

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

LCB File No. R135-07

Effective April 17, 2008

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

AUTHORITY: §§1 and 3, NRS 386.5515; §2, NRS 386.527.

A REGULATION relating to charter schools; prescribing the eligibility requirements for a charter school to receive a waiver from an annual performance audit and submit to the audit every 3 years; revising provisions governing the report of compliance required of charter schools; revising provisions governing a request for a change in the sponsorship of a charter school; and providing other matters properly relating thereto.

Section 1. Chapter 386 of NAC is hereby amended by adding thereto a new section to read as follows:

1. A charter school “has demonstrated improvement in the achievement of pupils enrolled in the charter school” for the purposes of paragraph (c) of subsection 1 of NRS 386.5515 if the number of pupils enrolled in the charter school who are categorized as emergent or developing pupils is reduced for the most recent testing cycle by not less than 10 percent of the number of pupils who were categorized as emergent or developing pupils in the immediately preceding school year. The reduction of the number of pupils who are categorized as emergent or developing pupils must be measured for all subject areas required to be tested pursuant to state or federal law for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 enrolled in the charter school, regardless of the size of the group.

2. For the purposes of paragraph (e) of subsection 1 of NRS 386.5515:

(a) A pupil has passed the high school proficiency examination if the pupil has passed each subject area of that examination.

(b) The percent of pupils enrolled in the charter school who have passed the high school proficiency examination must be determined based upon the test scores of pupils who were enrolled in grade 12 in the immediately preceding school year and were required to take the high school proficiency examination.

3. A charter school that wishes to submit to a performance audit one time every 3 years rather than every year shall submit to the sponsor of the charter school documentation sufficient to demonstrate that the charter school satisfies the requirements of subsection 1 of NRS 386.5515 and is eligible for a waiver from the annual performance audit. The documentation must be submitted to the sponsor of the charter school not later than November 15 of the first school year in which the charter school is eligible for the waiver. The sponsor of the charter school shall determine whether the charter school satisfies the requirements of subsection 1 of NRS 386.5515 and shall provide written notice to the charter school of its determination on or before December 15 of the year in which documentation is submitted by the charter school pursuant to this subsection.

4. As used in this section, “performance audit” means the report of compliance required pursuant to NAC 386.410.

Sec. 2. NAC 386.323 is hereby amended to read as follows:

386.323 1. Except as otherwise provided in subsection 2, the governing body of a charter school may request a change in the sponsorship of the charter school pursuant to NRS 386.527.

~~[Such a request must be made at the time that the written charter for the school would otherwise be renewed by the current sponsor in accordance with the timeline prescribed in subsection 3.]~~

2. A request for a change in sponsorship may not be made if:

(a) The proposed sponsor is a school district other than the school district in which the charter school is located.

(b) The proposed sponsor is the State Board and the charter school will use facilities in more than one county.

3. A *written* request for a change in sponsorship must be submitted to the proposed sponsor ~~[not more than 200 days and not less than 180 days before the expiration of the current charter]~~ and must include:

(a) ~~[An application for renewal of the charter school;~~

~~—(b)]~~ A copy of the most recently approved application to form a charter school; and

~~[(e)]~~ (b) A copy of the written agreement with the current sponsor.

4. *A request for a change in sponsorship must be considered by the proposed sponsor at a public meeting not later than 60 days after receipt of the request.*

5. A proposed sponsor may approve a request for a change in sponsorship if:

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

(b) The school is ~~[not:~~

~~—(1) Currently]~~ on the list of schools that ~~[(failed to make adequate yearly progress, commonly referred to as the “watch list,”)]~~ *are designated as demonstrating exemplary*

achievement, demonstrating high achievement or demonstrating adequate achievement, which is maintained by the Department ~~[: or~~

~~— (2) Designated as demonstrating need for improvement;], on the date on which the request is submitted through the period when the request is considered by the proposed sponsor at a public meeting;~~

(c) The school's most recent ~~[annual]~~ report of compliance required by NAC 386.410 does not indicate a noncompliant item; and

(d) The school agrees to sign a new written agreement with the new sponsor. The written agreement may differ from the written agreement which the charter school signed with the current sponsor.

~~[5.—The]~~

6. At the time a request for a change in sponsorship is submitted to the proposed sponsor, the governing body of a charter school shall submit a copy of [a] the request [for a change in sponsorship] to the current sponsor of the charter school.

~~[6.— If a request for a change in sponsorship is denied:~~

~~—(a) The renewal of the charter school by the proposed sponsor shall be deemed denied; and~~

~~—(b) The charter school may apply to the current sponsor for renewal.]~~

Sec. 3. NAC 386.410 is hereby amended to read as follows:

386.410 The sponsor of a charter school shall submit to the Department ~~[an annual report of compliance for]~~ *a performance audit that reports the compliance of* the charter school ~~[.]~~ *with the written charter and with the applicable statutes and regulations. The report of compliance must be submitted annually unless the charter school is eligible for a waiver from the annual submission pursuant to NRS 386.5515 and section 1 of this regulation. If the charter school submits the documentation required for a waiver pursuant to section 1 of this regulation and the sponsor determines that the charter school is eligible for the waiver, the charter school*

shall submit to the performance audit every 3 years. 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]~~ *the number of teachers required by* 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:

(1) Has not been convicted of a felony or offense involving moral turpitude; and

(2) Has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other material designed to assist the governing bodies of charter schools, if such material is provided to him by the Department,

↪ as required pursuant to NRS 386.549.

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 educational programs 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 the type and amount of insurance:

(a) Required by NAC 386.215.

(b) In a manner that complies with paragraph (l) of subsection 1 of NRS 386.550, which may include worker'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.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R135-07**

The State Board of Education adopted regulations assigned LCB File No. R135-07 which pertain to chapter 386 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

New Section to NAC 386; NAC 386.323; NAC 386.410 – Regulations relating to charter schools; prescribing the eligibility requirements for a charter school to receive a waiver from an annual performance audit and submit to the audit every 3 threes; revising provisions governing the report of compliance required of charter schools; revising provisions governing a request for a change in the sponsorship of a charter school

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 200 individuals and educational organizations. A workshop was held on October 5, 2007. There was public comment.

The Notice of Intent to Act Upon a Regulation for public hearing and adoption of the amendments to NAC 386 – Charter Schools was sent to approximately 200 individuals and educational organizations. The public hearing was conducted on January 26, 2008 to provide the opportunity for comments by affected parties and the public. There was public comment. The State Board of Education adopted the proposed amendments to the regulations with additional amendments to the proposed language.

2. The Number of Persons Who:

a) Attended Each Hearing: First Workshop: 10; First Hearing: 16; Second Hearing: N/A

b) Testified at Each Hearing: First Workshop: 2; First Hearing: 3; Second Hearing: N/A

c) Submitted Written Statement: First Workshop: 0; First Hearing: 0; Second Hearing: N/A

A copy of any written comments may be obtained by contacting Doris Arnold, Executive Assistant, Nevada Department of Education, 775-687-9217, or by writing to the Nevada Department of Education, 700 East Fifth Street, Carson City, Nevada 89701-5096.

3. A description of how comments were 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 September 13, 2007; and the public hearing notice of December 18, 2007. At the October 5, 2007 Workshop to Solicit Comments, there were public comments to the proposed amendments to the regulation

language. At the January 26, 2008 public hearing there were public comments to the proposed amendments to the regulation language.

Summary of Comments:

Workshop/Public Hearing Comments:

Workshop comments:

- (a) Sandy Foster, Washoe County School District, expressed concern regarding the criterion for improvement in the achievement of pupils enrolled in a charter school and if this was by Adequate Yearly Progress or by achievement.
- (b) Lee Petrone, Reno Christian Academy, expressed concern regarding the criterion for improvement in the achievement of pupils enrolled in a charter school and if this was by Adequate Yearly Progress or by achievement.

Public Hearing comments:

- (a) Silva Marin, ACE High School Principal, requested clarification of who is to be exempt from the audit for 75% pass rate.
- (b) Leigh Berdrow, Administrator for ACE High School, requested clarification for guidance regarding the student exemption.
- (c) Dr. John Hawk, Nevada State High School, agreed that there is a need for clarification on the percentage on those students that passed.

A copy of the summary and/or minutes of the public hearing may be obtained by contacting Doris Arnold, Executive Assistant, Nevada Department of Education, 775-687-9217, 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 amendments to the regulation language at the public hearing with additional amendments held January 26, 2008. The reason and need of the proposed changes to NAC 386 is to be in compliance with AB 334 and AB 591 passed by the 2007 State Legislature. The proposed regulations detailing the process for applications submitted directly to the State Board for sponsorship are proposed for approval. AB 334 amended sections requiring the school administrator serve as trustee for schools closing and allowing sponsor changes during the charter period. AB 591 allowed exemptions for completing the annual performance audit.

- 5. The estimated economic effect of the adopted regulation on the business that 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 Department of Education. Charter Schools will now be allowed to change sponsors at any time during the period of the charter when certain conditions are met. Charter schools may be granted an exemption from the annual

performance audit if students attending the school have demonstrated improvement in achievement. Both of these changes are beneficial to charter schools.

Adoption of regulations for State Board charter school sponsorship will also benefit charter schools by clearly defining the process for direct application to the State Board of Education.

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 governmental 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 regulation. 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 for a new fee or increase an existing fee.