRS 389.015 to pupils in grades 4 and 8 for 4 years after the date of the administration of the examinations.

2. The department of education shall maintain a list of the name and scores of each pupil who takes the Nevada High School Proficiency Examinations for 10 years after the date of the administration of the examinations.

(Added to NAC by Bd. of Education, eff. 9-13-91; A 1-26-94, eff. 9-1-94)

Requirements for Diploma

NAC 389.655 Passage of proficiency examinations. (NRS 385.080, 389.015)

1. A pupil must not be given a standard diploma until he has, after entering grade 11, passed:

- (a) The Nevada High School Proficiency Examination in Reading;
- (b) The Nevada High School Proficiency Examination in Mathematics; and
- (c) The Nevada High School Proficiency Examination in Writing for the Eleventh Grade

and Above.

2. After entering grade 11, if a pupil passes one of the high school proficiency examinations, he is not required to take that examination again to graduate.

~~3. For pupils who enroll in grade 12 in the 1997-1998 school year, passing scores on the high school proficiency examinations are as follows:~~

~~(a) In reading, 400.~~

~~(b) In mathematics, 400.~~

~~(c) In writing, 7.]~~

3. ~~4.]~~ For pupils who enroll in grade 11 in the 1997-1998 school year, passing scores on the high school proficiency examinations are as follows:

(a) In reading, 70 percent of the questions on the examination answered correctly.

(b) In mathematics, 61 percent of the questions on the examination answered correctly.

(c) In writing, 7.

4. ~~5.]~~ For pupils who enroll in grade 11 in the 1998-1999 school year, passing scores on the high school proficiency examinations are as follows:

(a) In reading, ~~[71 percent of the questions on the examinations answered correctly]~~ *a scale score of 71.*

(b) In mathematics, ~~[64 percent of the questions on the examination answered correctly]~~ *a scale score of 64.*

(c) In writing, 7.

5. Passing scores in effect when a pupil is enrolled in 11th grade will remain in effect for one year after the pupil's anticipated completion of 12th grade.

6. For all pupils enrolled in an Adult High School Program after July, 2000, the passing scores on the high school proficiency examinations are as follows:

(a) In reading, a scale score of 71.

(b) In mathematics, a scale score of 64.

(c) In writing, 7.

~~{6.—A pupil must not be allowed to take any one of the high school proficiency examinations more than five times between the beginning of grade 11 and June 30 of the year in which the pupil is in grade 12.}~~

(Added to NAC by Bd. of Education, eff. 3-9-98; A 9-15-89; 1-26-94; R115-97, 12-10-97; R019-98, 4-17-98; R60-98, 6-26-98, and temporary changes 9-29-98)

IMPACT STATEMENT

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066 NAC 389, Nevada Proficiency Examination Program

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 389, Nevada Proficiency Examination Program:

1. A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.

Notice of Workshop to Solicit Comments on Proposed Regulations was sent to approximately one-hundred fifty individuals and educational organizations. One workshop was held April 15, 1999. There were comments from the public. No written comments from the public were received.

The Notice of Intent to Act Upon a Regulation for public hearing on the proposed revisions was sent to approximately one-hundred fifty individuals and educational organizations. Two public hearings were conducted on April 16, 1999, and May 22, 1999, to provide the opportunity for comments by affected parties and the public. There were comments from the public. Written comments were received.

2. The Number of Persons Who:

a) **Attended Each Hearing:** Workshop: 25 First Hearing: 23 Second Hearing: 7

b) **Testified at Each Hearing:** Workshop: 3 First Hearing: 5 Second Hearing: 1 and,

c) **Submitted Written Statements:** Workshop: 0 First Hearing: 2 Second Hearing: 0

Written comments received at the April 16, 1999, public hearing were: 1) Letter of April 9, 1999, from Dawn Gibbons, Assemblywoman, District 25; and, letter of April 9, 1999, from Mike McGuiness, Senator, Central Nevada District. Both of the written comments expressed the desire that the Board allow the use of calculators on the Nevada Mathematics Proficiency Examination.

A copy of any written comments may be obtained by calling LaDonna Byrd, Board Secretary, at the Department of Education (775) 687-9225, or by writing to the Department of Education, 700 East Fifth Street, Carson City, Nevada 89701-5096.

3. A description of how comment was solicited from affected businesses, a summary of the response and an explanation how other interested parties may obtain a copy of the summary.

Comment was solicited through the workshop notice of March 15, 1999, and public hearing notices of March 15, 1999, and April 19, 1999.

At the Workshop to Solicit Comments, three individuals addressed the proposed revisions: Cindy Mason, parent, advised that her child is not able to pass the Nevada Proficiency Examination in Mathematics and was concerned that the next opportunity to take the test would be after graduation; Bill Parker, parent, advised that he scored a 70% on the test, recommended more flexibility in the graduation credit requirements, and felt that ninth and tenth grade students should be allowed to take the proficiency examinations.

At the public hearing held April 16, 1999, five individuals spoke: Mike Franta, carpenter, was concerned for the need for high school proficiency examinations; Phyllis Condos, parent, expressed concern for the implication of the proficiency examinations for learning disabled students and felt that calculators should be used by all students; Scott Condos, parent, felt that the students should have an opportunity to review the test questions prior to taking the test, as well as to be able to take the test as many times as necessary; Dotty Merrill, Director, Testing Services, Washoe County School District, recommended the following changes: 1) to NAC 389.051.2, "for year-round schools, the department will advise the board of trustees with the dates of the examinations not later than June 1st;" 2) to NAC 389.054.2, to state that a person shall not distribute copies of the questions with authorization; and, Kim Allen, parent, was concerned that geometry questions are on the mathematics proficiency examination.

At the public hearing held May 22, 1999, one individual spoke: Dotty Merrill, Director, Testing Services, Washoe County School District, recommended the following changes: 1) to amend NAC 389.051.1.e, "in the summer at a time scheduled by each school district;" 2) to give the April test on Saturday for grade 12; 3) to NAC 389.655.5 "for students who plan to matriculate after year 2000;" and, 4) to make calculators available to all students.

A copy of the summary and/or minutes of the public hearing may be obtained by calling LaDonna Byrd, Board Secretary, at the Department of Education (702) 687-9225, or by writing to the Department of Education at 700 East Fifth Street, Carson City, Nevada 89701-5096.

4. If the regulation was adopted with or without change to any part of the proposed regulation, a summary of the reasons for adopting.

The temporary regulation was adopted by the Nevada State Board of Education at the public hearing on May 22, 1999, with changes to the proposed language.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

There is no anticipated economic effect on the school districts. There is no estimated economic effect on the public.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of this regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

No other state or government agency regulations will be overlapped or duplicated by the above noted regulations. There is no duplication or overlap of federal regulations.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There are none.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not provide or involve a new fee.