

LCB File No. T013-03

ADOPTED TEMPORARY REGULATION OF THE STATE  
BOARD OF EDUCATION/ STATE BOARD FOR  
OCCUPATIONAL EDUCATION

Filed with the Secretary of State on 2/2/2003

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

**Authority:** NRS 385.080 and 392.070.

EXEMPTION FROM COMPULSORY ATTENDANCE REGULATIONS

**Section 1.** Chapter 392 of NAC is hereby amended by adding thereto new sections to read as follows:

*NAC 392 Identification of the child.*

*1. Each notification of intent to have a child excused from compulsory attendance at public school on the ground that the child will be given equivalent instruction must provide:*

- (a) The full name of the child;*
- (b) The name of the parent(s); and*
- (c) The address where the child resides.*

*2. The initial notification of intent to provide equivalent instruction outside the public schools shall include proof of the identity of the child, consisting of the child's birth certificate or some other document sufficient to establish his identity.*

*3. No child enrolled in the public school shall be removed by a parent from public school premises pursuant to an excuse from compulsory attendance on the grounds that the parent is providing equivalent instruction outside the public school without proof of the parent's identity.*

*NAC 392 School district to provide certain information to parents:*

*1. The Nevada Department of Education shall develop standard Notification of Intent forms, which shall not require any information or assurances other than those required by law.*

*2. School districts shall make available to parent(s) the following items provided by the Department of Education in a timely manner:*

*(a) Written notification of PSAT/NMSQT exam registration and test dates;*

*(b) Millennium Scholarship Program information; and*

*(c) The Nevada Department of Education Notification of Intent forms.*

*3. Informational documents included in a district home school packet shall not require/request initials or signature.*

*4. Upon receipt of the evidence of equivalent instruction defined in NAC 392.025, the school district shall provide a written acknowledgement that clearly states that the parents have provided the notice required by law and that the child is excused from attendance at the public school for the duration of the school year or until the Board of Trustees for the county votes to deny the child's exemption from compulsory attendance, whichever comes first. This written acknowledgement shall serve as proof of compliance with Nevada's compulsory attendance law.*

**Section 2.** NAC 392.011 is hereby amended to read as follows:

NAC 392.011 Definitions. As used in NAC 392.011 to 392.075, inclusive, unless the context otherwise requires:

1. "Approved correspondence program" means a program provided by:

(a) A member of a national or regional accrediting association, which is accredited for elementary or secondary education;

(b) A public school in Nevada offering correspondence study at the elementary or secondary level, or both; or

(c) A private correspondence school, which is licensed by the state board of education pursuant to the provisions of chapter 394 of NRS.

2. "Consultation" means:

(a) Participation by the consultant in the preparation of the educational plan for the child;

(b) Participation by the consultant in the development or review of the subjects to be taught; and

(c) Consultation with the parent about any learning problems which may occur.

3. "Parent" means the parent or legal guardian of a child.

*4. "Proposed educational goals" means a description of the anticipated kind of instruction, by subject, for that school year.*

**Section 3.** NAC 392.015 is hereby amended to read as follows:

NAC 392.015 Persons qualified to teach equivalent instruction. A child shall be excused from compulsory attendance at public school when written evidence is provided to the board of trustees of the county school district that the child will receive equivalent instruction and be instructed by any one of the following:

1. ~~[By a]~~ A teacher ~~[, other than the parent,]~~ who possesses a teaching license issued by the superintendent of public instruction for the grade to be taught;
2. ~~[By the]~~ A parent ~~[, when the parent:]~~ *who assumes full responsibility for the education of the child, who may use other person(s) to assist in meeting equivalent instruction as defined in NAC 392.035 and who:*
  - (a) Qualifies for or possesses a ~~[teaching]~~ license *to teach* from any state or territory of the United States ~~[for the grade to be taught];~~ or
  - (b) Has provided instruction ~~[in the home]~~ in any state or territory of the United States for at least ~~[3 years]~~ *one year; or*
3. ~~[By the]~~ A parent ~~[,]~~ *who assumes full responsibility for the education of the child*, in consultation with ~~[a person who:]~~ *an experienced educator (uncompensated or compensated) as defined in NAC 392.025(3);*
  - ~~[(a) Possesses a teaching license issued by the superintendent of public instruction for the grade to be taught; or~~
  - ~~[(b) Has provided instruction in the home in any state or territory of the United States for at least 3 years.]~~
4. ~~[By the]~~ A parent ~~[, when the child is]~~ *who has* enrolled *the child* in an approved correspondence program *as defined in NAC 392.011(1).*
- ~~[5. By the parent, when the parent has received a waiver under NAC 392.075.]~~

**Section 4.** NAC 392.025 is hereby amended to read as follows:

NAC 392.025 ~~[Contents of request for exemption; requirements for teachers]~~ *Written evidence* of equivalent instruction ~~[in elementary and secondary education].~~

~~[1. The request to have a child excused from compulsory attendance at public school on the ground that the child will be given equivalent instruction outside the school must include:~~

- ~~(a) A statement about the person who will teach the child and where the instruction will take place;~~
  - ~~(b) A statement of the educational plan that includes:
    - ~~(1) The proposed educational goals for the child; and~~
    - ~~(2) The instructional materials to be used;~~~~
  - ~~(c) A calendar of the proposed days of teaching, including at least 180 days of instruction of appropriate length;~~
  - ~~(d) Evidence that:
    - ~~(1) The teacher, when he is other than the parent, has a license to teach issued by the superintendent of public instruction for the grade to be taught;~~
    - ~~(2) The parent:
      - ~~(I) Qualifies for or possesses a license to teach from any state or territory of the United States for the grade to be taught; or~~
      - ~~(II) Has provided instruction in the home in any state or territory of the United States for at least 3 years;~~~~
    - ~~(3) The consultant has:
      - ~~(I) A license to teach issued by the superintendent of public instruction for the grade to be taught; or~~
      - ~~(II) Provided instruction in the home in any state or territory of the United States for at least 3 years;~~~~
    - ~~(4) The child is enrolled in an approved correspondence program; or~~
    - ~~(5) The parent has received a waiver under NAC 392.075;~~~~
  - ~~(e) Upon initial application, proof of the identity of the child, consisting of his birth certificate or some other document sufficient to establish his identity; and~~
  - ~~(f) A statement signed by the parent which declares that:
    - ~~(1) The educational plan will be followed; and~~
    - ~~(2) The parent assumes full responsibility to provide equivalent instruction to the child.~~~~
2. For the purposes of subsection 1 of NAC 392.015:
- ~~(a) For grades 9 to 12, inclusive, the teacher must have a license to teach secondary education with an endorsement in at least one of the following:
    - ~~(1) English.~~~~

- ~~(2) Language arts.~~
- ~~(3) Mathematics.~~
- ~~(4) Social studies.~~
- ~~(5) Any of the physical or natural sciences.~~

~~(b) For grades 1 to 8, inclusive, the teacher must have a license to teach elementary education.]~~

*1. A notification of intent to provide equivalent instruction by a licensed teacher must consist of:*

- (a) The identifying information required by Section 1, NAC 392 Identification of the child;*
- (b) A calendar of the proposed days of teaching, including the equivalent of at least 180 days of instruction, as defined in NAC 387.286(2); and*

*(c) Evidence that:*

*(1) The teacher, for grades 9 to 12, inclusive, has a license to teach secondary education with an endorsement in at least one of the following:*

- (i) English.*
- (ii) Language arts.*
- (iii) Mathematics.*
- (iv) Social studies.*
- (v) Any of the physical or natural sciences*

*(2) For grades 1 to 8, inclusive, the teacher must have a license to teach elementary education.*

*2. A notification of intent to provide equivalent instruction primarily by a parent must consist of:*

- (a) The identifying information required by Section 1, NAC 392 Identification of the child;*
- (b) A statement of the educational plan that includes:*

- (1) The proposed educational goals for the child as defined in NAC 392.011(4); or*
- (2) The instructional materials to be used; and*

*(c) A statement signed by the parent that declares that:*

*(1) The parent assumes full responsibility to provide equivalent instruction of the kind and amount defined in NAC 392.035; and*

*(2) The educational plan will be followed.*

*3. A notification of intent to provide equivalent instruction by a parent in consultation with an experienced educator pursuant to 392.011(2), must consist of:*

*(a) The identifying information required by Section 1, NAC 392 Identification of the child;*

*(b) A statement of the educational plan that includes:*

*(1) The proposed educational goals for the child as defined in NAC 392.011(4); or*

*(2) The instructional materials to be used; and*

*(c) Evidence that:*

*(1) The consultant has a license to teach in any state or territory of the United States; or*

*(2) The consultant has provided instruction in the home in any state or territory of the United States for at least 3 years; and*

*(d) A statement signed by the parent which declares that*

*(1) The parent assumes full responsibility to provide equivalent instruction of the kind and amount defined in NAC 392.035; and*

*(2) The educational plan will be followed.*

*4. A notification of intent to provide equivalent instruction by a parent using an approved correspondence program must consist of:*

*(a) The identifying information required Section 1, NAC 392 Identification of the child;*

*(b) Evidence that the child is enrolled in an approved correspondence program; and*

*(c) A statement signed by the parent that declares that the correspondence program will be followed.*

**Section 5.** NAC 392.035 is hereby amended to read as follows:

NAC 392.035 ~~[Required courses and period of instruction]~~ *Kind and amount of equivalent instruction defined.*

~~1. [To constitute equivalent instruction, the kind of instruction to be given a child outside the public schools must include instruction in the courses of study prescribed by the state board of education pursuant to NRS 385.110:]~~ *The kind of instruction to be given a child excused from compulsory attendance must include instruction in the following:*

*(a) Core academics:*

*(1) English, including reading, composition and writing;*

*(2) Mathematics;*

*(3) Science; and*

*(4) Social Studies, including history, geography, economics and government.*

*(b) And to the extent practicable:*

*(1) The arts;*

*(2) Computer education and technology;*

*(3) Health; and*

*(4) Physical education.*

*2. The kind of instruction need not comply with the standards of content and performance established for public schools. All subject areas do not need to be taught each year and may be taught, as appropriate, for the age/skill of the child as determined by the parent.*

~~*[2.] 3. [The minimum period of instruction which must be provided to the child on each day of instruction is the appropriate period specified in NAC 387.131.]*~~ *The amount of instruction to be given a child outside the public schools is the equivalent of 180 days of instruction.*

**Section 6.** NAC 392.075 is hereby repealed.

#### **TEXT OF REPEALED SECTION**

NAC 392.075 Waiver of requirement for consultant. (NRS 385.080, 392.070) The board of trustees of a county school district must waive the requirement for a consultant, set forth in subsection 3 of NAC 392.015, after 1 year. The waiver will apply if other children in the family are excused at a later date from compulsory attendance of public school.

**ADOPTED TEMPORARY REGULATION OF THE STATE  
BOARD OF EDUCATION/ STATE BOARD FOR  
OCCUPATIONAL EDUCATION  
LCB File No. T013-03**

**INFORMATIONAL STATEMENT**

- 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.**

The Notice of Workshop to Solicit Comments on Proposed Regulations was sent to approximately one-hundred and fifty individuals and educational organizations. The workshop was conducted by the Nevada State Board of Education on October 19, 2002. Comments from the public were received.

The Notice of Intent to Act Upon a Regulation for public hearing for Board adoption of the proposed revisions to **NAC 392, Students Exempt from Compulsory Attendance; Requirements to receive Exemption to Home School a Student and "Equivalent Instruction" for Home School Students**, was sent to approximately one-hundred and fifty individuals and educational organizations. A one-time only public hearing was conducted by the Nevada State Board of Education on December 14, 2002, by video conference at the Department of Education in Carson City and Las Vegas to provide the opportunity for comments by affected parties and the public. There were no comments from the public. The Board adopted the temporary language as revised.

- 2. The Number of Persons Who:**

<b>a) Attended Each Hearing:</b>	Workshop: Carson City	29	Hearing: Carson City	28
	Las Vegas	<u>40</u>	Las Vegas	<u>29</u>
	Total	69	Total	57

<b>b) Testified at Each Hearing;</b>	Workshop: Carson City	3	Hearing: Carson City	8
	Las Vegas	<u>10</u>	Las Vegas	<u>4</u>
	Total	13	Total	12

**and,**

<b>c) Submitted Written Statements:</b>	Workshop:	<u>3</u>	Hearing:	<u>12</u>
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Written comments were received at the October 19, 2002, workshop: 1) Proposed language and "Explanation of Proposed Changes to NAC 392, by Frank Schnorbus, President, Northern Home School Advisory Council; 2) binder provided by Elissa Wahl, Nevada Homeschool Network, and handout with proposed language and Home School Waiver Form provided by Oregon; and, 3) Comments related to testimony of Darren A Jones, Attorney, Home School Legal Defense Association, and a binder, "Home



Schooling in the United States," by Christopher J. Kilcka, J.D., Senior Counsel, Home School Legal Defense Association.

Written comments were received for the December 14, 2002, public hearing, as follows: 1) Letter of support dated October 28, 2002, from Edwina Houlmiere, Minden; 2) letter of support of October 24, 2002, from Denise Llewellyn, President, STCHEA, South Lake Tahoe; 3) letter of support of November 5, 2002, from Angela McGhee, Las Vegas; 4) letter of concern for "equivalent instruction" of November 12, 2002, from Julia Kleinfeld, Henderson; 5) letter of support received from Laura Moore, Gardnerville; 6) letter of support dated November 5, 2002 from June Saffhid, Las Vegas; 7) letter of support with proposed suggestions of November 26, 2002, from Julia Chavez, Administrative Specialist - Home Schooling, Clark County School District; 8) Additional proposed amendments to proposed language dated December 5, 2002, from Frank Schnorbus; 9) facsimile with concerns for consultant changes dated December 9, 2002, from Kent Anderson, President, Southern Home School Advisory Council; 10) letter of support of November 26, 2002, from Tracy Henry, Sparks; and, 11) letter of support from Virginia Shelton, Las Vegas. Four handouts were distributed at the hearing as follows: 1) e-mail correspondence handed out by Timothy & Marjorie Hartman, from Laurie Spencer, with concern for the mandatory consultant requirement dated December 13, 2002; 2) December 10, 2002 e-mail correspondence, with concern for the mandatory consultant requirement Brian Ray; 3) Refute to Mr. Anderson's letter of December 13, 2002, from Frank Schnorbus, President, Northern Home School Advisory Council, and 3) copies Washoe County School Districts Application for Exemption from Compulsory attendance submitted by Mr. Schnorbus.

Copies of written comments can be obtained by calling LaDonna Byrd, Assistant to the Board, at the Department of Education (775) 687-9225, or by writing to the Department of Education at 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 September 25, 2002. Comments by members of the public at the workshop were in support of the revisions: In Las Vegas: Dotty Merrill, Senior Director, Public Policy, Accountability and Assessments, Washoe County School District, Craig Kadlub, Director of Public Affairs, Clark County School District, Frank Schnorbus, President, N. Nevada Home School Advisory Council, and Officer, Nevada Homeschool Network, Brian Ray, Ph.D., National Home Education Research Institute, Salem, Oregon, Darren A. Jones, Staff Attorney, Home School Legal Defense, Purcellville, VA, Elissa Wahl, Chair, Nevada Home School Network, Las Vegas, Lauriann Bradford, Treasurer, Nevada Home School Network, Las Vegas, Tim Hartman, Member, Southern Home School Advisory Council, Las Vegas and, Kent Anderson, SABC, North Las Vegas; In Carson City: Barbara Dragon, Vice President, Northern Home School Advisory Council, Gardnerville, Jody Jarvis, Nevada Home School Network, Gardnerville, and Deborah Hayes, Wellington

Comment was solicited through the public hearing notice of November 18, 2002. Comments were made by members of the public at the December 14, 2002, public hearing; 1) Dana Pridham, Home School Consultant, Las Vegas, expressed concern for the change in the consultant requirement from three years to one year; Grenville Pridham, Attorney, Las Vegas, felt that a one year requirement for home school consultants was not meaningful; Senator Maggie Carlson, Nevada State Senate representing Senate Clark District 2, expressed agreement with retaining the three year requirement to make sure the consulting teachers are qualified to support the home schooling parents; Kent Anderson, President, Southern Home School Advisory Council, North Las Vegas, asked the Board to delay a decision on the proposed language until further review; Gina Anderson, Teaching Consultant, Vice President, Southern Home School Advisory Council, North Las Vegas, and President, Nevada Home Schools, Inc., dba Home Schools United, Vegas Valley, opposed the proposed revision to one year consulting teaching experience; Tim Hartman, Member, Southern Home School Advisory Council, Las Vegas, spoke in support of the streamlining of the consultant from three years to one year; Frank Schnorbus, President, Northern Home School Advisory Council, and Officer, Nevada Homeschool Network, spoke in support of the proposed changes as presented, including the additional changes he presented to the Department in his proposal to the Department received December 5, 2002 (identified as written comments #8 above); Carol Williams, Chair, Nevada Home School Network, Reno, spoke in support of the proposed changes; Jody Jarvis, Officer, Nevada Home School Network, and Member, Homeschoolers of Latter Days, Gardnerville, spoke in support of lowering time limit for consultants to one year; Schyler Jarvis, Home School Student, Gardnerville, hoped the Board will pass the changes; Barbara Dragon, Vice President, Northern Home School Advisory Council, Gardnerville, felt that the change to one year for the consultant would put the least restrictive burden on the homeschooling population to meet the needs of the State Board and the Department of Education; and, George and Harumi Hill, North Las Vegas, urged the adoption of the proposed language.

A copy of the summary and/or minutes of the public hearing may be obtained by calling LaDonna Byrd, Assistant to the Board, at the Department of Education (775) 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 language was adopted by the Nevada State Board of Education at the public hearing held December 14, 2002, with revisions as follows: 1) to amend language for identification of child, "No child enrolled in the public school shall be removed by a parent from public school premises pursuant to an excuse from compulsory attendance on the grounds that the parent is providing equivalent instruction outside the public school without proof of the parent's identity;" 2) to amend language for information provided to parents, "School districts shall make available to parent(s) the following items provided by the Department of Education in a timely manner;" 3) to amend language in 392.015(3), "A

parent who assumes full responsibility for the education of the child, in consultation with an experienced educator (uncompensated or compensated) as defined in NAC 392.025(3); 4) to retain the three year consultant requirement.

**5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.**

There is no economic effect on the business which is regulated. There is no estimated economic effect on the public, either adversely or beneficially, nor immediate or long term.

**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.