

**ADOPTED REGULATION OF THE
DEPARTMENT OF EDUCATION**

LCB File No. R170-07

Effective September 18, 2008

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

AUTHORITY: §§1-3, NRS 386.540.

A REGULATION relating to charter schools; revising the definition of an “educational management organization”; revising the membership of the governing body of a charter school; requiring the governing body of a charter school to approve the appointment of certain personnel; revising certain reporting requirements of an educational management organization; and providing other matters properly relating thereto.

Section 1. NAC 386.033 is hereby amended to read as follows:

386.033 “Educational management organization” means a corporation, business, organization or other entity, whether or not conducted for profit, with whom *the governing body of* a charter school contracts to ~~[operate, manage or oversee the]~~ *assist with the operation, management or provision and implementation of* educational services and programs of the charter school. The term includes a corporation, business, organization or other entity that directly employs and provides ~~[the administrator or any of the educational personnel, or both, of]~~ *personnel to* a charter school.

Sec. 2. NAC 386.345 is hereby amended to read as follows:

386.345 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]~~ *Except as otherwise provided in this paragraph, any person who:*

(1) Owns, operates, is employed by or receives compensation from a corporation, business, organization or other entity that enters into a contract with the governing body or charter school ~~[-]~~; or

(2) Is related by blood or marriage to a person described in subparagraph (1).

↪ Pursuant to the requirements of NRS 332.800, a person described in this paragraph may serve on the governing body if he has entered into a contract with the governing body to provide goods or services to the charter school without profit or at no cost to the charter school. The governing body shall maintain documentation of the terms of such a contract.

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]~~ 5 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~~ 4 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.

Sec. 3. NAC 386.405 is hereby amended to read as follows:

386.405 1. The governing body of a charter school shall not enter into a contract with an educational management organization for a term of more than 2 years. Such a contract must allow the governing body to terminate the contract and must not prohibit the governing body from entering into a contract with another educational management organization. This subsection does not preclude a charter school from entering into another contract with the same educational management organization after the expiration of a contract if the educational management organization has performed in a satisfactory manner.

2. The governing body of a charter school shall approve the appointment, or any change to the appointment, of all key personnel for the charter school who are directly employed and provided by an educational management organization. Such approval must occur at a regularly scheduled public meeting of the governing body. If the administrative head of a charter school is provided by an educational management organization, information regarding that person must be provided to the Department in accordance with NAC 386.100. For purposes of this subsection, "key personnel" includes administrators who are employed pursuant to subsection 6 of NRS 386.590 and the person designated to draw all orders for the payment of money belonging to the charter school required by NRS 386.573.

3. If the governing body of a charter school enters into a contract with an educational management organization, the governing body shall, at least annually, review the performance of the educational management organization to determine whether the educational management organization is performing in a manner that satisfies the terms and conditions of the written charter, including, without limitation, the satisfaction of the goals of the charter school. If the educational management organization is not performing in a satisfactory manner, the governing body shall require the educational management organization to prepare, in consultation with the

governing body, a plan of corrective action for the educational management organization. The plan must include the steps which will be taken by the educational management organization to ensure that it performs in a manner which satisfies the terms and conditions of the written charter, including, without limitation, the satisfaction of the goals of the charter school.

~~[3.— If a panel to supervise the academic probation of a school is appointed pursuant to NRS 385.378 to supervise the academic probation of a charter school, the panel may determine, as part of its final written report required by NRS 385.381, that the charter school terminate or not renew any contract entered into by the governing body of the charter school. The governing body shall comply with the recommendations of the panel.]~~

4. If the governing body of a charter school enters into a contract with an educational management organization, the governing body shall require the educational management organization to provide a written report to the sponsor of the charter school *and to the governing body of the charter school* not later than 15 business days after the end of each fiscal year during which the contract was in effect. The written report must include ~~the:~~

~~—(a) Amount]:~~

(a) *The amount* of money received by the educational management organization from public and private sources to carry out the terms of the contract; ~~and]~~

(b) ~~[Expenditures]~~ *The expenditures* of the educational management organization relating to carrying out the contract, including, without limitation, the payment of salaries, benefits and bonuses ~~]; and~~

(c) *An identification of each contract, transaction and agreement entered into by the educational management organization related to carrying out the contract with the charter*

school, including, without limitation, contracts, transactions and agreements with parent organizations, subsidiaries and partnerships of the educational management organization.

5. If an educational management organization is identified in the written charter of a charter school, the inclusion of a reference to that particular educational management organization in the written charter does not preclude the governing body of the charter school from terminating or not renewing a contract entered into with that educational management organization. If the governing body terminates or does not renew such a contract, the governing body shall amend the written charter accordingly to remove any errant references to that educational management organization.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R170-07**

The Department of Education adopted regulations assigned LCB File No. R170-07 which pertain to chapter 386 of the Nevada Administrative Code.

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 200 individuals and educational organizations. A workshop was held on January 25, 2008. 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 Educational Management Organization was sent to approximately 200 individuals and educational organizations. The public hearing was conducted on March 7, 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.

2. The Number of Persons Who:

a) Attended Each Hearing: First Workshop: 8; First Hearing: 9; Second Hearing: N/A

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

c) Submitted Written Statement: First Workshop: 1; 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 December 18, 2007; and the public hearing notice of February 1, 2008. At the January 25, 2008 Workshop to Solicit Comments, there was public comment to the proposed amendments to the regulation language. At the March 7, 2008 public hearing there was public comment to the proposed amendments to the regulation language.

Summary of Comments:

Workshop/Public Hearing Comments:

Workshop comments:

- (a) Craig Butz, Odyssey Charter Schools, submitted language for consideration to be added to NAC 386.033, "...with which a charter school contracts as primary facilitator of the administrative functions (executive, financial, and/or operational) of a charter school."
- (b) Leigh Berdrow, Administrator of ACE High School, provided amendments to the proposed language and requested that the Board recognize that the revisions in no way diminish the Department's intent to prohibit Board members of a charter school or their relatives from benefiting from the charter school. The strength of charter schools was the ability to develop public and private partnerships that contribute valuable resources to the students. Ms. Berdrow made a request to allow a governing board member to provide to a charter school with goods and services at no cost or at no profit to that board member with documentation.
- (c) Ricci Rodriguez-Elkins, CFCSD, stated that she was largely in favor of the proposed changes, but questioned if legal authority had been addressed to terminate an EMO by a "support team".
- (d) Dr. John Hawk, Executive Director of Nevada State High School, expressed support on behalf of Nevada State High School for NAC 386.345 as amended and supported the recommendations for NAC 386.033 from Craig Butz.

Public Hearing comments:

- (a) Ed Heron, Academy Career Education, stated that he concurs with the amendments.
- (b) Edie Grub, Silver State High School, stated that she concurs with the amendments.

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 held March 7, 2008. The reason for adopting the regulations is to clearly define the purpose of educational management organizations; changes to terminology formerly used for panels to oversee schools on academic probation to new language calling for school support teams to assist schools in need for improvement; and a requirement for governing bodies of charter schools to appoint key personnel of the school.

- 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. There is no economic effect on the public or the business it regulates and the changes are beneficial to charter 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 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.