

## LCB File No. R169-07

### PROPOSED REGULATION OF THE DEPARTMENT OF EDUCATION

(This regulation was split out from LCB File No. R135-07;  
these sections have been removed from that regulation for separate consideration.)

#### AB 334

Sec 3 regards appointment of the school administrator as the trustee for closure of the school.

The following NAC needs to be revised: 386.335(1). See attached.

Sec 5.5 regards a school's request for change of sponsorship. Such a request may be made at any time.

NAC 386.323 needs to be revised: Per the bill, "**The State Board shall adopt an application process** for a charter school that requests a change in the sponsorship of the charter school, which must not require the applicant to undergo the requirements of an initial application to form a charter school..." See attached.

Sec 6 regards salary caps for charter school administrators.

The salary of the highest paid administrator in a comparable position in the school district in which the charter school is located **must be determined**. School districts in which charter schools are located: Washoe, Clark, Douglas, Carson City.

**NAC 386.335 Closure: Duties of governing body, sponsor and Department; failure of compliance by licensed teacher who is member of governing body.** (NRS 386.540)

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

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

(1) The reason for the closure;

(2) The date of the closure;

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

(4) The name of the ~~trustee~~ **administrator** appointed pursuant to ~~paragraph (g)~~ **Section 3 of AB 334** and information on how that person may be contacted;

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

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

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

- (1) The indebtedness of the charter school, if any; and
- (2) Any property of the charter school that is encumbered;

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

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

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

- ~~—(1) Charter school;~~
- ~~—(2) Employees of the charter school; and~~
- ~~—(3) Pupils enrolled in the charter school;~~

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

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

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

~~[(k)] (j) Provide to the Department and the sponsor of the charter school:~~

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

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

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

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

(a) The sponsor of the charter school shall conduct a physical inspection of the charter school to confirm that all equipment, supplies and textbooks identified in the inventory of the charter school maintained pursuant to NAC 386.342 are on the premises of the charter school; and

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

remaining in that account to the State Distributive School Account created pursuant to NRS 387.030.

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

### **NAC 386.323 Request for change in sponsorship of charter school.**

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

(c) A copy of the written agreement with the current sponsor.

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

~~[4.]~~ 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,” which is maintained by the Department; or~~

~~— (2) Designated as demonstrating need for improvement;]~~ *currently on the Adequate Yearly Progress list of schools that are designated as adequate, high achieving, or exemplary.*

(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.

*6. For the purposes of subsection 5.(b), “currently” means on the date the request for change of sponsorship is submitted and within 60 days after the date the request is submitted as provided for in subsection 4.*

~~[5.]~~ 7. The governing body of a charter school shall submit a copy of a request for a change in sponsorship to the current sponsor of the charter school *at the same time the request is submitted to the proposed sponsor.*

~~[— 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 23 regards the membership of a charter school governing board. One of the three required teachers on the board may be a person who previously held a license to teach. Also, no more than two persons representing the same organization or business may serve on a board.

The following regulation needs to be revised: NAC 386.345(3). See attached.

***5. Representatives of the same organization or business who are members of a charter school governing body shall not comprise a majority of the school's governing body members.***

**NAC 386.345 Governing body: Restrictions on membership; responsibilities; submission of certain information to Department and sponsor; approval of minutes of public meetings.** (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 *more than one* 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:

(1) Has not been convicted of a felony or any 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.

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. The minutes of each public meeting must be approved at the next meeting of the governing body and revised as necessary.

7. If the minutes of a meeting have not been approved by the governing body when it submits the minutes pursuant to subsection 6, the governing body shall:

(a) Submit a written statement, accompanying the minutes that are submitted pursuant to subsection 6, indicating that the minutes have not been approved and are subject to revision; and

(b) Submit to the Department and the sponsor of the charter school a copy of the approved minutes not later than 10 days after such approval.

### **New regulations for review by the State Board of a charter school application submitted directly for state board sponsorship, without first having been denied by a school district.**

A distinction must be made between applications submitted for State Board sponsorship after two denials by a local school district, and applications submitted directly for State Board sponsorship.

NAC 386.125 and 386.130 are proposed for revision because of NRS changes. NAC 386.190 is proposed for revision in response to increased volume of charter school submissions.

NAC 386.202 was written to address applications submitted to the State Board after two denials by a local school district. Minor changes to 386.202 (see attached) clarify this.

New regulations (see attached) are proposed to address applications that are submitted directly to the State Board, without first having been denied by a district.

### **NAC 386.125 Submission and contents of letter of intent to form charter school; restriction on submission of application to form charter school. (NRS 386.525, 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) Whether 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;

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

(e) Whether the proposed sponsor is the school district in which the charter school will be located or the State Board of Education. If the proposed sponsor is a school district, the application may be submitted to the State Board of Education pursuant to NRS 386.525 only if the application 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.]~~

**NAC 386.130 Application to form charter school: Forms; restrictions on submission and acceptance.** (NRS 386.520, 386.525, 386.540)

1. The Department will prescribe forms for the use of a committee to form a charter school in applying to:

- (a) The Department, pursuant to subsection 2 of NRS 386.520;
- (b) The board of trustees of the school district in which the proposed charter school will be located, pursuant to NRS 386.525; ~~[and]~~
- (c) The State Board of Education, pursuant to NRS 386.525, *and*
- (d) A college or university within the Nevada System of Higher Education* to form a charter school.

2. An application to form a charter school must not propose to form a charter school in more than one county. The Department will accept only one application per year from each committee to form a charter school. The State Board of Education, *a college or university within the Nevada System of Higher Education* and the board of trustees of a school district shall accept only one application per year from each committee to form a charter school. An application that is submitted to:

- (a) The Department, pursuant to subsection 2 of NRS 386.520;
- (b) The board of trustees of the school district in which the proposed charter school will be located, pursuant to NRS 386.525; ~~[and]~~
- (c) The State Board of Education, pursuant to NRS 386.525, *and*
- (d) A college or university within the Nevada System of Higher Education*

must be submitted on forms prescribed pursuant to subsection 1 and must be submitted to the Department not later than 5 p.m. on September 1 of the fiscal year immediately preceding the fiscal year in which the proposed charter school will begin operation and to the ~~[board of trustees or the State Board of Education]~~ *proposed sponsor* not later than 5 p.m. on ~~[January]~~ *December* 15 of the fiscal year immediately preceding the fiscal year in which the proposed charter school will begin operation.

3. An application to form a charter school may not be submitted earlier than 2 fiscal years immediately preceding the fiscal year in which the proposed charter school will begin operation.

4. Pursuant to NRS 386.520 and 386.525, only a committee to form a charter school may submit an application to form a charter school. The Department will not accept an application from a committee whose membership includes a:

- (a) Potential contractor of the proposed charter school;
- (b) Potential lessor of a facility that the proposed charter school may lease; or
- (c) Representative of an educational management organization with which the proposed charter school may contract.

Neither the State Board of Education nor the board of trustees of a school district shall accept an application from a committee to form a charter school whose membership includes a person or entity described in paragraph (a), (b) or (c).

5. An application may be submitted only for the kind of school, as defined in NRS 388.020, that will be operated during the first year of operation. If the applicant intends to expand the kind of school for which the charter school is authorized to operate after the first year of operation, the written charter must be amended pursuant to subsection 5 of NRS 386.527.

~~[—6. Except as otherwise provided in this subsection, if an application to form a charter school is approved and the charter school fails to become an operational charter school, the committee that submitted the application may not submit another application 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 an application submitted for a charter school that is dedicated to providing educational programs and opportunities for pupils who are at risk.]~~

**NAC 386.190 Review of application to form charter school by Department: Written notice of determination.** (NRS 386.520, 386.540) If the Department reviews an application to form a charter school to determine whether it is complete pursuant to subsection 3 of NRS 386.520, the Department will provide written notice to the applicant of its determination as to whether the application is complete within ~~[15-working]~~ **30** days after receipt of the application.

**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, 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 *or a college or university of the Nevada System of Higher Education*, 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 20 days after an application *that has been denied twice by a local school district or a college or university of the Nevada System of Higher Education* 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 30 days after an application *that has been denied twice by a local school district or a college or university of the Nevada System of Higher Education* is received by the Subcommittee on Charter Schools, the Department will 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 30 days after an application *that has been denied twice by a local school district or a college or university of the Nevada System of Higher Education* is received by the Subcommittee on Charter Schools, the Department will 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 4 of NRS 386.527 or a copy of the proposed written agreement if the State Board approves the application pursuant to subsection 6 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 6 of NRS 386.527 to a written charter issued pursuant to subsection 4 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 4 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 6 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.

**Process for Review of an Application for State Board Sponsorship that has Not been Previously Submitted to or Denied by a Local School District (an Application Submitted Directly to the State Board for Sponsorship)**

(Background information is in plain font.)

*1. If the NAC 386.125(2)(e) letter of intent to form a charter school indicates the State Board as the proposed sponsor, and an application is submitted to the Department pursuant to NRS 386.520(2), the Department shall determine whether the application:*

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

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

*2. The Department will provide written notice to the applicant of its determination of completeness and compliance pursuant to subsection 1 within 30 days of receipt or resubmission of the application. Written notice informing the applicant that the application is noncompliant or incomplete shall serve as the NRS 386.520 denial of the application.*

*3. To allow the Department 30 days for review of resubmitted applications, resubmissions of applications previously found incomplete or noncompliant may be accepted by the Department until 30 days prior to the December 15 deadline identified by NAC 386.130(2).*

*4. An applicant must receive approval from the Department of the application for completeness and compliance pursuant to subsection 1 by 5 p.m. on December 15 of the fiscal year immediately preceding the fiscal year in which the proposed charter school will begin operation.*

NRS 386.525(1): “Upon approval of an application by the Department, a committee to form a charter school may submit the application...directly to the Subcommittee on Charter Schools...”

*5. Other than material required to convert a written charter issued by the State Board of Education pursuant to NRS 386.527(6) to a written charter issued pursuant to NRS 386.527(4), no additional application material will be accepted from the applicant after the application is submitted to the Subcommittee on Charter Schools pursuant to NRS 386.525(1) unless specifically requested by the State Board, the Subcommittee on Charter Schools or the Department to assist in the review of the application.*

NRS 386.525(5): “If the Subcommittee on Charter Schools receives an application...it shall hold a meeting to consider the application...not later than 45 days after receipt of the application...”

*6. 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*

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

NRS 386.525(5) and (6): “The Subcommittee may approve an application if it (is complete and compliant)” and “shall transmit (its)...recommendation...for approval or denial of the application to the State Board.”

*7. After the Subcommittee on Charter Schools holds a meeting pursuant to NRS 386.525(5), the Subcommittee shall transmit to the State Board of Education within the 14 day limit established by NRS 386.525(6) a recommendation for approval or denial of the application by the State Board.*

NRS 386.525(6): “Not more than 14 days after the...meeting of the Subcommittee...the State Board shall hold a meeting to consider the recommendation of the Subcommittee...The State Board may approve an application if it (is complete and compliant).”

*8. The State Board of Education shall not approve an application for a written charter pursuant to NRS 386.527(4) if the application does not satisfy the requirements of paragraphs (a) and (b) of NRS 386.525(1). An application that meets the requirements of paragraphs (a) and (b) of NRS 386.525(1) may be denied for curricular, instructional, financial or performance reasons, without limitation.*

NRS 386.525(6): “Not more that 30 days after the (State Board) meeting, the State Board shall provide written notice of its determination to the applicant.”

**If the application is denied by the State Board:**

NRS 386.525(7): The written notice shall include “the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.”

NRS 386.525(8): “If the State Board denies an application after it has been resubmitted pursuant to subsection 7, the applicant may...appeal the final determination to...district court...”

*9. A written charter may be granted pursuant to NRS 386.527(6) 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.*

**If the application is approved by the State Board:**

NRS 386.527(1): “If the State Board...approves an application...it shall grant a written charter to the applicant. The State Board...shall, not later than 10 days after the approval of the application, provide written notice to the Department of the approval and the date of the approval.”

*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.*