

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

**LCB File No. R059-04**

Effective August 25, 2004

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

AUTHORITY: §§1-9, NRS 385.361 and 385.3611.

A REGULATION relating to education; providing for the annual designations of public schools and school districts; providing for the recognition of certain public schools; revising various other provisions governing the statewide system of accountability; and providing other matters properly relating thereto.

**Section 1.** Chapter 385 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

**Sec. 2.** *“Subgroup” means a subgroup of pupils identified in paragraph (b) of subsection 1 of NRS 385.361.*

**Sec. 3. 1.** *A public school must be designated as demonstrating exemplary achievement pursuant to NRS 385.366 if the:*

- (a) School makes adequate yearly progress for the current school year;*
- (b) School is not designated as demonstrating need for improvement;*
- (c) Percentage of pupils in each subgroup enrolled in the school who score at or above the level of proficiency in English language arts and mathematics is significantly greater than the annual measurable objectives in those content areas; and*

*(d) Percentage of pupils enrolled in the school who score below the level of proficiency in English language arts and mathematics has decreased by significantly more than 10 percent from the previous school year.*

*2. A public school must be designated as demonstrating high achievement pursuant to NRS 385.366 if the:*

*(a) School makes adequate yearly progress for the current school year;*

*(b) School is not designated as demonstrating need for improvement; and*

*(c) Percentage of pupils:*

*(1) In each subgroup enrolled in the school who score at or above the level of proficiency in English language arts and mathematics is significantly greater than the annual measurable objectives in those content areas; or*

*(2) For the school as a whole who score below the level of proficiency in English language arts and mathematics has decreased by significantly more than 10 percent from the previous school year.*

*3. A public school must be designated as demonstrating adequate achievement pursuant to NRS 385.366 if the school:*

*(a) Makes adequate yearly progress for the current school year; and*

*(b) Is not designated as demonstrating exemplary achievement, high achievement or need for improvement.*

*4. A public school must be designated as demonstrating need for improvement pursuant to NRS 385.366 if the school:*

*(a) Fails to make adequate yearly progress in:*

*(1) English language arts for 2 consecutive school years;*

*(2) Mathematics for 2 consecutive school years; or*

*(3) The rate of attendance or the rate of graduation, as applicable, for 2 consecutive school years; or*

*(b) Makes adequate yearly progress for the current school year, but was designated as demonstrating need for improvement pursuant to paragraph (a) in the immediately preceding school year for failing to make adequate yearly progress.*

*5. In addition to the designation of a public school pursuant to subsection 1, 2, 3 or 4, as applicable, the Department may recognize a public school as demonstrating significant improvement if the school:*

*(a) As a whole demonstrates significant movement of pupils into higher achievement levels in English language arts and mathematics; and*

*(b) Does not show a decline in the percentage of pupils that score at or above proficiency among any of the subgroups.*

*6. For the purposes of this section, the Department shall for each school year:*

*(a) Establish:*

*(1) Adequate yearly progress;*

*(2) Annual measurable objectives;*

*(3) Higher achievement levels;*

*(4) Level of proficiency;*

*(5) Significant movement;*

*(6) Significantly greater; and*

*(7) Significantly more.*

*(b) Provide written notice to each school district of the information established pursuant to paragraph (a) and, upon request, provide written notice of that information to a member of the general public.*

*↳ Each school district shall ensure that the public schools within the school district are adequately informed of the information established pursuant to paragraph (a) for each school year.*

**Sec. 4. 1.** *A school district must be designated as demonstrating exemplary achievement pursuant to NRS 385.3771 if the:*

- (a) School district makes adequate yearly progress for the current school year;*
- (b) School district is not designated as demonstrating need for improvement;*
- (c) Percentage of pupils in each subgroup enrolled in the school district who score at or above the level of proficiency in English language arts and mathematics is significantly greater than the annual measurable objectives in those content areas; and*
- (d) Percentage of pupils enrolled in the school district who score below the level of proficiency in English language arts and mathematics has decreased by significantly more than 10 percent from the previous school year.*

**2.** *A school district must be designated as demonstrating high achievement pursuant to NRS 385.3771 if the:*

- (a) School district makes adequate yearly progress for the current school year;*
- (b) School district is not designated as demonstrating need for improvement; and*
- (c) Percentage of pupils:*

*(1) In each subgroup enrolled in the school district who score at or above the level of proficiency in English language arts and mathematics is significantly greater than the annual measurable objectives in those content areas; or*

*(2) For the school district as a whole who score below the level of proficiency in English language arts and mathematics has decreased by significantly more than 10 percent from the previous school year.*

*3. A school district must be designated as demonstrating adequate achievement pursuant to NRS 385.3771 if the school district:*

*(a) Makes adequate yearly progress for the current school year; and*

*(b) Is not designated as demonstrating exemplary achievement, high achievement or need for improvement.*

*4. A school district must be designated as demonstrating need for improvement pursuant to NRS 385.3771 if the school district:*

*(a) Fails to make adequate yearly progress in:*

*(1) English language arts for 2 consecutive school years;*

*(2) Mathematics for 2 consecutive school years; or*

*(3) The rate of attendance or the rate of graduation, as applicable, for 2 consecutive school years; or*

*(b) Makes adequate yearly progress for the current school year, but was designated as demonstrating need for improvement pursuant to paragraph (a) in the immediately preceding school year for failing to make adequate yearly progress.*

*5. In addition to the designation of a school district pursuant to subsection 1, 2, 3 or 4, as applicable, the Department may recognize a school district as demonstrating significant improvement if the school district:*

*(a) As a whole demonstrates significant movement of pupils into higher achievement levels in English language arts and mathematics; and*

*(b) Does not show a decline in the percentage of pupils that score at or above proficiency among any of the subgroups.*

*6. For the purposes of this section, the Department shall for each school year:*

*(a) Establish:*

*(1) Adequate yearly progress;*

*(2) Annual measurable objectives;*

*(3) Higher achievement levels;*

*(4) Level of proficiency;*

*(5) Significant movement;*

*(6) Significantly greater; and*

*(7) Significantly more.*

*(b) Provide written notice to each school district of the information established pursuant to paragraph (a) and, upon request, provide written notice of that information to a member of the general public.*

*↪ Each school district shall ensure that the public schools within the school district are adequately informed of the information established pursuant to paragraph (a) for each school year.*

**Sec. 5.** NAC 385.501 is hereby amended to read as follows:

385.501 As used in NAC 385.501 to ~~[385.576,]~~ 385.561, inclusive, *and sections 2, 3 and 4 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 385.506 to 385.546, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

**Sec. 6.** NAC 385.506 is hereby amended to read as follows:

385.506 “Achievement” means ~~[the possession of basic reading skills and skills relating to oral expression, listening comprehension, written expression, reading comprehension, mathematics calculation, mathematics reasoning and basic knowledge of science.]~~ :

*1. A specified percentage of pupils who meet or exceed proficiency in English language arts and mathematics; or*

*2. A reduction of the percentage of nonproficient pupils by at least 10 percent in consecutive school years.*

**Sec. 7.** NAC 385.561 is hereby amended to read as follows:

385.561 1. ~~[H]~~ *The Department, in cooperation with the appropriate school district, shall provide for the recognition of a school [receives] if the school:*

*(a) Receives a designation as demonstrating exemplary achievement or high achievement pursuant to NRS ~~[385.365, the Department, in cooperation with the school district in which the school is located, will provide for the recognition of the school.]~~ 385.3623 and section 3 of this regulation;*

*(b) Is recognized as demonstrating significant improvement pursuant to section 3 of this regulation; or*

*(c) Exceeds adequate yearly progress, as determined by the Department, for 2 or more consecutive school years.*

2. Such recognition may include, without limitation:

(a) A press release issued by the Department to a newspaper that has general circulation in the community in which the school is located and to a newspaper that has general circulation in the county in which the school is located. The Department will make such a press release in the same *school* year as it provides written notice of the designations of the public schools in this State pursuant to NRS ~~385.369.~~ **385.366.**

(b) A press release issued by the Department to the electronic media in the community in which the school is located and in the county in which the school is located. The Department will make such a press release in the same *school* year as it provides written notice of the designations of the public schools in this State pursuant to NRS ~~385.369.~~ **385.366.**

(c) A plaque awarded in a ceremony at the school and during the school day, if practicable. The Superintendent of Public Instruction or his designee will attend the ceremony. Such a ceremony will occur within 60 days after the Department provides written notice of the designations of the public schools in this State pursuant to NRS ~~385.369.~~  
~~—2.]~~ **385.366.**

3. In addition to the recognition provided for in subsection ~~1.]~~ **2,** if a school receives a designation as demonstrating exemplary achievement pursuant to NRS ~~385.365,]~~ **385.3623 and section 3 of this regulation,** the Department, in cooperation with the Governor, may send a letter of merit on its achievement. If issued, the Department will send such a letter within 60 days after the Department provides written notice of the designations of the public schools in this State pursuant to NRS ~~385.369.]~~ **385.366.**

**Sec. 8.** NAC 389.059 is hereby amended to read as follows:



389.059 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 or 389.550 to a person or governmental agency.

2. The Department may report the aggregated scores of ~~five~~ 10 or more pupils.

**Sec. 9.** NAC 385.551, 385.566, 385.571, 385.573 and 385.576 are hereby repealed.

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### TEXT OF REPEALED SECTIONS

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#### **385.551 Designations of schools based upon achievement: Limitations.**

1. Except as otherwise provided in this subsection, the Department will not designate a public school pursuant to NRS 385.363 if the school has 10 or fewer pupils who are enrolled in a grade level that is tested pursuant to NRS 389.015. If a public school includes more than one grade level that is tested pursuant to NRS 389.015, the Department will, for the purpose of designating the school pursuant to NRS 385.363, consider only those grade levels that include more than 10 pupils.

2. The Department will not, until the 2000-2001 school year, designate a school as demonstrating need for improvement based upon the average daily attendance of pupils who are enrolled in the school.

**385.566 Designation of school as demonstrating need for improvement; preparation of plan to improve achievement.**

1. If a school is a single unit of organization but includes three grades that are tested pursuant to NRS 389.015, the Department will designate the school as demonstrating need for improvement pursuant to NRS 385.367 if at least two of the three grades meet the criteria for demonstrating need for improvement set forth in NRS 385.367. If one or more of the grades meet the criteria for demonstrating need for improvement, the school shall prepare a plan to improve the achievement of the school's pupils in cooperation with the board of trustees of the school district pursuant to NRS 385.371 regardless of whether the school is designated as demonstrating need for improvement.

2. If a school is a single unit of organization but includes two grades that are tested pursuant to NRS 389.015, the Department will designate the school as demonstrating need for improvement pursuant to NRS 385.367 if at least one of the two grades meets the criteria for demonstrating need for improvement set forth in NRS 385.367. Such a school shall prepare a plan to improve the achievement of its pupils in cooperation with the board of trustees of the school district pursuant to NRS 385.371.

**385.571 Plan to improve achievement: Submission; contents.**

1. A school that receives a designation as demonstrating need for improvement pursuant to NRS 385.367 shall cooperate with the board of trustees of the school district to submit a plan to improve the achievement of the school's pupils pursuant to NRS 385.371 within 1 month after the Department designates the school as demonstrating need for improvement. The plan must identify the deficiencies in academic achievement and describe specific programs, methods of instruction, applied resources or other strategies that the school will use to address those deficiencies. The plan may include items that are designed to meet the requirements of eligibility required for the school to participate in programs that are funded by the Federal Government.

2. The Department may require a school that does not include pupils who are at a grade level which is tested pursuant to NRS 389.015, but whose pupils advance to a school that is designated as demonstrating need for improvement to submit a plan to improve the achievement of the school's pupils pursuant to NRS 385.371 in cooperation with the school that is designated as demonstrating need for improvement and the board of trustees of the school district. If necessary to assist in the development of such a plan, the Department may require the school that does not include pupils who are at a grade level which is tested pursuant to NRS 389.015 to submit to the Department data relating to examinations and other assessments that are administered to the pupils who are enrolled in the school.

3. If the data specified in subsection 2 is not available, the Department may require all schools that do not include pupils who are at a grade level which is tested pursuant to NRS 389.015, but whose pupils advance to a school that is designated as demonstrating need for improvement, to submit to the Department plans to improve the achievement of those schools' pupils that are separate from any plans submitted pursuant to NRS 385.371 by the school to which those pupils advance.

**385.573 Recognition of school demonstrating improvement for 3 consecutive years.**

1. If a school receives a designation as demonstrating need for improvement pursuant to NRS 385.367 and in the 3 consecutive years after that designation the school demonstrates improvement in its performance in each of the subjects tested on the examinations administered pursuant to NRS 389.015, the Superintendent of Public Instruction will, in addition to any other recognition the school has received or may be eligible to receive, send to that school a letter of merit on its improvement.

2. For the purposes of this section, a school demonstrates improvement in its performance in a subject tested on the examinations administered pursuant to NRS 389.015 if less than 40 percent of the pupils enrolled in that school who took the examination in that subject received an average score on that examination that is below the 26th percentile of the national reference group of pupils to which the examinations in that subject were compared.

**385.576 Criteria for granting waiver from establishment of panel to supervise academic probation of school.**

1. To determine whether to grant a waiver pursuant to subsection 3 of NRS 385.378 from the establishment of a panel to supervise the academic probation of a school, the Department will consider:

(a) If the school received a designation of demonstrating need for improvement based solely upon the average score of the pupils who are enrolled in the school on the examinations administered pursuant to NRS 389.015, whether an increase has occurred in scores in three of the four subjects that are tested on the examinations.

(b) If the school received a designation of demonstrating need for improvement based solely upon the average daily attendance of pupils who are enrolled in the school, whether an increase has occurred in the average daily attendance of pupils who are enrolled in the school.

2. If a school satisfies the criteria set forth in subsection 1, to determine whether to grant a waiver pursuant to subsection 3 of NRS 385.378, the Department will also consider whether:(a) The school has 30 or fewer pupils who are enrolled in the school and who are required to take the examinations administered pursuant to NRS 389.015;

(b) A record of absences of pupils which includes widespread absence for unusual reasons, including, without limitation, absences related to an illness that spread throughout the school or absences related to safety concerns at the school;

(c) The school has demonstrated improvement for at least 1 year pursuant to a plan to improve the achievement of the school's pupils; or

(d) Significant demographic anomalies are evident within the school, including, without limitation, an increase in transient rates and changes in zoning within the school district in a manner which significantly affects the school.

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R059-04**

The State Board of Education adopted regulations assigned LCB File No. R059-04 which pertain to chapters 385 and 389 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 Regulation, NAC 385 and 389, Assessment and Accountability to Meet Requirements of Senate Bill 1, enacted by the 19<sup>th</sup> Special Legislative Session of 2003 (LCB File R 059-04) was sent to approximately one-hundred individuals and educational organizations. A workshop was conducted on March 20, 2004, to provide the opportunity for comments by affected parties and the public. There were no comments from the public.

The Notice of Intent to Act Upon a Regulation for public hearing and Board permanent adoption of LCB File R059-04, NAC 385 and 389, Assessment and Accountability to Meet Requirements of Senate Bill 1, enacted by the 19<sup>th</sup> Special Legislative Session of 2003, was sent to approximately one-hundred individuals and educational organizations. Two public hearings for Board permanent adoption was 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 from the public. The Board adopted the language on June 19, 2004.

**2. The Number of Persons Who:**

**a) Attended Each Hearing:** Workshop: 8 1<sup>st</sup> public hearing: 10 2<sup>nd</sup> hearing: 14

**b) Testified at Each Hearing;** Workshop: 0 1<sup>st</sup> public hearing: 0 2<sup>nd</sup> hearing: 0

**and,**

**c) Submitted Written Statements:** Workshop: 0 1<sup>st</sup> public hearing: 1 2<sup>nd</sup> hearing: 0

Copies of written comments may be obtained by contacting LaDonna Byrd-Hicks, 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. A letter of support from the Nevada Association of School Superintendents was received by Gloria Dopf, Deputy Superintendent.

- 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 a workshop notice of March 4, 2004, and public hearing notices of April 5, and May 13, 2004. No comments from the public were received at the March 20, 2004, workshop. One comment was from the public at the May 8, 2004, public hearing: Dr. Dotty Merrill, Washoe County School District, on behalf of the Nevada Association of School Superintendents and the Nevada Association of Schools Board stated that the Department has been working with the Testing Task Force on how this should be handled and on how many schools would be designated if the 2002-2003 CRT scores are applied in this system. All of these groups have been working together to develop a system to reward achievement and/or growth.

A copy of the summary and/or minutes of the public hearing may be obtained by contacting LaDonna Byrd-Hicks, 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 permanent regulation language was adopted by the Nevada State Board of Education at the public hearing held June 19, 2004, without revision.

- 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 a possible economic effect on the business which is regulated; unknown at this time. 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.