

LCB File No. T029-99

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

(Effective March 16, 1999)

Explanation: Matter underlined is new; matter in brackets [] is material to be omitted.

AUTHORITY: NRS 385.080, NRS 385.102-.108

SECTION 1. NAC 385.010, 385.020, 385.040, 385.045, 385.050, 385.070, 385.080, 385.095, 385.105, 385.125, 385.135, 385.145, 385.160, 385.163, 385.168, 385.173, 385.181, 385.190, 385.205, 385.218, 385.230 is hereby repealed. Text of repealed sections follows:

[HIGHER EDUCATION STUDENT LOAN PROGRAM

NAC 385.010 Definitions. As used in NAC 385.020 to 385.230, inclusive, unless the context otherwise requires, the words and terms defined in NAC 385.020 to 385.105, inclusive, have the meanings ascribed to them in those sections.

NAC 385.020 “Act” defined. “Act” means Part B of Title IV of the Higher Education Act of 1965, 20 U.S.C. §§ 1071 et seq.

NAC 385.040 “Borrower” defined. “Borrower” means a person who is the maker of a promissory note for a loan.

NAC 385.045 “Defaulted loan” defined. “Defaulted loan” means a loan made pursuant to the program which is paid by reinsurance from the Department of Education.

NAC 385.050 “Department” defined. “Department” means the department of education.

NAC 385.070 “Educational institution” defined. “Educational institution” means an institution of higher education which participates in the program.

NAC 385.080 “Lender” defined. “Lender” means a bank, savings and loan association, credit union or thrift organization, which:

1. Has been approved by the Department of Education and the department; and
2. Participates in the program.

NAC 385.095 “Loan” defined. “Loan” means a loan made pursuant to the program.

NAC 385.105 “Program” defined. “Program” means the guaranteed student loan program or parent loans to undergraduate students program administered pursuant to the provisions of 34 C.F.R. Parts 682, 683 and 668.

NAC 385.125 Adoption of federal regulations.

1. The state board of education hereby adopts the following by reference:
 - (a) For the administration of the guaranteed student loan program, 34 C.F.R. Part 682, as it existed on November 15, 1986;
 - (b) For the administration of the parent loans to undergraduate student program, 34 C.F.R. Part 683, as it existed on November 15, 1986; and
 - (c) For the administration of both programs, the general provisions of 34 C.F.R. Part 668, as they existed on November 15, 1986.
2. A copy of the publication which contains these parts may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, for the price of \$25.

NAC 385.135 Contract with person to act as agent for program.

1. The superintendent of public instruction may contract with a person to act as an agent for the program and to assist the director in the administration of the program. The director shall review the contract at least once each year and recommend to the superintendent of public instruction any change he considers necessary. The contract must include a provision allowing the superintendent of public instruction to cancel the contract at any time.
2. As used in this section, "director" means the person to whom the responsibility for administering the program is delegated by the superintendent of public instruction.

NAC 385.145 Adoption of policies and procedures.

1. The department shall adopt policies and procedures for:
 - (a) Making a loan;
 - (b) Suspending or terminating a lending or educational institution from participation in the program;
 - (c) Limiting the participation of a lending or educational institution in the program; and
 - (d) Ensuring compliance with the provisions of the act.
2. The department may adopt the policies and procedures of the person with whom it contracts to act as an agent for the program. The department may amend the policies and procedures at any time.

NAC 385.160 Requirements for participation by borrower. To participate in the program, a borrower must be a:

1. Nevada resident as defined in NRS 10.155; or
2. Student who attends an educational institution in this state, except a correspondence school.

385.163 Information to be included in borrower's application. A borrower shall include on his application the names, mailing addresses and telephone numbers of three references.

NAC 385.168 Requirements for participation by educational institution. Before an educational institution may participate in the program, it must:

1. Agree, in writing with the Department of Education to comply with the provisions of the act; and

2. Be approved by the commission on postsecondary education or the state board of cosmetology, or be an institution of the University and Community College System of Nevada.

NAC 385.173 Approval required when participation by educational institution limited, suspended or terminated. If the participation in the program by an educational institution is limited, suspended or terminated:

1. An educational institution owned by the same person, which is opened after the limitation, suspension or termination; or
2. A branch of an educational institution owned by the same person, which is opened after the limitation, suspension or termination, may not participate in the program without the approval of the department.

NAC 385.181 Requirements for participation by lender. Before a lender may participate in the program, it must agree in writing to comply with the provisions of the act and the policies and procedures adopted by the department.

NAC 385.190 Reserve fund.

1. The department shall maintain a reserve fund to guarantee loans made pursuant to the program.
2. The amount of money in the fund must not be less than 1 percent of the total amount of loans outstanding or an amount considered appropriate under the federal program for reinsurance.
3. The liability of the state for defaulted loans must never exceed the amount specified in subsection 2.

NAC 385.205 Emergency action by department. The department may take any emergency action authorized by the act or the policies and procedures adopted by the department if:

1. A lender or educational institution defaults on an unreasonable number of loans; and
2. The defaulted loans adversely affect the financial stability of the program.

NAC 385.218 Check for loan. Unless a loan is made to the parent of a student, the check for the loan must be:

1. Made payable to both the borrower and educational institution; and
2. Mailed directly to the educational institution by the lender.

NAC 385.230 Guarantee of loan to borrower who has defaulted. A loan may not be guaranteed to a borrower who has defaulted on a loan made pursuant to any federally insured student loan program unless:

1. The defaulted loan has been paid in full by the borrower; or
2. At least 12 consecutive monthly payments of at least \$50 each have been paid by the borrower on the defaulted loan.]

**NEVADA STATE BOARD OF EDUCATION
NEVADA STATE BOARD FOR OCCUPATIONAL EDUCATION**

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
NAC 387, Higher Education Student Loan Program**

IMPACT STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Higher Education Student Loan 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 twenty-five individuals and educational organizations. One workshop was held March 5, 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 twenty-five individuals and educational organizations. One public hearing was conducted on March 6, 1999, to provide the opportunity for comments by affected parties and the public. There were comments from the public. No written comments were received.

2. The Number of Persons Who:

a) **Attended Each Hearing:** Workshop: 10 First Hearing: 25 Second Hearing: n/a

b) **Testified at Each Hearing:** Workshop: 0 First Hearing: 0 Second Hearing: n/a

and,

c) **Submitted Written Statements:** Workshop: 0 First Hearing: 0 Second Hearing: n/a

A copy of any written comments 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, 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 February 2, 1999, and public hearing notice of February 2, 1999.

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 March 6, 1998. Summary of reason for repeal: The regulation language was reviewed under Assembly Bill 122, enacted by the 1997 Legislature, requiring an agency to review its regulations every ten years. The Nevada State Legislature acted to close out activity in the budget account for the Higher Education Student Loan Program, effective December 31, 1989. The program was contracted out to United Student Aid Funds, a private contractor to manage on July 1, 1988. The Department of Education continues to monitor periodic reports from the contractor.

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 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.