

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

LCB File No. R022-09

Effective October 27, 2009

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

AUTHORITY: §§1 and 3, NRS 385.080 and 389.015; §2, NRS 385.080.

A REGULATION relating to education; revising provisions governing the grade level designations of pupils for certain purposes; and providing other matters properly relating thereto.

Section 1. NAC 389.048 is hereby amended to read as follows:

389.048 1. Except as otherwise provided in subsection 2, to determine the eligibility of a pupil who has completed at least grade 9 ~~[in the 2001-2002 school year or thereafter]~~ to take the high school proficiency examinations, the pupil shall be deemed in:

(a) Grade 10 if the pupil has completed at least 5 units of credit ~~[]~~ *or 2 semesters of high school.*

(b) Grade 11 if the pupil has completed at least 11 units of credit ~~[]~~ *or 4 semesters of high school.*

(c) Grade 12 if the pupil has completed at least 17 units of credit ~~[]~~ *or 6 semesters of high school.*

2. If a pupil has an academic plan which projects that the pupil will graduate from high school before he is granted the number of opportunities to take the high school proficiency examinations that is otherwise granted to pupils in grades 11 and 12, the pupil may submit a written request to the superintendent of schools of the school district in which the pupil is

enrolled or the governing body of the charter school in which the pupil is enrolled to take the high school proficiency examinations for the first time before he has earned the 5 units of credit *or completed the 2 semesters of high school* required for grade 10.

Sec. 2. NAC 389.659 is hereby amended to read as follows:

389.659 1. If a pupil enrolls in the 9th grade during or after the 1999-2000 school year:

(a) Except as otherwise provided in subsection 2, the pupil must ~~earn a minimum of:~~ :

(1) ~~Five~~ *Earn a minimum of 5* units of credit *or complete 2 semesters of high school* to be promoted to the 10th grade.

(2) ~~Eleven~~ *Earn a minimum of 11* units of credit *or complete 4 semesters of high school* to be promoted to the 11th grade.

(3) ~~Seventeen~~ *Earn a minimum of 17* units of credit *or complete 6 semesters of high school* to be promoted to the 12th grade.

(b) A school district shall evaluate the transcripts of the pupil if he transferred to a high school within the school district from another high school located outside the school district, whether located inside or outside this State, to determine the grade level for which the pupil qualifies pursuant to paragraph (a).

~~[(c) Except as otherwise provided in subsection 2, the pupil shall be deemed deficient in credit if, after completing a year of high school, he failed to earn at least the number of units of credit required pursuant to paragraph (a) to be promoted to the next higher grade level.]~~

2. The superintendent of a local school district may waive the requirement set forth in:

(a) Subparagraph (1) of paragraph (a) of subsection 1 if:

(1) The local school district is a school district in which the 9th grade is taught in a junior high or middle school; and

(2) He determines that extenuating circumstances exist; and

(b) Subparagraph (3) of paragraph (a) of subsection 1 if he determines that extenuating circumstances exist.

Sec. 3. NAC 389.660 is hereby amended to read as follows:

389.660 1. Each school district shall provide remedial study to each pupil in grade 11 or 12 who:

(a) Fails any of the high school proficiency examinations two or more times; or

(b) Is deemed deficient in credit ~~[pursuant to paragraph (c) of subsection 1 of NAC 389.659]~~

for his grade level in:

(1) English, including reading, composition and writing;

(2) Mathematics; or

(3) Science.

2. A school district shall not charge such a pupil for any of the costs related to the remedial study, including, without limitation, costs relating to transporting the pupil to the remedial study, unless the deficiency in credit is a result of his:

(a) Absence from school, other than an absence from school that has been verified as excused for medical reasons; or

(b) Habitual truancy.

3. The remedial study described in subsection 1 may be offered:

(a) During the regular school day;

(b) During summer school;

(c) During intersession school; or

(d) As part of a program that is offered before or after the regular school day.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R022-09

The State Board of Education adopted regulations which pertain to chapter 389 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code 389:

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 8, 2009. There was no public comment.

The Notice of Intent to Act Upon a Regulation for public hearing and adoption of the amendments to NAC 389.048 – Times for Administration; Special Administration was sent to approximately 200 individuals and educational organizations. The public hearing was conducted on October 9, 2009 to provide the opportunity for comments by affected parties and the public. There was no public comment. The State Board of Education adopted the proposed amendments to the regulations.

2. The Number of Persons Who:

- a) Attended Each Hearing: First Workshop: 14; First Hearing: 15; Second Hearing: N/A
- b) Testified at Each Hearing: First Workshop: 0; First Hearing: 0; Second Hearing: N/A
- c) Submitted Written Statements: First Workshop: 0; First Hearing: 0; Second Hearing: N/A

A copy of any written comments may be obtained by contacting Karen Johansen, Administrative Assistant, Nevada Department of Education, 775-687-9225, 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 8, 2009; and a public hearing notice of September 8, 2009. At the October 8, 2009 Workshop to Solicit Comments, there was no public comment to the proposed amendments to the regulation language. At the October 9, 2009 public hearing there were no public comments to the proposed amendments to the regulation language.

Summary of Comments:

Workshop comments:

There were no comments.

Public Hearing comments:

There were no public hearing comments.

A copy of the summary and/or minutes of the public hearing may be obtained by contacting Karen Johansen, Administrative Assistant, 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 amendments to the regulation language at the public hearing held October 9, 2009. The need the purpose of the proposed change to NAC 389.048 and 389.659 is that NRS 389.048 and 389.659 establish minimum credit requirements to be promoted to the next grade and to be eligible for particular administrations of the high school proficiency examination. The proposed changes would allow for matriculation based on credit sufficiency or length of attendance. These changes could reduce irregularities caused by testing ineligible students and simplify district tracking of individual students. This change would also make the graduation rate more relevant – artificially “holding” struggling students in 9th grade may be one of the reasons Nevada’s graduation rate is so low.

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.

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.