

**ADOPTED REGULATION OF THE
DEPARTMENT OF EDUCATION**

LCB File No. R057-04

Effective August 25, 2004

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

AUTHORITY: §§1-4, NRS 386.540.

A REGULATION relating to education; prescribing the duties of a charter school upon the closure or revocation of the charter school; prescribing certain requirements regarding the purchase and maintenance of property, equipment and supplies by a charter school; revising provisions governing the maintenance of records for pupils enrolled in a charter school; and providing other matters properly relating thereto.

Section 1. Chapter 386 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *If the governing body of a charter school makes a voluntary decision to close the charter school, the written charter of the charter school is revoked or the operation of the charter school is otherwise terminated for any reason, the governing body shall:*

(a) Not less than 30 days before the closure of the charter school, provide written notice of the closure to the Department, the sponsor of the charter school and the employees of the charter school which includes:

(1) The reason for the closure;

(2) The date of the closure;

(3) The date of the meeting of the governing body on which the determination was made to close the charter school, if applicable; and

(4) The name of the trustee appointed pursuant to paragraph (g) and information on how that person may be contacted;

(b) Not less than 30 days before the closure of the charter school, provide written notice of the closure by regular mail to the parent or legal guardian of each pupil enrolled in the charter school which includes information on how the pupil may transfer to another public school and the manner in which the records of the pupil will be transferred;

(c) Not less than 30 days before the closure of the charter school, provide written notice of the closure to the board of trustees of each school district in which a pupil enrolled in the charter school resides which includes notification of the closure of the charter school and notification that the school district may receive pupils for enrollment upon the closure;

(d) Not less than 30 days before the closure of the charter school, submit to the sponsor of the charter school all records pertinent to:

(1) The indebtedness of the charter school, if any; and

(2) Any property of the charter school that is encumbered;

(e) Ensure that all information required by NRS 386.650 for inclusion in the automated system of accountability information for Nevada is current to the date of the closure;

(f) Return any remaining restricted assets to their source, such as grant money and money contained in restricted categorical funds;

(g) Appoint a member of the governing body who is a licensed teacher to act as a trustee during the process of the closure of the charter school and for 1 year after the date of closure to assume responsibility for the records of the:

(1) Charter school;

(2) Employees of the charter school; and

(3) Pupils enrolled in the charter school;

(h) Create a current and projected payroll and payroll benefits commitment, listing each employee, each employment position and the amount of money required to satisfy existing contracts;

(i) Submit to the sponsor of the charter school a report of the income tax documentation for the employees of the charter school;

(j) Ensure that the outstanding obligations of the charter school are settled after closure of the charter school, including, without limitation, unemployment compensation, employee benefits, resolution of the lease agreement for the charter school, if applicable, and final balances for utilities and other costs; and

(k) Provide to the Department and the sponsor of the charter school:

(1) Not later than 6 months after closure of the charter school, the results of an independent audit, including, without limitation, the net assets and net liabilities of the charter school; and

(2) The annual report of budget required by NRS 386.600.

2. Upon notification of the closure of a charter school, the Department and the sponsor of the charter school shall each notify the governing body of the charter school of any outstanding liabilities owed by the charter school to the Department or the sponsor, as applicable.

3. If the governing body of a charter school makes a voluntary decision to close the charter school, the written charter of the charter school is revoked or the operation of the charter school is otherwise terminated for any reason:

(a) The sponsor of the charter school shall conduct a physical inspection of the charter school to confirm that all equipment, supplies and textbooks identified in the inventory of the charter school maintained pursuant to section 3 of this regulation are on the premises of the charter school; and

(b) The governing body of the charter school shall ensure that all money received by the charter school from this State that is unencumbered is returned to the Department and placed in an escrow account for the purpose of satisfying any outstanding obligations of the charter school. One year after the establishment of the escrow account, the Department will transfer the balance remaining in that account to the State Distributive School Account created pursuant to NRS 387.030.

4. If a licensed teacher who is a member of the governing body of a charter school fails to comply with subsection 1 or paragraph (b) of subsection 3, the sponsor of the charter school or the Superintendent of Public Instruction may consider whether such failure to comply constitutes grounds for suspension or revocation of the license of the teacher pursuant to NRS 391.330 and whether appropriate action is warranted in accordance with NRS 391.320 to 391.361, inclusive.

Sec. 3. 1. *If a charter school uses money received from the sponsor of the charter school, this State or the Federal Government to purchase equipment or supplies, the equipment and supplies:*

(a) Must remain on the premises of the charter school, unless the charter school is directed otherwise by the sponsor of the charter school, the State or the Federal Government, as applicable; and

(b) May be removed from the premises of the charter school only by the sponsor of the charter school, the State or the Federal Government, as applicable.

2. Equipment and supplies obtained by a charter school from sources other than the sponsor of the charter school, the State or the Federal Government may be removed from the premises of the charter school, subject to any applicable conditions, terms and limitations imposed upon a grant or donation used to purchase the equipment and supplies, if applicable.

3. If a charter school uses money received from this State to purchase property or equipment and the charter school subsequently closes or its operation is otherwise terminated, the governing body of the charter school shall ensure that the property and equipment are transferred to the Department for appropriate accounting and disposition.

4. The governing body of a charter school shall ensure that a:

(a) Current written inventory of the equipment, supplies and textbooks of the charter school is maintained; and

(b) Copy of the current written inventory is provided to the sponsor of the charter school.

↪ The inventory must identify the source of money used to purchase each item, the name of the entity that donated the item or the owner of the item, as applicable.

Sec. 4. NAC 386.360 is hereby amended to read as follows:

386.360 1. ~~[A]~~ *The governing body of a charter school shall ~~[maintain]~~ ensure that a permanent record for each pupil **enrolled in the charter school is maintained** in a separate file.*

The permanent record must contain:

- (a) The record of attendance of the pupil;
- (b) The grades received by the pupil;
- (c) The certificate of immunization of the pupil; and

(d) Any other records related directly to the academic progress of the pupil.

2. ~~[Records]~~ *The governing body of a charter school shall ensure that records* maintained pursuant to subsection 1 ~~[must be]~~ *are* kept in a location that is safe ~~[,]~~ *and* secure and affords reasonable protection from:

- (a) Fire;
- (b) Misuse; and
- (c) Access by unauthorized persons.

3. ~~[If the governing body of a charter school plans to close the school or otherwise terminate the operation of the school, the governing body shall, not less than 30 days before the date of closure or termination:~~

~~—(a) Notify the Department and the sponsor of the charter school of that fact; and~~

~~—(b) Submit to the sponsor of the charter school all records pertinent to:~~

~~—(1) The indebtedness of the charter school, if any; and~~

~~—(2) Any property of the charter school that is encumbered.~~

~~—4.]~~ If a charter school closes, the charter school shall, for each pupil enrolled in the charter school, forward the permanent record of the pupil to the office of pupil records of the school district in which the pupil resides.

~~[5.]~~ 4. If a pupil graduates or withdraws from a charter school, the charter school shall forward the permanent record of the pupil to the office of pupil records of the school district in which the pupil resides.

5. *If a licensed teacher who is a member of the governing body of a charter school fails to comply with subsections 1 and 2, the sponsor of the charter school or the Superintendent of Public Instruction may consider whether such failure to comply constitutes grounds for*

suspension or revocation of the license of the teacher pursuant to NRS 391.330 and whether appropriate action is warranted in accordance with NRS 391.320 to 391.361, inclusive.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R057-04**

The Department of Education adopted regulations assigned LCB File No. R057-04 which pertain to chapter 386 of the Nevada Administrative Code on June 19, 2004.

Notice date: 2/13/2004; 4/5/2004; and 5/17/2004 **Date of adoption by agency:** 6/19/2004
Hearing date: 3/19/2004; 5/8/2004; and 6/19/2004 **Filing date:** 8/25/2004

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 revisions to NAC 386, Closure of Charter School, was sent to approximately one-hundred individuals and educational organizations. One workshop was conducted by the Subcommittee on Charter Schools - NRS 386.507, on March 19, 2004, to provide the opportunity for comments by affected parties and the public. There were comments from the public.

The Notice of Intent to Act Upon a Regulation for public hearing for Board adoption of revisions to NAC 386, Closure of Charter Schools, was sent to approximately one-hundred individuals and educational organizations. Two public hearings were conducted on May 8, 2004 and June 19, 2004, to provide the opportunity for comments by affected parties and the public. There were no comments at either public hearing from the public. The Board adopted the language in LCB Files R 057-04 & R 058-04 on June 19, 2004, without revision.

2. The Number of Persons Who:

a) Attended Each Hearing: Workshop: 2 Hearing #1: 10 Hearing #2: 14

b) Testified at Each Hearing: Workshop: 1 Hearing #1: 0 Hearing #2: 0
and,

c) Submitted Written Statements: Workshop: 0 Hearing #1: 0 Hearing #2: 0

No written comments were submitted.

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 notices of February 13, 2004, and Public Hearing notices of and May 17, 2004. Comments were made by one member of the public at the workshop March 19, 2004: Dr. Dotty Merrill, Senior Director, Public Policy, Accountability and Assessment, Washoe County School District, assisted the Subcommittee by providing information on how the Washoe County School District has

handled closures of its charter schools. No comments were received at the public hearings May 8, and June 19, 2004.

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 (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 regulation language in LCB Files R 057-04 & R058-04 were adopted by the State Board of Education at the public hearing held June 19, 2004.

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 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.