

Chapter 389 of NAC

LCB File No. T041-05

ADOPTED TEMPORARY REGULATION OF THE
STATE BOARD OF EDUCATION

Filed with the Secretary of State on May 18, 2005.

NAC 389.027 “High school proficiency examinations” defined. (NRS 385.080) “High school proficiency examinations” means the criterion-referenced examinations that:

1. Are administered to pupils in this state before the completion of grade ~~[[1]]~~ 10 pursuant to NRS 389.015~~[[1]]~~ and,

2. Are administered to pupils in this state before the completion of grade 11 pursuant to NRS 389.550; and

~~[[2]]~~ (3) Pupils must pass to receive a standard high school diploma.

NAC 389.051 Times for administration; special administration. (NRS 385.080, 389.015, 389.550)

1. Except as otherwise provided in subsection 2, the board of trustees of each school district and the governing body of each charter school, respectively, shall administer the examinations required by NRS 389.015 and 389.550 in each public school in that district and each charter school which has the appropriate grades at the following times:

(a) For grades 3 *through 8* ~~[[and 5]]~~, criterion-referenced examinations in reading, ~~[[and]]~~ mathematics, *and science as provided in NAC 389.061* must be administered ~~[[within the period beginning 2 weeks before and ending 2 weeks after the 165th day of instruction for the class that is tested.]]~~ *in the spring semester on the dates specified by the department of education.*

(b) For grades 4, ~~[[8]]~~ 7 and 10, norm-referenced examinations in reading, language, mathematics and science must be administered ~~[[in October]]~~ *in the spring semester* on the dates specified by the department of education.

(c) For grades 4 and 8, the examination in writing must be administered *in the spring semester* on the dates specified by the department of education.

(d) For grade 11, the high school proficiency examination in writing must be administered in ~~[[February]]~~ *November* on the date specified by the department of education.

(e) For grade 12 and for adults, the high school proficiency examination in writing must be administered in:

- (1) February;
- (2) *March or* April;
- (3) The summer months; and
- (4) ~~October~~ *November*,

on the respective dates specified by the department of education.

(f) For grade 12 and for adults, the high school proficiency examination in writing may be administered, upon the direction of the department of education, to those pupils who have not yet passed the examination, on a date specified by the department which must be approximately 2 weeks before the date of graduation.

(g) For grade 10, the high school proficiency examinations in reading, mathematics and science must be administered in April on the dates specified by the department of education.

(h) For grade 11, the high school proficiency examinations in reading, mathematics and science must be administered in:

- (1) April; and
- (2) The summer months,

on the respective dates specified by the department of education.

(i) For grade 12 and for adults, the high school proficiency examinations in reading, mathematics and science must be administered in:

- (1) February;
- (2) *March or* April;
- (3) The summer months; and
- (4) November,

on the respective dates specified by the department of education.

(j) For grade 12 and for adults, the high school proficiency examinations in reading, mathematics and science may be administered, upon the direction of the department of education, to those pupils who have not yet passed one or more of those examinations, on the dates specified by the department, which must be approximately 2 weeks before the date of graduation.

~~[NAC 389.052 Determination of whether pupil is exempt from taking examinations. (NRS 385.391) A school shall determine whether a pupil is exempt from taking the examinations administered pursuant to NRS 389.015 in accordance with NAC 389.063, subsection 6 of NRS 389.017 and the current edition of the *Guidelines for the Conduct of the Nevada Proficiency Examination Program* published by the department of education.]~~

NAC 389.056 Procedures for administration. (NRS 385.080, 389.015, 389.550) Achievement and proficiency examinations must be administered as follows:

1. For grades 4, ~~[8]~~ 7 and 10, the reading, mathematics, language and science norm-referenced examinations must be administered pursuant to the instructions in the current edition of *the administration manual and the test coordinator's manual produced by the norm-referenced testing company adopted by the department of education*. ~~["Comprehensive Test of Basic Skills, TerraNova, Test Directions for Teachers: Level 14/22," copyright 1996 by CTB/McGraw-Hill. If a pupil with a disability in grade 4, 8 or 10 is required to take the examination, the pupil must be included in the regular administration of the examination if the pupil can be adequately tested under acceptable accommodations as set forth in the current edition of the "Nevada Proficiency Examination Program, TerraNova Grades 4, 8, and 10 Test Coordinator's Manual," copyright 1997 by CTB/McGraw-Hill.]~~

2. For grades 4 and 8, the examination in writing must be administered pursuant to the instructions in the current edition of "Administration Manual: Nevada Fourth & Eighth Grade Proficiency Examinations in Writing," adopted by the department of education.

3. For grades 3 and 5, the criterion-referenced examinations required by NRS 389.550 must be administered pursuant to the instructions in the current edition of "*Nevada Criterion Referenced Tests* Administration Manual~~[- Nevada Criterion Referenced Tests at Grades Three and Five]~~," adopted by the department of education.

4. For grades 10 and above, the high school proficiency examinations must be administered pursuant to the instructions in the current edition of "*Nevada High School Proficiency Examination* Administration Manual~~[- Nevada High School Proficiency Examinations in Mathematics, Science, Reading and Writing]~~," adopted by the department of education.

NAC 389.058 Reporting of results to department of education. (NRS 385.080, 389.015, 389.017, 389.550)

~~[1. Except as otherwise provided in subsection 2, a]~~ A private entity that has contracted with the state board to score the examinations pursuant to NRS 389.015 or 389.550 shall report the results of the examinations in writing to the department of education.

~~[2. The provisions of subsection 1 do not apply to the results of examinations administered to:~~

~~—(a) Pupils whose primary language is not English. The number of such pupils who are examined pursuant to NAC 389.063 must be reported separately by the private entity scoring the examinations based on the answer sheet submitted to the entity by the school district for each pupil examined pursuant to NAC 389.063.~~

~~—(b) Pupils who are enrolled in a program of special education pursuant to NRS 388.440 to 388.520, inclusive, and who are not gifted or talented pupils.]~~

NAC 389.061 Specific norm-referenced and criterion-referenced examinations required. (NRS 385.080, 389.015, 389.550) ~~Except as otherwise provided in NAC 389.063, t~~**The** following norm-referenced and criterion-referenced examinations must be used as examinations of achievement and proficiency:

1. For grades 3 ~~and 5~~, the criterion-referenced examinations that must be used are the Nevada Third ~~and Fifth~~ Grade Examinations in Mathematics and Reading prescribed by the department of education for each testing period. Each edition of those examinations ~~that is used commencing in the spring semester of 2001.~~ must be based upon the standards of content and performance adopted pursuant to NRS 389.520.

2. For grade 4:

(a) The norm-referenced examinations that must be used are the *subtests comprising the Reading, Language, Mathematics, and Science portions of the norm-referenced test adopted by the department of education* ~~["Reading Composite," "Mathematics Composite," "Language Composite" and "Science" portions of Level 14, Comprehensive Test of Basic Skills, TerraNova Complete Battery Plus].~~

(b) The criterion-referenced examinations that must be used ~~is~~ **are:**

(1) ~~The~~ Nevada Proficiency Examination in Writing for the Fourth Grade prescribed by the department of education for each testing period~~,~~ **and**

(2) *The Nevada Fourth Grade Examinations in Mathematics and Reading prescribed by the department of education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.*

3. *For grade 5, the criterion-referenced examinations that must be used are the Nevada Fifth Grade Examinations in Mathematics, Reading, and Science prescribed by the department of education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.*

4. *For grade 6, the criterion-referenced examinations that must be used are the Nevada Sixth Grade Examinations in Mathematics and Reading prescribed by the department of education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.*

5. For grade 7:

(a) *The norm-referenced examinations that must be used are the subtests comprising the Reading, Language, Mathematics, and Science portions of the norm-referenced test adopted by the department of education.*

(b) *The criterion-referenced examinations that must be used are the Nevada Seventh Grade Examinations in Mathematics and Reading prescribed by the department of education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.*

~~6~~**3**. For grade 8~~,~~ *the criterion-referenced examinations that must be used are:*

~~[(a) The norm-referenced examinations that must be used are the “Reading Composite,” “Mathematics Composite,” “Language Composite” and “Science” portions of Level 18, Comprehensive Test of Basic Skills, TerraNova Complete Battery Plus.]~~

~~(a) [(b) The criterion-referenced examination that must be used is t]~~The Nevada Proficiency Examination in Writing for the Eighth Grade prescribed by the department of education for each testing period~~[], and~~

~~(b) The Nevada Fourth Grade Examinations in Mathematics and Reading prescribed by the department of education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.~~

~~7[4]. For grade 10: [, the norm-referenced examinations that must be used are the “Reading Composite,” “Mathematics Composite,” “Language Composite” and “Science” portions of Level 20, Comprehensive Test of Basic Skills, TerraNova Complete Battery Plus.]~~

~~(a) The norm-referenced examinations that must be used are the subtests comprising the Reading, Language, Mathematics, and Science portions of the norm-referenced test adopted by the department of education.~~

~~[5. For grade 10, t] (b) The criterion-referenced examinations that must be used are:~~

~~(1) [(a)] The Nevada High School Proficiency Examination in Reading;~~

~~(2) [(b)] The Nevada High School Proficiency Examination in Mathematics; and~~

~~(3) [(e)] The Nevada High School Proficiency Examination in Science (*beginning with the graduating class of 2009*),~~

prescribed by the department of education for each testing period.

~~8 [6]. For grades 11 and above, the criterion-referenced examinations that must be used are:~~

~~(a) The Nevada High School Proficiency Examination in Reading;~~

~~(b) The Nevada High School Proficiency Examination in Mathematics;~~

~~(c) The Nevada High School Proficiency Examination in Science (*beginning with the graduating class of 2009*); and~~

~~(d) The Nevada High School Proficiency Examination in Writing for the Eleventh Grade and Above,~~

prescribed by the department of education for each testing period.

~~[NAC 389.063 Assessment of proficiency in English of pupils whose primary language is not English. (NRS 385.080, 389.017, 389.550)~~

~~—1. Each school district shall use the “Language Assessment Scales Oral,” copyright 1990 by CTB/McGraw Hill, and the “Language Assessment Scales Reading/Writing,” copyright 1990 by~~

~~CTB/McGraw-Hill, to assess the proficiency in the English language of pupils whose primary language is not English. Except as otherwise provided in subsections 2 and 3, the assessment must be used as the examination of achievement and proficiency for such pupils in grades 4, 8 and 10.~~

~~—2. If a pupil in grade 4 is assessed at a level III or above as a result of the oral examination administered pursuant to subsection 1 and at a level II or above as a result of the examination of reading and writing administered pursuant to subsection 1, the pupil must also be required to complete the examinations required by NAC 389.061.~~

~~—3. If a pupil in grade 8 or 10 is assessed at a level III or above as a result of the oral examination administered pursuant to subsection 1, at a level III or above as a result of the reading portion of the examination of reading and writing administered pursuant to subsection 1 and at a level II or above as a result of the writing portion of the examination of reading and writing administered pursuant to subsection 1, the pupil must also be required to complete the examinations required by NAC 389.061.~~

~~—4. Except as otherwise provided in subsection 5, if a pupil is assessed below a level III on the oral examination administered pursuant to subsection 1, the pupils not required to complete the:~~

~~—(a) Examination of reading and writing prescribed in subsection 1.~~

~~—(b) Examinations required by NAC 389.061.~~

~~—5. If a pupil in grade 3 or 5 is assessed at a level III or above as a result of the oral examination administered pursuant to subsection 1 and at a level II or above as a result of the examination of reading and writing administered pursuant to subsection 1, the pupil must also be required to complete the criterion-referenced examinations for grade 3 or 5, as applicable, required by NAC 389.061. A pupil who does not meet the level prescribed by this subsection may be required to take the appropriate criterion-referenced examination if, in the opinion of the pupil's teacher, useful information may be acquired concerning the pupil's academic status in reading or mathematics.]~~

~~[NAC 389.066 Scores indicating failure to demonstrate adequate achievement. (NRS 385.080, 389.015, 389.550) A pupil who earns any of the following scores on the examinations administered pursuant to NRS 389.015 and 389.550 has not demonstrated adequate achievement:~~

~~—1. For grade 4, 8 or 10, a score on the examination in reading, mathematics, language or science at or below the 25th percentile of the national norms for that examination.~~

~~—2. For grade 4, a score on a trait on the examination in writing of below 3 indicates inadequate achievement for that trait only and not for all traits on the examination in writing.~~

~~—3. For grade 3 or 5, a score on the examination in reading or mathematics that is below the category of "meets standard," as established by the state board of education.~~

~~—4. For grade 8, a score on one or more of the traits that are separately scored on the examination in writing of below 3.]~~

NAC 389.071 Proficiency examinations in writing: Eleventh grade and above; fourth and eighth grade. (NRS 385.080, ~~389.015~~, 389.550)

1. Each edition of the Nevada High School Proficiency Examination in Writing for the Eleventh Grade and Above to be used after the fall of 1988 must require pupils to write on two topics to be chosen from the following styles of writing:

- (a) Descriptive or narrative writing;
- (b) Expository writing; or
- (c) Persuasive writing.

2. Each edition of the Nevada Proficiency Examination in Writing for the Fourth and Eighth Grade must require pupils to write on one topic to be chosen from the following styles of writing:

- (a) Descriptive writing;
- (b) Narrative writing;
- (c) Expository writing; or
- (d) Persuasive writing.

**NOTICE OF ADOPTION OF TEMPORARY REGULATION
LCB File No. T041-05**

The State Board of Education adopted temporary regulations assigned LCB File No. T041-05 which pertain to chapter 389 of the Nevada Administrative Code on January 22, 2005.

Notice date: 12/16/2004
Hearing date: 1/22/2005

Date of adoption by agency: 1/22/2005
Filing date: 5/18/2005

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.

Notice of Workshop to Solicit Comments on Proposed Regulations was sent to approximately 150 individuals and educational organizations. One workshop was held on January 22, 2005. There were no comments from the public.

The Notice of Intent to Act Upon a Regulation for public hearing and adoption of the proposed revisions to NAC 389.027, 389.051, 389.052, 389.056, 389.058, 389.061, 389.063, 389.066, and 389.071, was sent to approximately 150 individuals and educational organizations. The public hearing was conducted on January 22, 2005, to provide the opportunity for comments by affected parties and the public. There were no comments from the public. The Board adopted the proposed regulation.

2. The Number of Persons Who:

- a) **Attended Each Hearing:** Workshop: 6 Regular meeting: 6
b) **Testified at Each Hearing;** Workshop: 1 Regular meeting: 1
c) **Submitted Written Statements:** Workshop: 0 Regular meeting: 0

A copy of any written comments may be obtained by contacting Nita Barnes, Administrative Assistant to the Nevada State Board of Education, 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.

Comments were solicited through the workshop notice of December 16, 2004, and the public hearing notice of December 16, 2004. At the January 22, 2005 Workshop to Solicit Comments there were no public comments to the proposed language revisions. At the January 22, 2005 Public Hearing there were no public comments to the proposed language.

Dr. Paul LaMarca, Director of Program Accountability and Curriculum for the Department of Education, testified the above changes are designed to bring regulation that exists into compliance with recent changes in Federal and State statute along with a few cosmetic changes.

A copy of the summary and/or minutes of the public hearing may be obtained by contacting Nita Barnes, Administrative Assistant to the Nevada State Board of Education, Nevada Department of Education, 775-687-9225, or by writing to the Nevada 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 Nevada State Board of Education adopted the proposed regulation language at the public hearing held January 22, 2005. The reason for adopting the amendment to the regulation is recent statutory changes at the federal and state level have led to a variety of administrative changes affecting the Nevada Proficiency Examination Program. In addition, contractual changes have created some differences in recent practice. The proposed changes to Chapter 389 help bring the Nevada Administrative Code into agreement with statutory requirements

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 anticipated economic effect of the regulation on the business that the agency regulates and there are no known adverse effects. There are no beneficial, immediate and long term effects on the state, school district, and schools.

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 governmental 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.