

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

LCB File No. R037-09

Effective October 27, 2009

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

AUTHORITY: §§1-3, NRS 385.080 and 389.805.

A REGULATION relating to education; prescribing alternative criteria for the receipt of a standard high school diploma for certain pupils who fail to pass the science portion of the high school proficiency examination; revising provisions relating to the alternative criteria for the receipt of a standard high school diploma for certain pupils who fail to pass the writing portion of the high school proficiency examination; and providing other matters properly relating thereto.

Section 1. Chapter 389 of NAC is hereby amended by adding thereto a new section to read as follows:

1. A pupil who is currently enrolled in the 12th grade and who satisfies the requirements of paragraph (b) of subsection 1 of NRS 389.805 may demonstrate proficiency in science by submitting to the Department of Education a portfolio of work prepared by the pupil.

2. The portfolio of work submitted pursuant to subsection 1 must:

(a) Demonstrate proficiency in the academic standards for science, including, without limitation, proficiency in life science, earth science, physical science and environmental science.

(b) Include:

(1) One completed design for a scientific experiment;

(2) One sample of work which requires the analysis and interpretation of a data set; and

(3) One other sample of work which demonstrates the pupil's knowledge of and ability to use and apply basic and integrated skills relating to the scientific process, including, without limitation:

(I) A science project or laboratory report based on data generated by the pupil;

(II) A completed project for a science fair, which is consolidated into a single document that accurately reflects the project; or

(III) Any other sample of work which demonstrates the pupil's knowledge, ability and skills relating to the scientific process.

3. The Department of Education shall prescribe the dates by which the portfolio of work must be submitted to ensure that a pupil is granted the opportunity to satisfy the requirements of this section before graduation from high school. A pupil shall submit the completed portfolio of work and the certification required by subsection 4 to the appropriate testing department of the school district on or before the dates specified by the Department of Education. The testing department shall forward each completed packet to the Department of Education for scoring.

4. A teacher or other licensed personnel at the school in which the pupil is enrolled and the principal of that school shall certify that the portfolio of work submitted by the pupil is the pupil's own work.

5. Submissions that do not meet the requirements of this section will be classified as "Insufficient" and will not be scored.

6. The Department of Education shall, in collaboration with licensed educational personnel, develop guidelines for evaluating portfolios of work submitted by pupils pursuant to

this section. The guidelines must require a pupil to meet or exceed the academic standards for science.

Sec. 2. NAC 389.655 is hereby amended to read as follows:

389.655 1. Except as otherwise provided in ~~subsection 9,~~ *subsections 2 and 3*, a pupil must not be given a standard high school diploma until the pupil has, after entering grade 11, passed:

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

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

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

~~For pupils who graduate from high school before the 2004-2005 school year, the Nevada High School Proficiency Examination in Science must be used solely to gather information and data concerning the examination and must not be used as a condition for receipt of a high school diploma.]; and~~

(d) Commencing with the graduating class of the 2009-2010 school year, the Nevada High School Proficiency Examination in Science.

2. ~~After entering grade 10, if a pupil passes one of the high school proficiency examinations, the pupil is not required to take that examination again to graduate.~~

~~3. For pupils who enroll in grade 11 in the 1997-1998 school year, passing scores on the high school proficiency examinations are as follows:~~

~~(a) In reading, 70 percent of the questions on the examination answered correctly.~~

~~(b) In mathematics, 61 percent of the questions on the examination answered correctly.~~

~~(c) In writing, 7.~~

~~—4.— For pupils who enroll in grade 11 in the 1998-1999 school year, the 1999-2000 school year or the 2000-2001 school year, passing scores on the high school proficiency examinations are as follows:~~

~~—(a) In reading, a scaled score of 71.~~

~~—(b) In mathematics, a scaled score of 64.~~

~~—(c) In writing, 7.~~

~~—5.— On or before January 1, 2002, the State Board of Education will set the passing scores on the high school proficiency examinations for pupils who enroll in grade 11 in the 2001-2002 school year or thereafter. In making its determination of the appropriate passing scores, the State Board of Education will consider the scores received by pupils in the October 2001 administration of the examinations. The Department of Education shall provide notice to each school district and charter school of the passing scores that are set at least until such time as the scores are codified in regulation.~~

~~—6.— A passing score that is in effect at the time that a pupil enrolls in grade 11 will remain in effect for 1 year after the pupil's anticipated completion of grade 12.~~

~~—7.— For pupils who enroll in an adult high school program after July 1, 2000, but before July 1, 2003, passing scores on the high school proficiency examinations are as follows:~~

~~—(a) In reading, a scaled score of 71.~~

~~—(b) In mathematics, a scaled score of 64.~~

~~—(c) In writing, 7.~~

~~—8.— For pupils who enroll in an adult high school program after July 1, 2003, passing scores on the high school proficiency examinations are the scores that are set by the State Board of Education pursuant to subsection 5.~~

~~—9.]~~ A pupil who fails to pass the Nevada High School Proficiency Examination in Writing ~~[for the Eleventh Grade and Above]~~ must receive a standard high school diploma if ~~[he:]~~ *the*

pupil:

- (a) Satisfies the requirements of paragraph (b) of subsection 1 of NRS 389.805;
- (b) Satisfies the requirements of NAC 389.657; and
- (c) Has not previously failed to satisfy the requirements of NAC 389.657.

3. A pupil who fails to pass the Nevada High School Proficiency Examination in Science must receive a standard high school diploma if the pupil:

- (a) Satisfies the requirements of paragraph (b) of subsection 1 of NRS 389.805;*
- (b) Satisfies the requirements of section 1 of this regulation; and*
- (c) Has not previously failed to satisfy the requirements of section 1 of this regulation.*

Sec. 3. NAC 389.657 is hereby amended to read as follows:

389.657 1. A pupil who is currently enrolled in the 12th grade and who satisfies the requirements of paragraph (b) of subsection 1 of NRS 389.805 may demonstrate proficiency in writing by submitting to the Department of Education three separate writing samples.

2. The writing samples submitted pursuant to subsection 1 must:

(a) Demonstrate an understanding of the writing process and the application of writing skills, including, without limitation, organization, voice, conventions, development of ideas and style, as prescribed in the academic standards for English language arts in the area of writing.

(b) Include:

- (1) One narrative or descriptive essay;
- (2) One expository or persuasive essay; and

(3) One other writing sample which demonstrates proficiency, including, without limitation:

(I) A research paper;

(II) A technical writing; or

(III) A single selection from a senior project or a portfolio of the pupil's work.

↪ At least one of the writing samples submitted pursuant to this subsection must be written in a monitored setting.

3. The Department of Education shall prescribe the dates by which the writing samples must be submitted to ensure that a pupil is granted the opportunity to satisfy the requirements of this section before graduation from high school. A pupil shall submit the writing samples *and the certification required by subsection 4 to the appropriate testing department of the school district* on or before the dates specified by the Department ~~of~~ *Education. The testing department shall forward each packet to the Department of Education for scoring.*

4. A teacher at the school in which the pupil is enrolled and the principal of that school shall certify that the writing samples submitted by the pupil are the pupil's own work.

5. Submissions that do not meet the requirements of this section will be classified as "Insufficient" and will not be scored.

6. The Department of Education shall, in collaboration with licensed educational personnel, develop guidelines for evaluating writing samples submitted by pupils pursuant to this section. The guidelines must require a pupil to meet or exceed the academic standards for English language arts in the area of writing.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R037-09**

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 public comment.

The Notice of Intent to Act Upon a Regulation for public hearing and adoption of the amendments to R037-09; NAC 389.655 – Passage of Proficiency Examinations and a New Section for Alternative Method to Demonstrate Proficiency in Science 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 and new section.

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: 2; 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 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:

(a) Deb Higna, Parent and Clark County School District Charter Schools, stated that her son attended the third grade and was taught cursive writing.

(b) Mary Pike, Clark County School District, clarified that students must complete the three requirements in the proposal.

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 proposal is that the 2007 Nevada Legislature passed NRS 389.805 which requires that the State Board of Education to adopt regulation to administer an alternative route for students to demonstrate proficiency equivalent to the High School Proficiency Examination in the subjects of writing and science. This proposal would establish the criteria for the alternative science proficiency requirement.

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:

The fiscal impact to the Nevada Department of Education and school districts will vary according to the number of students attempting the alternate route for the science proficiency. The similarly structured alternative writing assessment costs approximately \$65 per student to administer, score, and report results. There is no economic effect on the public.

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.