

LCB File No. R171-05

PROPOSED REGULATION OF THE DEPARTMENT OF EDUCATION

Note that the portion of this regulation concerning sponsorship of charter schools has been removed and renumbered as LCB File No. R188-05.

WORKSHOP

It is recommended that NAC 386.080 be revised in response to Section 4 of SB 56 (revision of NRS 386.510(3)): "...~~[an-at-risk]~~ charter school shall...submit a report to the sponsor...that includes demographic information concerning the pupils enrolled in the charter school and other information to demonstrate that the charter school is dedicated to providing educational programs...to pupils who are at risk...The State Board shall adopt regulations setting forth the action, if any, that may be taken against a charter school if the sponsor determines that the charter school is not dedicated to providing educational programs...to pupils who are at risk..."

PUBLIC HEARING

NAC 386.080 Charter schools that provide education for pupils at risk: Interpretation of statutory exemption from limitation on number of schools; documentation of status. (NRS 386.510, 386.540)

1. The Department will interpret the term "charter schools that are dedicated to providing educational programs and opportunities for pupils who are at risk" as used in subsection 2 of NRS 386.510 to mean those charter schools in which at least 51 percent of the pupils enrolled are pupils who are at risk, as that term is defined in NRS 386.500.

2. If a written charter is issued to a charter school that is dedicated to providing educational programs and opportunities for pupils who are at risk, the charter school shall maintain documentation indicating which pupils enrolled in the charter school are pupils who are at risk, as that term is defined in NRS 386.500.

3. The report required by NRS 386.510(3) shall consist of:

(a) A list of all pupils who meet one or more of the at-risk criteria identified by the Department. The list must include the name of the at-risk pupil and the at-risk criterion or criteria that the pupil meets; and

(b) Evidence the school is providing the services stated in its charter school application under NAC 386.150(9).

~~[3-]~~ 4. If the annual report ~~[of compliance]~~ submitted pursuant to ~~[NAC 386.410]~~ paragraph 3 for a charter school that is dedicated to providing educational programs and opportunities for pupils who are at risk indicates that less than 51 percent of the pupils enrolled in the charter school are at risk, as that term is defined in NRS 386.500, the charter school shall:

(a) Within 1 year after ~~[the annual report of compliance,]~~ *submission of the NRS 386.510(3) report*, submit evidence to the sponsor of the charter school and to the Department that the percentage of pupils enrolled in the charter school who are at risk, as that term is defined in NRS 386.500, has increased; and

(b) Within 2 years after ~~the annual report of compliance,~~ *submission of the NRS 386.510(3) report,* submit evidence to the sponsor of the charter school and to the Department that at least 51 percent of the pupils enrolled in the charter school are at risk, as that term is defined in NRS 386.500.

- 5. A sponsor may revoke the charter of a charter school that fails to:*
- (a) Maintain the 51% standard stated in paragraph 4; or*
 - (b) Provide the at-risk pupil services stated in the approved charter.*

WORKSHOP

It is recommended that NAC 386.125 be revised in response to Section 6 of SB 56 (revision of NRS 386.525) that allows a charter school applicant to submit an application that has been deemed complete by the Department to either a local school district or the State Board of Education for sponsorship.

PUBLIC HEARING

NAC 386.125 Letter of intent to form charter school: Submission; contents. (NRS 386.540)

1. A committee to form a charter school must submit to the Department a letter of intent to form a charter school. The letter of intent must be submitted in the same fiscal year in which the application to form the charter school is submitted and must be received by the Department no fewer than 15 days before the application is submitted.

2. The letter of intent must include:

- (a) The name of the school district in which the proposed charter school will be located;
- (b) Whether the proposed charter school will be dedicated to providing educational programs and opportunities for pupils who are at risk;
- (c) If the proposed charter school will operate exclusively for the enrollment of pupils who receive special education pursuant to NRS 388.440 to 388.520, inclusive, ~~fa statement indicating whether the application to form the charter school will be submitted to the board of trustees of the school district in which the proposed charter school is located or to the State Board of Education pursuant to NRS 386.525; and]~~

(d) The date on which the proposed charter school will begin operation.

(e) Whether the proposed sponsor is the school district identified in (a) or the State Board of Education. If the proposed sponsor is a school district, the application may not be submitted to the State Board of Education unless it has been denied twice by the school district pursuant to NRS 386.525.

3. Except as otherwise provided in this subsection, if a committee to form a charter school submits a letter of intent for a charter school and an application to form that charter school is not submitted within the time period prescribed by NAC 386.130, the committee may not submit another letter of intent for a charter school within the same school district until after the completion of 2 fiscal years immediately succeeding the fiscal year in which the originally proposed charter school would have become an operational charter school. The restriction set forth in this subsection does not apply to a letter of intent submitted for a charter school that is dedicated to providing educational programs and opportunities for pupils who are at risk.

WORKSHOP

It is recommended that NAC 386.202 be revised in response to Section 6 of SB 56 (revision of NRS 386.525(5)) that increased the number of days (from 30 to 45) that may elapse between the Charter School Subcommittee's receipt of a charter school application for State Board sponsorship and a meeting that must be held to consider the application: "If the Subcommittee receives an application ~~for State Board sponsorship~~, it shall hold a meeting to consider the application. The meeting must be held not later than 45 days after receipt of the application..."

PUBLIC HEARING

NAC 386.202 Review of and restrictions on application to form charter school submitted to Subcommittee on Charter Schools; approval or denial of application by State Board of Education. (NRS 386.525, 386.527, 386.540)

1. If the Subcommittee on Charter Schools receives an application to form a charter school pursuant to subsection 4 of NRS 386.525, the staff of the Department, acting on behalf of the State Board of Education, will verify the contents of the application by:

(a) Performing a physical inspection of the location of the proposed charter school, if applicable;

(b) Consulting with the members of the committee to form the charter school and, where appropriate, the proposed administrators and staff members of the proposed charter school; and

(c) Performing any other investigation necessary or useful in verifying the contents of the application.

2. If the Subcommittee on Charter Schools receives an application pursuant to subsection 4 of NRS 386.525 after the application has been denied twice by the board of trustees of a school district, the application that is submitted to the State Board of Education must be the same application that was denied by the board of trustees except that it may be revised in response to concerns stated by the board of trustees in its second denial of the application if such a revision does not significantly alter the application.

3. Within ~~10~~ 20 days after an application is received by the Subcommittee on Charter Schools, the Department will review the application and determine whether the application:

(a) Complies with NRS 386.500 to 386.610, inclusive, and the regulations applicable to charter schools; and

(b) Is complete in accordance with the regulations of the Department.

4. Within ~~20~~ 30 days after an application is received by the Subcommittee on Charter Schools, the Department shall provide to the applicant its findings pursuant to subsection 3, including the items that are incomplete or noncompliant. The Department may hold a meeting with the applicant or provide the information required by this subsection in another format suitable to the applicant.

5. Within ~~20~~ 30 days after an application is received by the Subcommittee on Charter Schools, the Department shall provide to the State Board of Education:

(a) The findings of the Department pursuant to subsection 3;

(b) If applicable, the reasons for the first and second denial of the application by the board of trustees of a school district;

(c) A copy of the proposed written agreement if the State Board approves the application pursuant to subsection 2 of NRS 386.527 or a copy of the proposed written agreement if the State Board approves the application pursuant to subsection 4 of NRS 386.527; and

(d) Any other information the Department determines is necessary for the State Board in its review of the application.

6. Other than material required to convert a written charter issued by the State Board of Education pursuant to subsection 4 of NRS 386.527 to a written charter issued pursuant to subsection 2 of NRS 386.527, no additional application material will be accepted from the applicant after the submission referred to in subsections 1 and 2 unless specifically requested by the State Board, the Subcommittee on Charter Schools or the Department to assist in the review of the application.

7. At the meeting described in subsection 5 or 6 of NRS 386.525, as applicable, the Subcommittee on Charter Schools or the State Board of Education, as applicable, shall:

(a) Consider the application along with any reports generated by the employees of the Department and, if the application was previously denied by the board of trustees of a school district, any reports generated by the employees of that school district pursuant to NAC 386.200; and

(b) Determine whether the application complies with all applicable state and federal statutes and regulations.

8. After the Subcommittee on Charter Schools holds a meeting pursuant to subsection 5 of NRS 386.525, the Subcommittee shall immediately transmit to the State Board of Education a recommendation for approval or denial of the application by the State Board. The Subcommittee shall not delay in the transmission of its recommendation.

9. The State Board of Education shall not approve an application for a written charter pursuant to subsection 2 of NRS 386.527 if the application does not satisfy the requirements of paragraphs (a) and (b) of subsection 1 of NRS 386.525. A written charter may be granted pursuant to subsection 4 of NRS 386.527 if the applicant is not prepared to commence operation. If such a charter is granted, the provisions of NAC 386.240 apply.

10. If the State Board of Education denies an application, it shall forward a copy of the written notice of the denial, including, without limitation, the reasons for the denial, to the Department within 5 days after the decision to deny the application is made.

11. If the State Board of Education approves an application, the:

(a) Written charter must include the application, as approved, and a written agreement signed by the President of the State Board and charter school.

(b) Written notice provided to the Department pursuant to NRS 386.527 indicating approval of the application must include the written charter.

WORKSHOP

It is recommended that NAC 386.220 be revised. The original regulation ties the beginning of the 6 year term of the charter to the date of submission of the charter school application rather than tying it to the start of the school's operation.

It is also recommended that NAC 386.220 be revised to clarify NRS 386.527(3) that allows a charter school to request from the sponsor an amendment of the charter. Any desired change in the charter must be approved by the school's governing body in a public meeting and submitted to the sponsor's staff for consideration; the recommendation is to recognize that relatively minor requested changes can be approved by the sponsor's staff, but that more significant requested

changes should be approved by the School District Board of Trustees (for a district-sponsored school) or the State Board of Education (for State Board-sponsored schools).

PUBLIC HEARING

NAC 386.220 Written charter: Inclusion of agreements; term. (NRS 386.527, 386.540)

1. In addition to the information required pursuant to NRS 386.527, a written charter must include a description of any other agreements entered into between the sponsor of the charter school and the charter school. The sponsor of a charter school shall amend the written charter, if necessary, to reflect any such agreements entered into after the written charter is issued.

2. The 6-year term for which the written charter of a charter school is valid, unless the initial written charter of the charter school was renewed after 3 years of operation pursuant to subsection 2 of NRS 386.530, begins on ~~[July 1 of the fiscal year immediately following the fiscal year in which the committee to form the charter school applied to the Department and to the State Board of Education or the board of trustees to form the charter school]~~ *the date the school received approval for a NRS 386.527(2) charter by the sponsor.*

3. *If the governing body of a charter school requests an amendment to the school's written charter pursuant to NRS 386.527(3), the school's sponsor may authorize its staff to approve the amendment to the charter as the sponsor deems appropriate.*

WORKSHOP

It is recommended that a new regulation be adopted in response to Section 3 of AB 162 (revision of NRS 386.527) that allows a charter school to request a change of sponsor: "Upon the initial renewal of a written charter and each renewal thereafter, the...charter school may request a change in the sponsorship of the charter school...The State Board shall adopt objective criteria for the conditions under which such a request may be granted."

PUBLIC HEARING

New Regulation, suggested **NAC 386.321**:

1. A request pursuant to NRS 386.527(3) for a change of charter school sponsorship may be approved if:

(a) The school is in sound financial condition as determined by the annual audit required pursuant to NAC 386.380; and

(b) The school is not on the Adequate Yearly Progress Watch List or Needs Improvement list; and

(c) The school's most recent NAC 386.410 annual report of compliance shows no noncompliant items; and

(d) The school's charter has been renewed pursuant to NRS 386.530 within 60 days of the school's written request for a change in sponsorship; and

(e) The school agrees to sign a new written agreement with the new sponsor. The written agreement may differ from the written agreement the school had with the previous sponsor.

2. If a charter school requests a change in sponsorship pursuant to NRS 386.527(3), it shall submit a written request for a change in sponsorship to its current sponsor and to the

proposed sponsor. A copy of the school's current approved written charter provided by the school's sponsor must accompany the written request submitted to the proposed sponsor.

WORKSHOP

It is recommended that NAC 386.345 be revised in response to Section 4 of AB 180 (revision of NRS 386.549) that requires a member of a charter school governing body to submit an affidavit indicating that the member has read and understands information provided by the Department about charter schools. This revision simply brings the regulation into accord with the new statute.

PUBLIC HEARING

NAC 386.345 Governing body: Restrictions on membership; responsibilities; submission of certain information to Department and sponsor. (NRS 386.540, 386.549)

1. A majority of the members of the governing body of a charter school must reside in the county in which the charter school is located.
2. The membership of the governing body of a charter school shall not include:
 - (a) An employee of the governing body or charter school, including, without limitation, an administrator or teacher; or
 - (b) A contractor of the governing body or charter school.
3. If a person serves on the governing body of a charter school as a representative of a nonprofit organization or business, no other member of the governing body may also serve as a representative of that organization or business or otherwise represent the interests of that organization or business.
4. Not later than 5 business days after the governing body of a charter school is selected, the governing body shall submit to the Department:
 - (a) The name and address of each member;
 - (b) The resume of each member;
 - (c) The state of residence of each member;
 - (d) If a member serves on the governing body as a teacher, as that term is defined in subsection 4 of NRS 386.549, a photocopy of his license to teach; and
 - (e) An affidavit of each member indicating that he has not been convicted of a felony *relating to serving on the governing body of a charter school* or any offense involving moral turpitude *and that he has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools.*
5. The governing body of a charter school governs the charter school, maintains overall control of the charter school and is responsible for the operation of the charter school, including, without limitation, critically evaluating the performance of a contractor for the charter school and selecting another contractor if the contractor is not performing his duties or services in a satisfactory manner.
6. Not later than 30 business days after each public meeting held by the governing body of a charter school pursuant to subsection 3 of NRS 386.549, the governing body shall submit to the Department and to the sponsor of the charter school, a copy of the minutes of the meeting.

WORKSHOP

It is recommended that NAC 386.365 be revised to reflect new law that requires charter schools sponsored by the State Board of Education to submit SAIN data directly to the Department rather than submitting data to the Department through the school district in which the charter school is located. This revision simply brings the regulation into accord with the new statute.

PUBLIC HEARING

NAC 386.365 Report to school district of data required for automated system of accountability information for Nevada. (NRS 386.540) A charter school *sponsored by a school district* shall report the data required pursuant to NRS 386.650 to the school district in which the charter school is located not later than the first day of instruction of the second year of operation of the charter school. *A charter school sponsored by the State Board of Education shall report the data required pursuant to NRS 386.650 to the Department of Education not later than the first day of instruction of the second year of operation of the charter school.*

WORKSHOP

It is recommended that NAC 386.410 be revised in response to Section 4 of AB 180 (revision of NRS 386.549) that requires a member of a charter school governing body to submit an affidavit indicating that the member has read and understands information provided by the Department about charter schools. This revision simply brings the regulation into accord with the new statute.

PUBLIC HEARING

NAC 386.410 Annual report of compliance. (NRS 386.540) The sponsor of a charter school shall submit to the Department an annual report of compliance for the charter school. If the board of trustees of a school district is the sponsor of a charter school, the annual report of compliance must be included in the report that is required pursuant to NRS 386.610. The annual report of compliance must include:

1. A determination whether the charter school and its governing body comply with the terms and conditions of operation set forth in the written charter.

2. A determination whether the membership of the governing body of the charter school complies with NRS 386.549 and NAC 386.345, including, without limitation, whether:

(a) The governing body consists of at least three teachers, as defined in subsection 4 of NRS 386.549;

(b) A majority of the members of the governing body reside in the county in which the charter school is located; and

(c) Each member of the governing body has filed an affidavit with the Department indicating that he has not been convicted of a felony *relating to serving on the governing body of a charter school* or offense involving moral turpitude *and that he has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools.*

3. A determination whether the governing body has held at least one regularly scheduled public meeting in the county in which the charter school is located during each calendar quarter and each meeting complied with chapter 241 of NRS.

4. A determination whether the governing body and the charter school comply with the provisions of NRS 332.800.

5. Upon examination of the agenda and minutes of each meeting of the governing body and the reports submitted to the governing body during each meeting, a determination whether the governing body is fulfilling its duty to evaluate the performance of each entity with whom the governing body has entered into a contract, including, without limitation, the performance of an educational management organization.

6. If the charter school is dedicated to providing educational programs and opportunities for pupils who are at risk, a determination whether the:

(a) Percentage of pupils who are at risk complies with NAC 386.080; and

(b) Educational program and services provided to those pupils is appropriate and carried out in an effective manner.

7. A determination whether the charter school has complied with generally accepted standards of accounting and fiscal management.

8. A determination whether all money received by the charter school from this State and from the board of trustees of a school district is deposited and maintained in a bank, credit union or other financial institution in this State.

9. A determination whether the charter school has adopted a final budget, as required by NRS 386.550 and NAC 386.370.

10. A determination whether the charter school complies with NRS 386.573 regarding orders for payment of money.

11. A determination whether the charter school administers achievement and proficiency examinations in accordance with chapter 389 of NRS and chapter 389 of NAC.

12. A summary of the manner in which the charter school ensures the health and safety of the pupils enrolled in the charter school, including, without limitation, a determination whether the charter school:

(a) Complies with the requirements for reporting the abuse or neglect of a child;

(b) Complies with Title V of the Rehabilitation Act of 1973, 29 U.S.C. §§ 791 et seq.;

(c) Provides adequate health services;

(d) Maintains records of the immunizations required of pupils in accordance with NRS 392.435;

(e) Complies with NRS 392.450 by providing drills for pupils in the appropriate procedures to be followed in the event of an emergency and by posting escape routes; and

(f) Complies with the requirements for crisis response in public schools in accordance with NRS 392.600 to 392.656, inclusive.

13. A determination whether each facility that the charter school occupies complies with applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation.

14. A determination whether the charter school complies with NRS 386.585, including, without limitation, whether the charter school:

(a) Provides a copy of the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments to each pupil;

(b) Maintains, for public inspection at the charter school, a copy of the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments; and

(c) Complies with the policies and procedures for the suspension and expulsion of pupils.

15. A description of the attendance policy of the charter school and a determination whether the policy is:

- (a) Distributed to each pupil in accordance with NAC 386.350; and
- (b) Available for public inspection during the school's regular business hours.

16. If pupils with disabilities are enrolled in the charter school, a determination whether the provision of special educational services and programs to those pupils complies with the requirements set forth in chapters 388 and 395 of NRS and NAC 388.150 to 388.450, inclusive.

17. A determination whether the charter school provides instruction in the core academic subjects set forth in subsection 1 of NRS 389.018, as applicable for the grade levels of pupils who are enrolled in the charter school.

18. A determination whether the charter school provides at least the courses of study that are required of pupils by statute or regulation for promotion to the next grade or graduation from a public high school and requires the pupils who are enrolled in the charter school to take those courses of study.

19. A determination whether the charter school complies with NRS 386.590 regarding the employment of teachers and other educational personnel.

20. A determination whether the status of the employees of the charter school and the rights and benefits provided to those employees comply with NRS 386.595.

21. A description of the manner in which the charter school maintains personnel records for its employees.

22. A description of the procedure for the enrollment of pupils in the charter school, including, without limitation, whether the charter school enrolls pupils on the basis of a lottery system if more pupils who are eligible for enrollment apply for enrollment than the number of spaces that are available.

23. If the charter school provides instruction to pupils enrolled in kindergarten, first grade or second grade, a determination whether the charter school complies with NRS 392.040 regarding the ages for enrollment in those grades.

24. A determination whether the charter school refrains from charging tuition or fees, except for those fees that are authorized by specific statute or by the written charter of the charter school.

25. A determination whether the charter school provides written notice to the parents and legal guardians of pupils enrolled in grades 9 to 12, inclusive, whether the charter school is accredited by the Commission on Schools of the Northwest Association of Accredited Schools.

26. A determination whether the charter school complies with NRS 386.583 regarding the adoption of rules for academic retention.

27. A determination of whether the charter school maintains a type and amount of insurance in a manner that complies with paragraph (l) of subsection 1 of NRS 386.550, which may include workmen's compensation insurance, or is otherwise prepared to hold harmless, indemnify and defend the sponsor of the charter school as required by that paragraph.

28. A determination whether the written inventory of equipment, supplies and textbooks that is maintained by the charter school pursuant to NAC 386.342 is current and accurate.

WORKSHOP

It is recommended that NAC 386.170 be revised to clarify that the charter school's facility must comply with the Occupational Safety and Health Act. NRS 386.527(5) gives authority to the

charter school sponsor to require that a charter school facility is inspected and that the school meets safety and health requirements.

PUBLIC HEARING

NAC 386.170 Application to form charter school: Inclusion of information regarding issues of health and safety. (NRS 386.520, 386.540) In addition to the items required pursuant to subsection 2 of NRS 386.520, an application submitted to the Department pursuant to that subsection by a committee to form a charter school must also include certain information regarding issues of health and safety that affect the proposed charter school, including, without limitation:

1. A description of the manner in which pupils will be transported to the proposed charter school, including, without limitation, the details of any contract that the charter school has entered into pursuant to subsection 1 of NRS 386.560 for the transportation of pupils and the details of any plan developed in consultation with the parents and guardians of pupils for the transportation of pupils.

2. Descriptions of the manner in which the proposed charter school will:

(a) Provide health services to pupils, including, without limitation, the details of any contract that the charter school has entered into pursuant to subsection 1 of NRS 386.560 for the provision of health services to pupils; and

(b) Maintain records related to the immunization of pupils that is required pursuant to NRS 392.435 to ensure that pupils are immunized in a timely manner.

3. Unless the facility that the proposed charter school will occupy is a public school, documents which indicate to the satisfaction of the Department that the facility which the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation.

4. Evidence which demonstrates to the satisfaction of the Department that the committee has communicated with the Division of Industrial Relations of the Department of Business and Industry regarding compliance with the federal Occupational Safety and Health Act of 1970, as amended.

5. A description of the procedures that will be used to provide drills for the pupils in the charter school to instruct those pupils in the appropriate procedures to be followed in the event of a fire or other emergency.

New NAC 386.206 Compliance with Occupational Safety and Health Act of 1970

Evidence which demonstrates to the satisfaction of the Department that the facility which the charter school occupies, has been inspected and approved by the Division of Industrial Relations of the Department of Business and Industry for compliance with the federal Occupational Safety and Health Act of 1970, as amended, before the last day of the first operational school year.