

Chapter 389 of NAC

LCB File No. T024-09

ADOPTED TEMPORARY REGULATION OF THE  
STATE BOARD OF EDUCATION

Filed with the Secretary of State on April 2, 2009

**NAC 389.051 Times for administration; special administration.** (NRS 385.080, 389.015, 389.550)

1. Except as otherwise provided in subsection 2, the board of trustees of each school district and the governing body of each charter school, respectively, shall administer the examinations required by NRS 389.015 and 389.550 in each public school in that district and each charter school which has the appropriate grades at the following times:

(a) For grades 3 through 8, criterion-referenced examinations in ~~reading and mathematics and science~~ *mathematics and reading* as provided in NAC 389.061 must be administered in the spring semester on the dates specified by the Department of Education.

~~[(b) For grades 4, 7 and 10, norm-referenced examinations in reading, language, mathematics and science must be administered in the spring semester on the dates specified by the Department of Education.]~~

~~[(c)]~~ (b) For grades 5 and 8, the *criterion-referenced* examinations in writing and science must be administered in the spring semester on the date specified by the Department of Education.

~~[(d)]~~ (c) For grade 11, the high school proficiency examination in writing must be administered in ~~November~~ *the fall and in March or April* on the date specified by the Department of Education.

~~[(e)]~~ (d) For grade 12 and for adults, the high school proficiency examination in writing must be administered in:

~~[(1) February;]~~

~~[(2)]~~ (1) March or April;

~~[(3)]~~ (2) The summer months; and

~~[(4)]~~ (3) ~~November~~ *the fall*,

↪ on the respective dates specified by the Department of Education.

(f) For grade 12 and for adults, the high school proficiency examination in writing may be administered, upon the direction of the Department of Education, to those pupils who have not yet passed the examination, on a date specified by the Department which must be approximately ~~2]~~ 4 weeks before the date of graduation.

(g) For grade 10, the high school proficiency examinations in reading, mathematics and science must be administered in *March or April* on the dates specified by the Department of Education.

(h) For grade 11, the high school proficiency examinations in reading, mathematics and science must be administered in:

(1) *March or April*; and

(2) ~~The summer months.~~ *the fall*,

↪ on the respective dates specified by the Department of Education.

(i) For grade 12 and for adults, the high school proficiency examinations in reading, mathematics and science must be administered in:

~~[(1) February;]~~

(1) March or April;

(2) The summer months; and

(3) ~~[November;]~~ *the fall,*

↪ on the respective dates specified by the Department of Education.

(j) For grade 12 and for adults, the high school proficiency examinations in reading, mathematics and science may be administered, upon the direction of the Department of Education, to those pupils who have not yet passed one or more of those examinations, on the dates specified by the Department, which must be approximately ~~[2]~~ 4 weeks before the date of graduation.

2. Not later than May 1 of each year, the board of trustees of a school district in which a school with a 12-month school program is located or the governing body of a charter school with a 12-month school program shall, if pupils who attend the school are not expected to be in session on one of the dates prescribed in subsection 1 for the administration of an examination, consult with the ~~[standards, curricula and assessments team]~~ *Assessment, Program Accountability and Curriculum office* of the Department of Education to establish another date for the administration of that examination. Not later than June 1 of that year, the ~~[standards, curricula and assessments team]~~ *Assessment, Program Accountability and Curriculum office* shall provide the board of trustees or the governing body of a charter school with written confirmation of the date agreed upon pursuant to this subsection.

3. The Department of Education may schedule a special administration of any examination required to be passed for graduation if:

(a) The person taking the examination is a pupil enrolled in grade 12;

(b) That person, through no fault of his own, was not able to take the examination at its most recent administration; and

(c) No regular administration of the examination is scheduled before the date on which the person is otherwise eligible to graduate.

**NOTICE OF ADOPTION OF TEMPORARY REGULATION**  
**LCB File No. T024-09**

The State Board of Education adopted temporary regulations assigned LCB File No. T024-09 which pertain to chapter 389 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 March 19, 2009. There was public comment.

The Notice of Intent to Act Upon a Regulation for public hearing and adoption of the amendments to NAC 389.051 – Times for Administration; Special Administration was sent to approximately 200 individuals and educational organizations. The public hearing was conducted on March 20, 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: 28; First Hearing: 21; 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 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 February 12, 2009; and a public hearing notice of February 12, 2009. At the March 19, 2009 Workshop to Solicit Comments, there was public comment to the proposed amendments to the regulation language. At the March 20, 2009 public hearing there were no public comments to the proposed amendments to the regulation language.

Summary of Comments:

Workshop comments:

- (a) Patrick Painter supported July testing and to not eliminate the July testing.
- (b) Dr. Bryn Lapenta, supported the regulations as proposed.

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 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 20, 2009. The need the purpose of the proposed change to NAC 389.051 is that NRS 389.051 establishes the statewide exams to be administered in each grade. These changes would eliminate the February High School proficiency Examinations Retest administration, and add an additional testing opportunity in fall of junior year (so pupils had the same total number of changes throughout high school as before). The changes would also restrict the summer administration of the High School Proficiency Exam to seniors and adult students otherwise ready to graduate.

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.