

PROPOSED REGULATION OF THE STATE BOARD OF EDUCATION

LCB File No. R133-11

(This draft replaces the one posted December 23, 2011)

Proposed new language in *bold italics*.

~~[NAC 386.033—“Educational management organization” defined. (NRS 386.540) “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 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 personnel to a charter school.]~~

NAC 386.050 “Written charter” defined. (NRS 386.540) “Written charter” means a written charter granted by the board of trustees of a school district, a college or university within the Nevada System of Higher Education or the State ~~[Board of Education]~~ ***Public Charter School Authority*** pursuant to NRS 386.527. The written charter includes both the application to form a charter school approved by the sponsor and a written agreement signed by the sponsor and the charter school.

NAC 386.110 Appointment of liaison between committee to form charter school and Department. (NRS 386.540) A committee to form a charter school shall, to enable the ~~[Department]~~ ***proposed sponsor*** to deal with a single person as the committee applies to form a charter school, appoint from among its members a person to act as liaison between the committee and the ~~[Department]~~ ***proposed sponsor***.

NAC 386.120 Sponsorship of charter schools by board of trustees: Application for authorization. (NRS 386.515, 386.540)

1. The Department will prescribe forms for the use of the board of trustees of a school district in applying for authorization to sponsor charter schools pursuant to NRS 386.515. The following information must be provided on the application:

(a) The date on which the board of trustees voted to apply for authorization to sponsor charter schools, as reflected in the minutes of the board.

(b) The signature of the superintendent of the school district that the board of trustees serves.

(c) The organizational capacity and infrastructure of the sponsor for sponsorship of charter schools, which must not be described as a limit on the number of charter schools the sponsor will approve;

(d) The procedure for evaluating charter school applications in accordance with NRS 386.525;

(e) A description of how the sponsor will maintain oversight of the charter schools it sponsors; and

(f) A description of the process of evaluation for charter schools it sponsors in accordance with NRS 386.610.

2. Upon completion of the forms prescribed pursuant to subsection 1, the board of trustees of a school district that applies for authorization to sponsor charter schools pursuant to NRS 386.515 shall forward the application to the Department for approval.

NAC 386.125 Submission and contents of letter of intent to form charter school. (NRS 386.525, 386.540)

1. A committee to form a charter school must submit to the ~~Department~~*proposed sponsor* 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~~*proposed sponsor* 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 *which must be the same as the school district to which the application is submitted if the proposed sponsor of the charter school is a school district;*

(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, a college or university within the Nevada System of Higher Education or the State ~~Board of Education.~~*Public Charter School Authority*. If the proposed sponsor is a school district, a college or a university, as applicable, the application may be submitted to the State ~~Board of Education~~*Public Charter School Authority* pursuant to NRS 386.525 only if the application has been denied twice by the school district, the college or the university, as applicable, pursuant to NRS 386.525.

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;

(c) A college or university within the Nevada System of Higher Education, pursuant to NRS 386.525; and

(d) The State ~~[Board of Education,]~~ *Public Charter School Authority*, pursuant to NRS 386.525,

↳ 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.]~~ *A committee to form a charter school may submit no more than one application per year.* The State ~~[Board of Education,]~~ *Public Charter School Authority*, 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;

(c) A college or university within the Nevada System of Higher Education, pursuant to NRS 386.525; and

(d) The State ~~[Board of Education,]~~ *Public Charter School Authority* pursuant to NRS 386.525, must be submitted on forms prescribed pursuant to subsection 1 and must be submitted to the ~~[Department]~~ *proposed sponsor* 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 *if the proposed sponsor asked the Department to review the application for completeness,* to the proposed sponsor not later than 5 p.m. on 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]~~ *proposed sponsor* 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. The State ~~{Board of Education,}~~ *Public Charter School Authority*, a college or university within the Nevada System of Higher Education or the board of trustees of a school district shall not 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 6 of NRS 386.527.

NAC 386.140 Application to form charter school: Inclusion of information regarding facility, personnel and equipment. (NRS 386.520, 386.540) In addition to the items required pursuant to subsection 2 of NRS 386.520, an application submitted to the ~~{Department}~~ *proposed sponsor* pursuant to that subsection by a committee to form a charter school must also include certain information regarding the facility, personnel and equipment of the proposed charter school, including, without limitation:

- 1. The name of the proposed charter school.
- 2. If the facility that the charter school will occupy exists at the time of application and is suitable for use by the charter school, but is not owned by the school district in which the charter school will be located:
 - (a) The address of the charter school;
 - (b) The type of facility that the charter school will occupy;
 - (c) A floor plan of the facility that the charter school will occupy, including a notation of the size of the facility which is set forth in square feet;
 - (d) The name and address of the owner of the facility that the charter school will occupy;
 - (e) If the facility that the charter school will occupy will be leased or rented, a copy of the proposed lease or rental agreement;
 - (f) If available at the time that the application is submitted, a copy of the certificate of occupancy for the facility; and
 - (g) Documentation which demonstrates that the committee has obtained the insurance required by NAC 386.215 and that the proposed sponsor of the charter school is satisfied with

the type and amount of insurance or other means that will be used to indemnify the sponsor against financial loss pursuant to paragraph (l) of subsection 1 of NRS 386.550.

3. If the facility that the charter school will occupy is, at the time of application, being used as a public school, the name and location of that school and documentation which:

(a) Sets forth the specific days and times during which the charter school is authorized to use the facility.

(b) Demonstrates that the committee has obtained the insurance required by NAC 386.215 and that the proposed sponsor of the charter school is satisfied with the type and amount of insurance or other means that will be used to indemnify the sponsor against financial loss pursuant to paragraph (l) of subsection 1 of NRS 386.550.

4. If the proposed charter school has not obtained a suitable facility, personnel or equipment:

(a) A statement in writing describing why the proposed charter school has not obtained a suitable facility, personnel or equipment;

(b) A plan for obtaining a suitable facility, personnel or equipment, including, without limitation, as applicable:

(1) A statement in writing that explains whether an existing facility will be remodeled or a new facility will be built; and

(2) A schedule for completing or obtaining a suitable facility, personnel and equipment, including, without limitation, if applicable, a description of and time schedule for any plan to raise funds for completing or obtaining the facility, personnel and equipment;

(c) The date on which it is anticipated that the charter school will open;

(d) A description of the equipment that will be used at the charter school, including, without limitation:

(1) Office furniture and equipment;

(2) Computer equipment;

(3) Musical instruments;

(4) Equipment to be used in a machinery shop; and

(5) Supplies and other items necessary for the use of equipment described in this paragraph;

(e) A written estimate, prepared by an authorized insurer, of the cost of obtaining insurance required by NAC 386.215 and documentation which demonstrates that the proposed sponsor of the charter school is satisfied with the type and amount of insurance provided for in the written estimate or other means that will be used to indemnify the sponsor against financial loss pursuant to paragraph (l) of subsection 1 of NRS 386.550; and

(f) If applicable, evidence in writing that the acceptance of the application by the proposed sponsor of the charter school is necessary to obtain a facility, equipment or personnel.

NAC 386.150 Application to form charter school: Inclusion of information regarding educational program. (NRS 386.520, 386.540) In addition to the items required pursuant to subsection 2 of NRS 386.520, an application submitted to the ~~Department~~ *proposed sponsor* pursuant to that subsection by a committee to form a charter school must also include certain information regarding the educational program of the proposed charter school, including, without limitation:

1. The grade level or levels proposed to be taught at the charter school and the anticipated enrollment in each such grade level for the first year of operation.

2. A calendar delineating the school year of the charter school. The calendar must set forth:

(a) The number of days of instruction in each school year, which must be in accordance with the requirements set forth in NRS 388.090;

(b) The number of legal holidays that will be observed by the charter school and the dates on which those holidays fall;

(c) The beginning and ending date of each term; and

(d) Other important dates in the school year of the charter school, including, without limitation, school days in which less than a full day of instruction will be administered.

3. A list of any fees, charges and deposits, including, without limitation, fees, charges and deposits for course materials or equipment, that:

(a) Are typically imposed upon pupils or the parents or guardians of pupils attending public schools which are not charter schools; and

(b) Are anticipated by the committee to be imposed upon the pupils or the parents or guardians of the pupils of the charter school.

4. A description of how progress towards the mission and goals of the charter school, as described in the written description pursuant to paragraph (b) of subsection 2 of NRS 386.520, will be measured.

5. A list of courses that will be offered at the charter school, including, without limitation:

(a) For each course, the name and a description of the course, including, without limitation, the grade level at which the course will be offered; and

(b) A designation of the courses that a pupil must complete for graduation and for promotion to each grade level.

6. A schedule of classes which must meet the requirements for prescribed courses and required courses of study that are set forth in chapter 389 of NRS and chapter 389 of NAC.

7. A schedule of examinations of achievement and proficiency that will be administered to pupils at the charter school. The schedule must:

(a) Be aligned with any schedules of examinations of achievement and proficiency which are published by the Department and the school district in which the charter school is located, if available; and

(b) Meet the requirements of chapter 389 of NRS and other applicable federal, state and local laws and regulations.

8. Information regarding credit for courses completed successfully, including:

(a) Copies of transcripts and diplomas that the charter school will use to indicate that a pupil has completed course work successfully; and

(b) The written policy of the charter school concerning the transfer of credit to another comparable school.

9. If the charter school will be dedicated to providing educational programs and opportunities for pupils who are at risk, a description of how the charter school will:

(a) Recruit pupils who are at risk;

(b) Serve the specific needs of pupils who are at risk; and

(c) Measure the success of the charter school in providing an education to pupils who are at risk.

10. A description of the manner in which the charter school will provide services and programs to pupils with disabilities in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive.

NAC 386.160 Application to form charter school: Inclusion of information regarding committee to form charter school, and governance and staffing. (NRS 386.520, 386.540) In addition to the items required pursuant to subsection 2 of NRS 386.520, an application submitted to the ~~[Department]~~ *proposed sponsor* pursuant to that subsection by a committee to form a charter school must also include certain information regarding the committee to form the charter

school, and the governance and staffing of the proposed charter school, including, without limitation:

1. The names, addresses and qualifications of the members of the committee to form the charter school, including, without limitation:

(a) The resume of each member.

(b) The state of residence of each member.

(c) If a member serves on the committee as a teacher, as that term is defined in subsection 4 of NRS 386.520, a photocopy of his or her license to teach.

2. If a member of the committee to form the charter school has an association or affiliation, or had an association or affiliation, with any other charter school in this State or in another state:

(a) The name of the member;

(b) The name and location of the charter school with which the member has or had the association or affiliation, including, without limitation, the street address and mailing address of the charter school;

(c) The dates on which the member was associated or affiliated with the charter school;

(d) A statement indicating whether the member is presently associated or affiliated with the charter school or has ceased the association or affiliation;

(e) If the association or affiliation has ceased, a statement indicating the reason for the cessation; and

(f) A written description of the nature of the association or affiliation.

3. If applicable, the name, title, address and telephone number of the person selected to function as the administrative head of the charter school pursuant to NAC 386.100.

4. The name, title, address, telephone number and qualifications of the person who is designated to draw all orders for the payment of money belonging to the charter school pursuant to NRS 386.573.

5. A description of the process that will be used to:

(a) Advertise for, select and employ administrators for the charter school; and

(b) Select new administrators for the charter school in the event of a vacancy in one or more of those positions.

6. A description of the process that will be used to advertise for, select and employ instructional staff and other employees.

7. If known at the time of application:

(a) The name, license number and proposed assignment of each licensed staff member; and

(b) The name, qualifications and proposed assignment of each nonlicensed staff member.

NAC 386.170 Application to form charter school: Inclusion of information regarding issues of health and safety. (NRS 386.520, 386.540) In addition to the items required pursuant to subsection 2 of NRS 386.520, an application submitted to the **[Department] proposed sponsor** pursuant to that subsection by a committee to form a charter school must also include certain information regarding issues of health and safety that affect the proposed charter school, including, without limitation:

1. A description of the manner in which pupils will be transported to the proposed charter school, including, without limitation, the details of any contract that the charter school has entered into pursuant to subsection 1 of NRS 386.560 for the transportation of pupils and the details of any plan developed in consultation with the parents and guardians of pupils for the transportation of pupils.

2. Descriptions of the manner in which the proposed charter school will:

(a) Provide health services to pupils, including, without limitation, the details of any contract that the charter school has entered into pursuant to subsection 1 of NRS 386.560 for the provision of health services to pupils; and

(b) Maintain records related to the immunization of pupils that is required pursuant to NRS 392.435 to ensure that pupils are immunized in a timely manner.

3. Unless the facility that the proposed charter school will occupy is a public school, documents which indicate to the satisfaction of the **[Department] proposed sponsor** that the facility which the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation.

4. Evidence which demonstrates to the satisfaction of the **[Department] proposed sponsor** that the committee has communicated with the Division of Industrial Relations of the Department of Business and Industry regarding compliance with the federal Occupational Safety and Health Act of 1970, as amended.

5. A description of the procedures that will be used to provide drills for the pupils in the charter school to instruct those pupils in the appropriate procedures to be followed in the event of a fire or other emergency.

NAC 386.180 Application to form charter school: Inclusion of certain miscellaneous information. (NRS 386.520, 386.540) In addition to the items required pursuant to subsection 2 of NRS 386.520, an application submitted to the ~~[Department]~~ *proposed sponsor* pursuant to that subsection by a committee to form a charter school must also include certain miscellaneous information concerning the proposed charter school, including, without limitation:

1. A description of the lottery system that the proposed charter school will use pursuant to NRS 386.580 if more eligible pupils apply for enrollment in the charter school than the number of spaces for pupils which are available.

(a) Children of members of the committee to form a charter school may be exempted from the school's enrollment lottery.

(b) Children of members of the first governing body of a charter school may be exempted from the school's enrollment lottery.

2. The name, address, telephone number and, if applicable, the electronic mail address of the person selected to act as liaison pursuant to NAC 386.110.

3. Information concerning records of pupils that will be maintained by the proposed charter school in accordance with NAC 386.360, including, without limitation:

(a) The name and title of the person who will be responsible for:

(1) Maintaining records of pupils; and

(2) Providing records of pupils to the school district in which the charter school is located for inclusion in the automated system of accountability information for Nevada that is established and maintained by the Department pursuant to NRS 386.650.

(b) An example of the manner in which the cumulative record of a pupil is proposed to be stored.

(c) The proposed location within the charter school in which records of pupils will be stored.

(d) The name of the person who will be responsible for the records of pupils if the charter school is dissolved or the written charter of the charter school is not renewed.

(e) The policy of the charter school regarding the retention of the records of pupils.

4. A proposed budget that sets forth the estimated revenues and expenditures of the charter school for the first 2 years of operation, including, without limitation, the cost of insurance required by NAC 386.215. In addition, the proposed budget must be accompanied by a statement of cash flow and a budget for the period before the charter school commences operation.

5. A list of rules setting forth the policies of the charter school regarding truancy and other situations in which a pupil is absent from school.

6. If the committee to form the charter school or the proposed charter school intends to contract or is considering contracting with an educational management organization to provide service to the charter school:

(a) The name of the educational management organization;

(b) A copy of the contract that will be used for the educational management organization, if a particular format is anticipated at the time the application is submitted;

(c) The name of a contact person for the educational management organization;

(d) The telephone number and mailing address of the educational management organization; and

(e) A description of the service to be provided by the educational management organization.

7. If the proposed charter school intends to limit the enrollment of pupils pursuant to NAC 386.353, the maximum number of pupils that the charter school will enroll.

8. If the application was prepared by a person who is not a member of the committee to form the charter school or by another entity, including, without limitation, an educational management organization, or if such a person or entity assisted the committee in preparing the application:

- (a) The name of the person or entity;
- (b) The name and location of any public school, private school or charter school with which the person or entity has been or is presently affiliated, including, without limitation, the street address and mailing address of that school;
- (c) The dates on which the person or entity was affiliated with a school described in paragraph (b), if any such affiliation occurred;
- (d) A statement indicating whether the person or entity is presently affiliated with a school described in paragraph (b) or has ceased the affiliation;
- (e) If the affiliation has ceased, a statement indicating the reason for the cessation; and
- (f) A detailed resume listing the qualifications of the person or entity.

NAC 386.190 Review by Department of application to form charter school for sponsorship by board of trustees of school district or college or university within Nevada System of Higher Education. (NRS 386.520, 386.540) If the Department reviews an application to form a charter school for sponsorship by the board of trustees of a school district or a college or university within the Nevada System of Higher Education to determine whether the application is complete pursuant to subsection 3 of NRS 386.520, the Department will provide written notice to the applicant *and proposed sponsor* of its determination as to whether the application is complete within 30 days after receipt of the application.

NAC 386.195 Review by Department of application to form charter school for sponsorship by State ~~[Board of Education]~~; *Public Charter School Authority* ~~[transmittal of application to Subcommittee on Charter Schools]~~. (NRS 386.520, 386.540)

1. If ~~[an application to form a charter school is submitted to the Department pursuant to NRS 386.520 for sponsorship by the State Board of Education,]~~ *the State Public Charter School Authority asks the Department to review a charter school application for sponsorship by the Authority*, the Department will determine whether the application:

~~[(a) Complies with NRS 386.500 to 386.610, inclusive, and the regulations applicable to charter schools; and]~~

(b) Is *substantially* complete ~~[in accordance with the regulations of the Department]~~.

2. Within 30 days after receipt of the application, the Department will provide written notice to the applicant *and the Authority* of its findings pursuant to subsection 1, including any items that are incomplete ~~[or noncompliant]~~. Written notice informing the applicant that the application is incomplete ~~[or noncompliant]~~ shall be deemed denial of the application for purposes of subsection 3 of NRS 386.520.

3. If the Department *or a proposed sponsor* denies an application, the application may be resubmitted within 30 days after receipt of the written notice of denial for review pursuant to this

section. An application may be resubmitted pursuant to this subsection not more than once in a fiscal year.

4. An application that is approved pursuant to this section 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 may be transmitted to the ~~[Subcommittee on Charter Schools]~~ *Authority* for review pursuant to NRS 386.525 and NAC 386.203.

NAC 386.202 Review of and restrictions on application to form charter school submitted to ~~[Subcommittee on Charter Schools]~~ *State Public Charter School Authority* after previous denials of application; approval or denial of application by State ~~[Board of Education]~~. *Public Charter School Authority* (NRS 386.525, 386.527, 386.540)

1. If the ~~[Subcommittee on Charter Schools]~~ *State Public Charter School Authority* receives an application to form a charter school 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 within the Nevada System of Higher Education:

(a) The staff of the ~~[Department]~~, *Authority* acting on behalf of the ~~[State Board of Education]~~, *Authority* shall verify the contents of the application by:

(1) Performing a physical inspection of the location of the proposed charter school, if applicable;

(2) Consulting with the members of the committee to form the charter school and, when appropriate, the proposed administrators and staff members of the proposed charter school; and

(3) Performing any other investigation necessary or useful in verifying the contents of the application.

(b) The application that is submitted to the State ~~[Board of Education]~~ *Public Charter School Authority* must be the same application that was denied by the board of trustees, the college or the university, as applicable, except that it may be revised in response to concerns stated by the board of trustees, the college or the university, as applicable, in its second denial of the application if such a revision does not significantly alter the application.

~~[2.—Within 20 days after an application 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.~~

~~—3.—Within 30 days after an application is received by the Subcommittee on Charter Schools, the Department will provide to the applicant its findings pursuant to subsection 2, 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.~~

~~—4.— Within 30 days after an application 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 2;~~

~~—(b)— The reasons for the first and second denial of the application by the board of trustees of a school district or a college or university within the Nevada System of Higher Education;~~

~~—(c)— A copy of the proposed written agreement if the State Board approves the application pursuant to subsection 5 of NRS 386.527 or a copy of the proposed written agreement if the State Board approves the application pursuant to subsection 7 of NRS 386.527; and~~

~~—(d)— Any other information the Department determines is necessary for the State Board in its review of the application.~~

~~—5.— Other than material required to convert a written charter issued by the State Board of Education pursuant to subsection 7 of NRS 386.527 to a written charter issued pursuant to subsection 5 of NRS 386.527, no additional application material will be accepted from the applicant after the submission referred to in subsection 1 unless specifically requested by the State Board, the Subcommittee on Charter Schools or the Department to assist in the review 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 in accordance with NAC 386.204 along with any reports generated by the employees of the Department and, if the application was previously denied by:~~

~~—(1)— The board of trustees of a school district, any reports generated by the employees of that school district pursuant to NAC 386.200; or~~

~~—(2)— A college or university within the Nevada System of Higher Education, any reports generated by the employees of that institution; and~~

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

~~—7.— 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.]~~

8. The State ~~{Board of Education}~~ *Public Charter School Authority* shall comply with the provisions of NAC 386.204 or ~~{386.403}~~ *Section 35.7 of SB 212* to determine whether to deny an application for a written charter.

9. A written charter may be granted pursuant to subsection 7 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}~~ *Public Charter School Authority* 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}~~ *Public Charter School Authority* 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}~~ *Public Charter School Authority* and the charter school.

(b) Written notice provided to the Department pursuant to NRS 386.527 indicating approval of the application must include the written charter.

NAC 386.203 Review of and restrictions on application to form charter school for sponsorship by State *Public Charter School Authority* ~~{Board of Education}~~ originally submitted to *the Authority* ~~{Subcommittee on Charter Schools}~~; approval or denial of application by *the Authority* ~~{State Board}~~. (NRS 386.525, 386.527, 386.540)

1. If the ~~{Subcommittee on Charter Schools}~~ *State Public Charter School Authority* receives an application pursuant to NRS 386.525 to form a charter school for sponsorship by the ~~{State Board of Education}~~ *Authority* and the application has not previously been denied by the board of trustees of a school district or a college or university within the Nevada System of Higher Education, the staff of the ~~{Department}~~, *Authority*, acting on behalf of the ~~{State Board}~~, *Authority* shall 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, when 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. Other than material required to convert a written charter issued by the State ~~{Board of Education}~~ *Public Charter School Authority* pursuant to subsection 7 of NRS 386.527 to a written charter issued pursuant to subsection 5 of NRS 386.527, no additional application

material will be accepted from the applicant after the submission of the application unless specifically requested by the State ~~[Board]~~, *Public Charter School Authority* ~~[the Subcommittee on Charter Schools or the Department]~~ to assist in the review of the application.

~~[3.—Within 30 days after an application is received by the Subcommittee on Charter Schools, the Department will provide to the State Board of Education:~~

~~—(a) A copy of the proposed written agreement if the State Board approves the application pursuant to subsection 5 of NRS 386.527 or a copy of the proposed written agreement if the State Board approves the application pursuant to subsection 7 of NRS 386.527; and~~

~~—(b) Any other information the Department determines is necessary for the State Board in its review of the application.]~~

4. 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]~~, *Public Charter School Authority* ~~[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 NRS 386.500 to 386.610, inclusive, and the regulations applicable to charter schools.

~~[5.—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.]~~

6. A written charter may be granted pursuant to subsection 7 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.

7. If the State ~~[Board of Education]~~ *Public Charter School Authority* 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.

8. If the State ~~[Board of Education]~~ *Public Charter School Authority* 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]~~ *Public Charter School Authority* and the charter school.

(b) Written notice provided to the Department pursuant to NRS 386.527 indicating approval of the application must include the written charter.

NAC 386.204 Grounds for denial by State *Public Charter School Authority* ~~[Board of Education]~~ of application to form charter school for sponsorship by *the Authority* ~~[State Board]~~. (NRS 386.525, 386.527, 386.540)

1. If ~~[the State Board of Education]~~ *a proposed sponsor* receives an application to form a charter school ~~[for sponsorship by the State Board, the State Board]~~ *the proposed sponsor* shall not approve the application:

(a) For a written charter pursuant to subsection 5 of NRS 386.527 if the application does not satisfy the requirements of paragraphs (a) and (b) of subsection 1 of NRS 386.525; or

(b) If the financial or administrative operation of the proposed charter school does not meet or exceed the minimum standards, procedures and requirements of the State.

2. If ~~[the State Board of Education]~~ *a proposed sponsor* receives an application to form a charter school ~~[for sponsorship by the State Board, the State Board]~~ *the proposed sponsor* may deny the application pursuant to this section.

3. ~~[The State Board of Education]~~ *A proposed sponsor* may deny an application if the ~~[State Board]~~ *proposed sponsor* determines that the curriculum or instruction proposed for the charter school, including, without limitation, a program of distance education approved pursuant to NRS 388.820 to 388.874, inclusive, is not:

(a) Aligned with the standards of content and performance established pursuant to NRS 389.520;

(b) Aligned with the written description of the mission and goals for the proposed charter school as included in the application pursuant to NRS 386.520; or

(c) Supported by sound evidence, as provided by the applicant, which demonstrates the effectiveness of the curriculum or instruction.

4. ~~[The State Board of Education]~~ *A proposed sponsor* may deny an application if the ~~[State Board]~~ *proposed sponsor* determines that:

(a) Expenditures or flat fees included in the budget of the proposed charter school or in the proposed operating agreement with a contractor or an educational management organization are not consistent with the cost for similar services as those services are otherwise available to a public school;

(b) The budget of the proposed charter school is not balanced or relies unduly on grants or donations;

(c) The budget of the proposed charter school is based on an unrealistic enrollment projection;

(d) The budget of the proposed charter school does not adequately anticipate the requirements for and expenses of pupils with disabilities who may enroll in a program of special education at the proposed charter school; or

(e) The budget of the proposed charter school is not aligned with the written description of the mission and goals for the proposed charter school as included in the application pursuant to NRS 386.520.

5. ~~[The State Board of Education]~~ *A proposed sponsor* may deny an application if the ~~[State Board]~~ *proposed sponsor* determines that a contractor or educational management organization with whom the committee to form the charter school or the governing body of the proposed charter school intends to contract has knowingly violated a material term or condition of a contract with a public school in the past.

6. ~~[The State Board of Education]~~ *A proposed sponsor* may deny an application if the ~~[State Board]~~ *proposed sponsor* determines that a contract or a proposed contract between the proposed charter school and a contractor or an educational management organization contains a provision which is prohibited by ~~[NAC 386.403.]~~ *Section 35.7 of SB 212.*

REVISER'S NOTE.

The regulation of the Department of Education filed with the Secretary of State on September 18, 2008 (LCB File No. R061-08), the source of this section, contains the following provisions not included in NAC:

“1. A charter school that is sponsored by the State Board of Education which is in operation on September 18, 2008, may continue to operate pursuant to its current written charter until the expiration of that written charter even if the charter school does not satisfy the requirements of sections 2 and 3 of this regulation ~~[NAC 386.204 and 386.403].~~

2. An application to form a charter school for sponsorship by the State Board of Education or to renew a written charter that is sponsored by the State Board which is submitted after September 18, 2008, must comply with the provisions of sections 2 and 3 of this regulation ~~[NAC 386.204 and 386.403].”~~

NAC 386.220 Written charter: Inclusion of certain agreements; term. (NRS 386.527, 386.540)

1. In addition to the information required pursuant to NRS 386.527, a written charter must include a description of any other agreements entered into between the sponsor of the charter school and the charter school. The sponsor of a charter school shall amend the written charter, if necessary, to reflect any such agreements entered into after the written charter is issued.

2. The 6-year term for which the written charter of a charter school is valid, unless the initial written charter of the charter school was renewed after 3 years of operation pursuant to subsection 2 of NRS 386.530, begins on the date on which the State ~~[Board of Education]~~,

Public Charter School Authority the board of trustees or a college or university within the Nevada System of Higher Education approves the application to form the charter school pursuant to subsection 1 of NRS 386.527.

NAC 386.230 Failure to become operational charter school; reapplication. (NRS 386.540)

1. If a charter school fails to become an operational charter school by June 30 of the year immediately following the year in which the term of the written charter of the charter school begins, the charter school shall provide to the sponsor of the charter school:

(a) Notice of the failure to become an operational charter school; and

(b) A statement of intent that sets forth whether:

(1) The charter school will become an operational charter school and, if so, on what date;
or

(2) The charter school will not become an operational charter school.

2. If a charter school to which subsection 1 applies states that it intends to become an operational charter school on a future date, the committee to form the charter school must reapply to the ~~{Department and the}~~ **proposed** sponsor in accordance with NRS 386.520 and 386.525 and NAC 386.130 to 386.180, inclusive.

NAC 386.240 Issuance of written charter to applicant not prepared to commence operation on date of issuance; expiration, renewal, and contents of charter; submission of supplemental application before expiration. (NRS 386.527, 386.540)

1. The board of trustees of a school district, a college or university within the Nevada System of Higher Education or the State ~~{Board of Education}~~ **Public Charter School Authority** may issue a written charter pursuant to subsection 7 of NRS 386.527 if the board of trustees, the college or university or the State ~~{Board,}~~ **Public Charter School Authority** as applicable, determines that the applicant is not prepared to commence operation on the date of issuance of the written charter. A written charter issued pursuant to subsection 7 of NRS 386.527 expires on June 30 of the second fiscal year after the date of issuance and may be renewed for not more than 1 fiscal year upon showing of good cause to the sponsor. If a written charter is issued pursuant to subsection 7 of NRS 386.527, a governing body must be selected and the provisions of NRS 386.549 and NAC 386.345 apply to the governing body.

2. A written charter issued pursuant to subsection 7 of NRS 386.527 must include:

(a) A notation indicating the date on which the charter expires and indicating that the charter may be renewed for not more than 1 fiscal year;

(b) Each reason why the charter school is not prepared to commence operation on the date of issuance of the charter;

(c) The conditions that the governing body of the charter school must satisfy to convert the written charter issued pursuant to subsection 7 of NRS 386.527 to a written charter issued pursuant to subsection 5 of NRS 386.527;

(d) The tasks that must be accomplished by the governing body of the charter school before it may submit a supplemental application to convert the written charter issued pursuant to subsection 7 of NRS 386.527 to a written charter issued pursuant to subsection 5 of NRS 386.527, including, without limitation, the timeline by which those tasks must be accomplished; and

(e) A statement by the governing body of the charter school indicating that it understands that:

(1) To receive apportionments from the State Distributive School Account, the charter school must comply with NAC 386.355;

(2) The governing body shall not authorize the attendance of pupils at the charter school unless the charter school has obtained a written charter issued pursuant to subsection 5 of NRS 386.527; and

(3) The governing body must obtain the insurance required by NAC 386.215 before commencing operation as a charter school.

3. Before the expiration of a written charter issued pursuant to subsection 7 of NRS 386.527, the holder of the charter may submit a supplemental application to the sponsor requesting that the sponsor determine whether the charter school is eligible for a written charter issued pursuant to subsection 5 of NRS 386.527. The supplemental application must be submitted not less than 30 days before the expiration of the written charter issued pursuant to subsection 7 of NRS 386.527.

NAC 386.320 Application for renewal of initial charter: Verification of contents; consideration at public meeting. (NRS 386.530, 386.540) If the sponsor of a charter school receives an application pursuant to subsection 2 of NRS 386.530 for renewal of the initial written charter of the charter school, the sponsor shall:

1. Within 30 days after receipt of the application, designate one or more employees of the school district, the college or the university, as applicable, or, if the State ~~Board of Education~~ *Public Charter School Authority* is the sponsor, one or more employees of the ~~Department~~ *Authority* to verify the contents of the application by:

(a) Performing a physical inspection of the location of the charter school; and

(b) Interviewing the members of the governing body of the charter school and, when appropriate, the administrators and staff members of the charter school.

2. Within 90 days after receipt of the application, consider the application along with any reports generated by the employees of the school district, the college or the university or the Department, as applicable, pursuant to subsection 1 at a public meeting for which notice has been provided pursuant to chapter 241 of NRS.

NAC 386.323 Request for change in sponsorship of charter school. (NRS 385.080, 386.527)

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.

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]~~ *Public Charter School Authority* 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 and must include:

(a) A copy of the most recently approved application to form a charter school; and

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

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

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 387.775;

(b) The school is on the list of schools that are designated as demonstrating exemplary achievement, demonstrating high achievement or demonstrating adequate achievement, which is maintained by the Department, on the date on which the request is submitted through the period when the request is considered by the proposed sponsor at a public meeting;

(c) The school's most recent 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. At the time a request for a change in sponsorship is submitted to the proposed sponsor, the governing body of a charter school shall submit a copy of the request to the current sponsor of the charter school.

NAC 386.326 Amendment of written charter: Request to expand instruction to grade levels of pupils other than those for which charter school is currently approved. (NRS 386.527, 386.540)

1. If the governing body of a charter school wishes to amend its written charter pursuant to NRS 386.527 to expand the instruction and other educational services provided by the charter school to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school ~~[and the expansion of grade levels does not change the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate.]~~ the governing body of the charter school must submit to the sponsor of the charter school a written request for such an amendment to the written charter not later than 90 days before the date on which the governing body proposes to operate the expanded grade levels.

2. The written request must include, without limitation:

(a) Each grade level for which the charter school is requesting the amendment and the anticipated enrollment in each grade level for the first year during which the grade level is to be operated.

(b) The proposed curriculum for each grade level for which the charter school is requesting the amendment.

(c) A list of the courses that will be offered at the charter school, including, without limitation:

(1) For each course, the name and a description of the course, including, without limitation, the grade level at which the course will be offered; and

(2) A designation of the courses that a pupil must complete for promotion to each grade level and, if applicable, graduation.

(d) A schedule of classes to be offered which must meet the requirements for prescribed courses and required courses of study as set forth in chapter 389 of NRS and chapter 389 of NAC.

(e) A schedule of examinations of achievement and proficiency that will be administered to pupils at the charter school. The schedule must:

(1) Be aligned with any schedules of examinations of achievement and proficiency which are published by the Department and the school district in which the charter school is located, if available; and

(2) Meet the requirements of chapter 389 of NRS and other applicable federal, state and local laws and regulations.

(f) The qualifications of each person who will provide instruction in each grade level.

(g) A list of textbooks that will be used for the courses described in paragraph (c).

(h) A proposed budget that sets forth the estimated revenues and expenditures of the charter school for the first year in which the charter school enrolls pupils in the expanded grade levels.

3. The sponsor of the charter school shall review the written request submitted pursuant to subsection 1 to determine if the written request:

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

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

4. Within 30 days after receipt of the written request submitted pursuant to subsection 1, the sponsor of the charter school shall provide written notice to the governing body of the charter school of its findings pursuant to subsection 3, including any items that are incomplete or noncompliant. Written notice informing the governing body of a charter school that the written request is incomplete or noncompliant shall be deemed denial of the written request.

5. If the sponsor of the charter school denies a written request submitted pursuant to subsection 1, the governing body of the charter school may correct any deficiencies and resubmit the written request within 30 days after receipt of the written notice of denial for review pursuant to subsection 4.

6. If the sponsor of the charter school finds pursuant to subsection 3 that the written request is compliant and complete, the sponsor may approve the request.

NAC 386.330 Procedure for revocation of written charter. (NRS 386.535, 386.540) If the sponsor of a charter school intends to revoke the written charter of a charter school pursuant to NRS 386.535, the sponsor shall:

1. Notify the governing body of the charter school, pursuant to subsection 2 of NRS 386.535, by certified mail. ~~If the State Board of Education is the sponsor of the charter school, the Department will transmit written notice of the Board's intent to revoke the charter to the governing body of the charter school by certified mail. The written notice must:~~

~~—(a) Be signed by the Superintendent of Public Instruction or a designee thereof; and~~

~~—(b) Comply with subsection 3.]~~

2. If the *State Public Charter School Authority, the* board of trustees of a school district or a college or university within the Nevada System of Higher Education, as applicable, is the sponsor, submit to the Department a copy of the notice described in subsection 1 within 5 days after providing notice to the governing body of the charter school.

3. Ensure that the notices required pursuant to subsections 1 and 2:

(a) Set forth evidence that the sponsor has made a determination pursuant to subsection 1 of NRS 386.535; and

(b) Describe the findings of the sponsor that authorize revocation of the written charter of the charter school pursuant to NRS 386.535.

NAC 386.340 Location of facilities. (NRS 386.540)

1. Except as otherwise provided in subsection 2, a charter school that is sponsored by the board of trustees of a school district may provide instruction only in facilities located within the county in which that school district is located.

2. A charter school that:

(a) Is sponsored by the board of trustees of a school district;

(b) Provides a program of distance education pursuant to NRS 388.820 to 388.874, inclusive; and

(c) Uses facilities other than a pupil's home in which to provide instruction, may provide instruction only in facilities located within the county in which that school district is located.

3. Except as otherwise provided in subsection 4, a charter school that is sponsored by the State Board of Education may provide instruction only in facilities located in one county.

4. A charter school that:

(a) Is sponsored by the State *Public Charter School Authority* ~~[Board of Education]~~;

(b) Provides a program of distance education pursuant to NRS 388.820 to 388.874, inclusive; and

(c) Uses facilities other than the pupil's home in which to provide instruction, may provide instruction only in facilities located in one county.

NAC 386.343 Governing body: Interpretation of "parents" for purpose of membership. (NRS 386.540, 386.549) The Department will interpret "parents," as used in subsection 1 of NRS 386.549, to mean parents and legal guardians of children enrolled in and attending the charter school for which the governing body is formed.

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.

(b) 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 the person 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 an ~~nonprofit~~ organization or business, not 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. In no event may representatives of the same organization or business serving on the governing body constitute a majority of the members of the governing body.

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 5 of NRS 386.549, a photocopy of his or her license to teach; and

(e) An affidavit of each member indicating that the member:

(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 the member by the Department, as required pursuant to NRS 386.549.

5. For the purposes of chapter 281A of NRS, the members of the governing body of a charter school are public officers.

6. 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 or her duties or services in a satisfactory manner.

7. Not later than 30 business days after each public meeting held by the governing body of a charter school pursuant to subsection 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.

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

(a) Submit a written statement, accompanying the minutes that are submitted pursuant to subsection 7, 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.

9. As used in this section, “public officer” has the meaning ascribed to it in NRS 281A.160.

NAC 386.353 Restrictions on limitation of enrollment of pupils; establishment of waiting list and lottery system for enrollment; application to limit enrollment or for waiver to enroll from waiting list. (NRS 386.540, 386.580)

1. The governing body of a charter school shall not limit the enrollment of pupils in the charter school to a specified number of pupils unless:

(a) The written charter of the charter school identifies a limit on the number of pupils the charter school will enroll or identifies a ratio of pupils to teachers for the charter school;

(b) The charter school limits the enrollment of pupils to a number that corresponds with the maximum capacity of persons allowed to occupy the facility of the charter school as determined by the building, fire or health authority which inspected the facility; or

(c) The charter school has obtained written permission from the Superintendent of Public Instruction pursuant to subsection 5 to set a limit on the enrollment of pupils.

2. If more pupils who are eligible for enrollment apply for enrollment in a charter school than the number of spaces available, the governing body of the charter school shall establish a waiting list for enrollment in the charter school and place the pupils who were not enrolled in the charter school on the waiting list. The governing body of the charter school shall make available for inspection *by the Department or the sponsor of the charter school* during the business hours of the charter school a list of the names of pupils on the waiting list.

3. Except as otherwise provided in subsections 5 and 6, if a space for a new pupil becomes available for enrollment, the governing body of the charter school shall fill the available space using the lottery system described in its written charter to determine to which pupil on the waiting list established pursuant to subsection 2 the governing body will offer the available space for enrollment in the charter school. The governing body of the charter school shall provide notice to the pupil selected pursuant to this subsection of the availability of a space for enrollment in the charter school.

4. Except as otherwise provided in subsection 5, a charter school must enroll the pupil notified by the governing body of the charter school pursuant to subsection 3 if that pupil seeks enrollment in the charter school. If the pupil notified by the governing body of the charter school does not wish to enroll in the charter school, the governing body shall, using the lottery system to select another pupil on the waiting list, provide notice of the available space for enrollment to another pupil until the available space is filled.

5. Not later than the first day of the school year, a charter school may submit an application, on a form prescribed by the Superintendent of Public Instruction, to the Superintendent of Public Instruction for:

(a) Written permission to limit the enrollment of pupils in the charter school pursuant to subsection 1; or

(b) A waiver from the requirement to enroll a pupil from the waiting list pursuant to subsection 4.

6. The Superintendent of Public Instruction may approve an application submitted pursuant to subsection 5 if the governing body of the charter school:

(a) Has entered into an agreement with a provider of software for a program of education used in the charter school; and

(b) Submits documentation which demonstrates that the enrollment of additional pupils in the charter school will be an undue financial burden on the charter school.

7. If the Superintendent of Public Instruction denies an application submitted pursuant to subsection 5, the governing body of the charter school may appeal the decision to the State Board.

8. A charter school that limits the enrollment of pupils pursuant to:

(a) Paragraph (a) of subsection 1 must submit a request to the sponsor of the charter school to amend the written charter before enrolling pupils in excess of the approved limit.

(b) Paragraph (b) of subsection 1 must obtain permission from the appropriate building, fire or health authority before enrolling pupils in excess of the maximum capacity allowed to occupy the facility.

NAC 386.365 Reporting of data required for automated system of accountability information for Nevada. (NRS 386.540, 386.650) A charter school shall report the data required pursuant to NRS 386.650 to:

1. The school district in which the charter school is located if the school district is the sponsor of the charter school;

2. The ~~[Department]~~ *State Public Charter School Authority* if the State ~~[Board of Education]~~ *Public Charter School Authority* is the sponsor of the charter school; or

3. The Department if a college or university within the Nevada System of Higher Education is the sponsor of the charter school, not later than the first day of instruction of the first year of operation of the charter school.

~~[NAC 386.403—Contracts with contractors or educational management organizations: Prohibited provisions. (NRS 386.540)—A contract or a proposed contract between a charter school or a proposed charter school and a contractor or an educational management organization must not:~~

~~—1.—Give to the contractor or educational management organization direct control of educational services, financial decisions, the appointment of members of the governing body, or the hiring and dismissal of an administrator or financial officer of the charter school or proposed charter school;~~

~~—2.—Authorize the payment of loans, advances or other monetary charges from the contractor or educational management organization which are greater than 15 percent of the total expected funding received by the charter school or proposed charter school from the State Distributive School Account;~~

~~—3.—Require the charter school or proposed charter school to prepay any fees to the contractor or educational management organization;~~

~~—4.—Require the charter school or proposed charter school to pay the contractor or educational management organization before the payment of other obligations of the charter school or proposed charter school during a period of financial distress;~~

~~—5.—Allow a contractor or educational management organization to cause a delay in the repayment of a loan or other money advanced by the contractor or educational management organization to the charter school or proposed charter school, which delay would increase the cost to the charter school or proposed charter school of repaying the loan or advance;~~

~~—6.—Require the charter school or proposed charter school to enroll a minimum number of pupils for the continuation of the contract between the charter school or proposed charter school and the contractor or educational management organization;~~

~~—7.—Require the charter school or proposed charter school to request or borrow money from this State to pay the contractor or educational management organization if the contractor or educational management organization will provide financial management to the charter school;~~

~~—8.—Contain a provision which restricts the ability of the charter school or proposed charter school to borrow money from a person other than the contractor or educational management organization;~~

~~—9.—Provide for the allocation to the charter school or proposed charter school of any indirect cost incurred by the contractor or educational management organization;~~

~~—10.—Authorize the payment of fees to the contractor or educational management organization which are not attributable to the actual services provided by the contractor or educational management organization;~~

~~—11.—Allow any money received by the charter school or proposed charter school from this State or from the board of trustees of a school district to be transferred to or deposited in a bank, credit union or other financial institution outside this State, including money controlled by the contractor or educational management organization; or~~

~~—12.—Except as otherwise provided in this subsection, provide incentive fees to the contractor or educational management organization. A contract or a proposed contract may provide to the contractor or educational management organization incentive fees that are based on the academic improvement of pupils enrolled in the charter school.~~

~~—(Added to NAC by Dep't of Education by R061-08, eff. 9-18-2008)~~

REVISER'S NOTE.

~~—The regulation of the Department of Education filed with the Secretary of State on September 18, 2008 (LCB File No. R061-08), the source of this section, contains the following provisions not included in NAC:~~

~~—“Sec. 6.—1.—A charter school that is sponsored by the State Board of Education which is in operation on September 18, 2008, may continue to operate pursuant to its current written charter until the expiration of that written charter even if the charter school does not satisfy the requirements of sections 2 and 3 of this regulation [NAC 386.204 and 386.403].~~

~~—2.—An application to form a charter school for sponsorship by the State Board of Education or to renew a written charter that is sponsored by the State Board which is submitted after September 18, 2008, must comply with the provisions of sections 2 and 3 of this regulation [NAC 386.204 and 386.403].~~

~~—Sec. 7.—1.—A charter school that is sponsored by a school district or a college or university within the Nevada System of Higher Education which is in operation on September 18, 2008, may continue to operate pursuant to its current written charter until the expiration of that written charter even if the charter school does not satisfy the requirements of section 3 of this regulation [NAC 386.403].~~

~~—2.—An application to form a charter school for sponsorship by a school district or a college or university within the Nevada System of Higher Education or to renew a written charter that is sponsored by a school district or a college or university which is submitted after September 18, 2008, must comply with the provisions of section 3 of this regulation [NAC 386.403].”~~

NAC 386.405 Contracts with educational management organizations: Initial term; renewal; prohibited provisions; approval of key personnel by governing body; annual performance review by governing body; submission of written report by educational management organization; effect of reference to a particular educational management organization in written charter. (NRS 386.540, 386.590)

1. The governing body of a charter school shall not enter into a contract with an educational management organization for an initial term of more than 2 years. Such a contract:

(a) 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.

(b) Must not be contingent upon any other contract.

(c) Must not require the governing body to enter into any other contract with the educational management organization or to renew a contract with the educational management organization.

2. The provisions of subsection 1 do not preclude a charter school from renewing a contract with the educational management organization after the expiration of a contract if the educational management organization has performed in a satisfactory manner.

3. At the expiration of the initial term of the contract entered into pursuant to subsection 1, the governing body of a charter school may enter into a contract with the same educational management organization for a term not to exceed the remaining term of the written charter of the charter school.

4. 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.

5. If the governing body of a charter school enters into a contract with an educational management organization, the governing body shall, not later than 60 days after the end of the school year, 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. Not later than 120 days after the end of the school year, the governing body shall submit to the sponsor of the charter school and the Department a copy of the review conducted pursuant to this subsection and the plan of corrective action for the educational management organization, if applicable.

6. 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, to the governing body of the charter school and to the Department not later than 15 business days after the end of each fiscal year during which the contract was in effect. The written report must be in a format approved by the Superintendent of Public Instruction and include:

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

(b) 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.

7. 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.

8. Subsection 6, above, applies only to:

(a) An educational management organization that assists with the operation, management or provision and implementation of educational services and programs of the charter school; or

(b) An educational management organization that directly employs and provides “key personnel” as defined by Subsection 4, above, to the charter school.

NAC 386.410 Performance audits: Report of compliance. (NRS 385.080, 386.540, 386.5515) The sponsor of a charter school shall submit to the Department a performance audit that reports the compliance of the charter school with the written charter and with the applicable

statutes and regulations. The report of compliance must be submitted annually unless the charter school is eligible for a waiver from the annual submission pursuant to NRS 386.5515 and NAC 386.412. If the charter school submits the documentation required for a waiver pursuant to NAC 386.412 and the sponsor determines that the charter school is eligible for the waiver, the charter school shall submit to the performance audit every 3 years. If the *State Public Charter School Authority*, board of trustees of a school district or a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the report of compliance must be included in the report that is required pursuant to NRS 386.610. The report of compliance must include:

1. A determination whether the charter school and its governing body comply with the terms and conditions of operation set forth in the written charter.
2. A determination whether the membership of the governing body of the charter school complies with NRS 386.549 and NAC 386.345, including, without limitation, whether:
 - (a) The governing body consists of the ~~[number of teachers]~~ *membership* required by NRS 386.549;
 - (b) A majority of the members of the governing body reside in the county in which the charter school is located; and
 - (c) Each member of the governing body has filed an affidavit with the Department indicating that he or she:
 - (1) Has not been convicted of a felony or 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 or her by the Department, as required pursuant to NRS 386.549.
3. A determination whether the governing body has held at least one regularly scheduled public meeting in the county in which the charter school is located during each calendar quarter and each meeting complied with chapter 241 of NRS.
4. A determination whether the governing body and the charter school comply with the provisions of NRS 332.800.
5. Upon examination of the agenda and minutes of each meeting of the governing body and the reports submitted to the governing body during each meeting, a determination whether the governing body is fulfilling its duty to evaluate the performance of each entity with whom the governing body has entered into a contract, including, without limitation, the performance of an educational management organization.

6. If the charter school is dedicated to providing educational programs and opportunities for pupils who are at risk, a determination whether the educational programs and services provided to those pupils are appropriate and carried out in an effective manner.

7. A determination whether the charter school has complied with generally accepted standards of accounting and fiscal management.

8. A determination whether all money received by the charter school from this State and from the board of trustees of a school district is deposited and maintained in a bank, credit union or other financial institution in this State.

9. A determination whether the charter school has adopted a final budget, as required by NRS 386.550 and NAC 387.725.

10. A determination whether the charter school complies with NRS 386.573 regarding orders for payment of money.

11. A determination whether the charter school administers achievement and proficiency examinations in accordance with chapter 389 of NRS and chapter 389 of NAC.

12. A summary of the manner in which the charter school ensures the health and safety of the pupils enrolled in the charter school, including, without limitation, a determination whether the charter school:

(a) Complies with the requirements for reporting the abuse or neglect of a child;

(b) Complies with Title V of the Rehabilitation Act of 1973, 29 U.S.C. §§ 791 et seq.;

(c) Provides adequate health services;

(d) Maintains records of the immunizations required of pupils in accordance with NRS 392.435;

(e) Complies with NRS 392.450 by providing drills for pupils in the appropriate procedures to be followed in the event of an emergency and by posting escape routes; and

(f) Complies with the requirements for crisis response in public schools in accordance with NRS 392.600 to 392.656, inclusive.

13. A determination whether each facility that the charter school occupies complies with applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation.

14. A determination whether the charter school complies with NRS 386.585, including, without limitation, whether the charter school:

(a) Provides a copy of the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments to each pupil;

(b) Maintains, for public inspection at the charter school, a copy of the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments; and

(c) Complies with the policies and procedures for the suspension and expulsion of pupils.

15. A description of the attendance policy of the charter school and a determination whether the policy is:

(a) Distributed to each pupil in accordance with NAC 386.350; and

(b) Available for public inspection during the school's regular business hours.

16. If pupils with disabilities are enrolled in the charter school, a determination whether the provision of special educational services and programs to those pupils complies with the requirements set forth in chapters 388 and 395 of NRS and NAC 388.150 to 388.450, inclusive.

17. A determination whether the charter school provides instruction in the core academic subjects set forth in subsection 1 of NRS 389.018, as applicable for the grade levels of pupils who are enrolled in the charter school.

18. A determination whether the charter school provides at least the courses of study that are required of pupils by statute or regulation for promotion to the next grade or graduation from a public high school and requires the pupils who are enrolled in the charter school to take those courses of study.

19. A determination whether the charter school complies with NRS 386.590 regarding the employment of teachers and other educational personnel.

20. A determination whether the status of the employees of the charter school and the rights and benefits provided to those employees comply with NRS 386.595.

21. A description of the manner in which the charter school maintains personnel records for its employees.

22. A description of the procedure for the enrollment of pupils in the charter school, including, without limitation, whether the charter school enrolls pupils on the basis of a lottery system if more pupils who are eligible for enrollment apply for enrollment than the number of spaces that are available.

23. If the charter school provides instruction to pupils enrolled in kindergarten, first grade or second grade, a determination whether the charter school complies with NRS 392.040 regarding the ages for enrollment in those grades.

24. A determination whether the charter school refrains from charging tuition or fees, except for those fees that are authorized by specific statute or by the written charter of the charter school.

25. A determination whether the charter school provides written notice to the parents and legal guardians of pupils enrolled in grades 9 to 12, inclusive, whether the charter school is accredited by the Commission on Schools of the Northwest Accreditation Commission.

26. A determination whether the charter school complies with NRS 386.583 regarding the adoption of rules for academic retention.

27. A determination of whether the charter school maintains the type and amount of insurance:

(a) Required by NAC 386.215.

(b) In a manner that complies with paragraph (l) of subsection 1 of NRS 386.550, which may include worker's compensation insurance, or is otherwise prepared to hold harmless, indemnify and defend the sponsor of the charter school as required by that paragraph.

28. A determination whether the written inventory of equipment, supplies and textbooks that is maintained by the charter school pursuant to NAC 386.342 is current and accurate.

NAC 386.412 Eligibility for available money for facilities; waiver of annual performance audits. (NRS 385.080, 386.5515)

1. A charter school "has demonstrated improvement in the achievement of pupils enrolled in the charter school" for the purposes of paragraph (c) of subsection 1 of NRS 386.5515 if the number of pupils enrolled in the charter school who are categorized as emergent or developing pupils is reduced for the most recent testing cycle by not less than 10 percent of the number of pupils who were categorized as emergent or developing pupils in the immediately preceding school year. The reduction of the number of pupils who are categorized as emergent or developing pupils must be measured for all subject areas required to be tested pursuant to state or federal law for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 enrolled in the charter school, regardless of the size of the group.

2. For the purposes of paragraph (e) of subsection 1 of NRS 386.5515:

(a) A pupil has passed the high school proficiency examination if the pupil has passed each subject area of that examination.

~~[(b) The percent of pupils enrolled in the charter school who have passed the high school proficiency examination must be determined based upon the test scores of pupils who were enrolled in grade 12 in the immediately preceding school year and were required to take the high school proficiency examination.]~~

3. A charter school that wishes to submit to a performance audit one time every 3 years rather than every year shall submit to the sponsor of the charter school documentation sufficient to demonstrate that the charter school satisfies the requirements of subsection 1 of NRS 386.5515 and is eligible for a waiver from the annual performance audit. The documentation must be submitted to the sponsor of the charter school not later than November 15 of the first school year in which the charter school is eligible for the waiver. The sponsor of the charter school shall determine whether the charter school satisfies the requirements of subsection 1 of NRS 386.5515 and shall provide written notice to the charter school of its determination on or before December 15 of the year in which documentation is submitted by the charter school pursuant to this subsection.

4. As used in this section, “performance audit” means the report of compliance required pursuant to NAC 386.410.