

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

**LCB File No. R037-12**

Effective September 14, 2012

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

AUTHORITY: §§1 and 2, NRS 385.080, 389.015 and 389.550; §3, NRS 385.080 and 392.033; §4, NRS 385.080, 389.015 and 389.805; §5, NRS 385.080; §6, NRS 385.080 and 389.015; §7, NRS 385.080 and 385.110.

A REGULATION relating to education; revising provisions governing the administration of examinations for the achievement and proficiency of pupils; revising provisions governing the units of credit which a pupil must earn to be promoted to high school and the next higher grade level; revising provisions governing the units of credit a pupil must earn to receive a standard diploma; and providing other matters properly relating thereto.

**Section 1.** NAC 389.061 is hereby amended to read as follows:

389.061 The following criterion-referenced examinations must be used as examinations of achievement and proficiency:

1. For grade 3, the criterion-referenced examinations that must be used are the Nevada Criterion-Referenced Examinations in Mathematics and Reading prescribed by the Department of Education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.

2. For grade 4, the criterion-referenced examinations that must be used are the Nevada Criterion-Referenced Examinations in Mathematics and Reading prescribed by the Department of Education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.

3. For grade 5, the criterion-referenced examinations that must be used are:

(a) The Nevada Fifth Grade Proficiency Examination in Writing prescribed by the Department of Education for each testing period; and

(b) The Nevada Criterion-Referenced Examinations in Mathematics, Reading and Science prescribed by the Department of Education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.

4. For grade 6, the criterion-referenced examinations that must be used are the Nevada Criterion-Referenced Examinations in Mathematics and Reading prescribed by the Department of Education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.

5. For grade 7, the criterion-referenced examinations that must be used are the Nevada Criterion-Referenced Examinations in Mathematics and Reading prescribed by the Department of Education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.

6. For grade 8, the criterion-referenced examinations that must be used are:

(a) The Nevada Eighth Grade Proficiency Examination in Writing prescribed by the Department of Education for each testing period; and

(b) The Nevada Criterion-Referenced Examinations in Mathematics, Reading and Science prescribed by the Department of Education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.

7. For grade 10, the criterion-referenced examinations that must be used are:

- (a) The Nevada High School Proficiency Examination in Reading;
- (b) The Nevada High School Proficiency Examination in Mathematics; and
- (c) ~~Commencing with the graduating class of the 2009-2010 school year, the~~ *The* Nevada High School Proficiency Examination in Science,

↪ prescribed by the Department of Education for each testing period.

8. For grades 11 and above, the criterion-referenced examinations that must be used are:

- (a) The Nevada High School Proficiency Examination in Reading;
- (b) The Nevada High School Proficiency Examination in Mathematics;
- (c) ~~Commencing with the graduating class of the 2009-2010 school year, the~~ *The* Nevada High School Proficiency Examination in Science; and

- (d) The Nevada High School Proficiency Examination in Writing,

↪ prescribed by the Department of Education for each testing period.

**Sec. 2.** NAC 389.083 is hereby amended to read as follows:

389.083 1. A school district shall keep the results of all examinations ~~⌈~~

~~—(a) Administered pursuant to NRS 389.015 to pupils in grades 4, 7 and 10 for 4 years after the date of the administration of the examinations.~~

~~—(b) Administered~~ *administered* pursuant to NRS 389.550 to pupils in grades 3 through 8 for 4 years after the date of the administration of the examinations.

2. The Department of Education shall keep the results of all examinations ~~⌈~~

~~—(a) Administered pursuant to NRS 389.015 to pupils in grades 4, 7 and 10 for 4 years after the date of the administration of the examinations.~~

~~—(b) Administered~~ *administered* pursuant to NRS 389.550 to pupils in grades 3 through 8 for 4 years after the date of the administration of the examinations.

3. The Department of Education shall maintain a list of the name and scores of each pupil who takes the High School Proficiency Examinations for 10 years after the date of the administration of the Examinations. A school district shall maintain a list of the name and scores of each pupil who takes the High School Proficiency Examinations for 10 years after the date of the administration of the Examinations.

**Sec. 3.** NAC 389.445 is hereby amended to read as follows:

389.445 1. ~~Except as otherwise provided in subsection 6, a pupil who enrolls in a junior high or middle school for the 1999-2000 school year must earn at least the following units of credit during the seventh and eighth grades for promotion to high school:~~

~~—(a) One unit of credit in language with a passing grade; and~~

~~—(b) One unit of credit in mathematics with a passing grade.~~

~~2. Except as otherwise provided in subsection 6, a pupil who enrolls in a junior high or middle school after the 1999-2000 school year and who enrolls in the seventh grade before the 2008-2009 school year must earn at least the following units of credit during the seventh and eighth grades for promotion to high school:~~

~~—(a) One and one-half units of credit in language with a passing grade; and~~

~~—(b) One and one-half units of credit in mathematics with a passing grade.~~

~~3.] Except as otherwise provided in subsection [6,] 4, a pupil [who enrolls in the seventh grade for the 2008-2009 school year or after] must earn at least the following units of credit~~

during the seventh and eighth grades for promotion to high school:

(a) One and one-half units of credit in English with a passing grade;

(b) One and one-half units of credit in mathematics with a passing grade;

(c) One unit of credit in science with a passing grade; and

(d) One unit of credit in social studies with a passing grade.

~~[4.]~~ 2. A pupil may apply units of credit toward promotion to high school if the pupil earned the units of credit:

(a) At a public or private junior high or middle school located in this State.

(b) At a public or private junior high or middle school located outside of this State if the school district approves a transfer of the units in accordance with the procedure adopted by the board of trustees of the school district pursuant to subsection 3 of NRS 392.033.

(c) At the Nevada Youth Training Center or the Caliente Youth Center.

(d) During summer school in courses offered by a public or private junior high or middle school. Such units must be earned in courses which are equivalent to the courses offered in the programs of the junior high or middle school in which the pupil is enrolled.

(e) While being homeschooled in this State or homeschooled outside of this State if the school district approves the units in accordance with NRS 392.033.

~~[5.]~~ 3. If a pupil earns units of credit for sectarian religious courses, he or she may not apply those units toward promotion to high school.

~~[6.]~~ 4. A pupil with a disability who is enrolled in a program of special education may be promoted to high school if the pupil meets the requirements for promotion to high school that are prescribed in his or her individualized educational program.

~~[7.]~~ 5. If a pupil transfers to a junior high or middle school from a junior high or middle school in this State or from a school outside of this State, the courses of study and units of credit completed by the pupil before transferring must be evaluated by the school district that the pupil transfers to in accordance with the procedure adopted by the board of trustees of the school district pursuant to subsection 3 of NRS 392.033.

~~[8.]~~ **6.** For purposes of paragraph (a) of subsection 5 of NRS 392.033, the board of trustees of a school district may consider recognition of the programs of homeschool study accredited by ~~[the following]~~ **a** national or regional accrediting ~~[associations]:~~

- ~~—(a) Middle States Association of Colleges and Schools;~~
- ~~—(b) New England Association of Schools and Colleges;~~
- ~~—(c) North Central Association of Colleges and Schools;~~
- ~~—(d) Northwest Association of Accredited Schools;~~
- ~~—(e) Southern Association of Colleges and Schools;~~
- ~~—(f) Western Association of Schools and Colleges;~~
- ~~—(g) Commission on International and Trans-Regional Accreditation; or~~
- ~~—(h) Any other national or regional accrediting]~~ association recognized by the board of trustees of the school district.

**Sec. 4.** NAC 389.655 is hereby amended to read as follows:

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

- (a) The Nevada High School Proficiency Examination in Reading;
- (b) The Nevada High School Proficiency Examination in Mathematics;
- (c) The Nevada High School Proficiency Examination in Writing; and
- (d) ~~[Commencing with the graduating class of the 2009-2010 school year, the]~~ **The** Nevada

High School Proficiency Examination in Science.

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

- (a) Satisfies the requirements of paragraph (b) of subsection 1 of NRS 389.805;

- (b) Satisfies the requirements of NAC 389.657; and
- (c) Has not previously failed to satisfy the requirements of NAC 389.657.

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

- (a) Satisfies the requirements of paragraph (b) of subsection 1 of NRS 389.805;
- (b) Satisfies the requirements of NAC 389.6575; and
- (c) Has not previously failed to satisfy the requirements of NAC 389.6575.

**Sec. 5.** NAC 389.659 is hereby amended to read as follows:

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

(a) Except as otherwise provided in subsection 2, the pupil must:

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

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

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

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

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

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

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

(2) He determines that extenuating circumstances exist; and

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

**Sec. 6.** NAC 389.661 is hereby amended to read as follows:

389.661 1. Except as otherwise provided in subsection 2, a pupil ~~[who enrolls in the 11th grade during or after the 1999-2000 school year and]~~ who has failed any of the high school proficiency examinations two or more times must enroll in remedial study that is provided pursuant to NAC 389.660.

2. The superintendent of a local school district may waive the requirement set forth in subsection 1 if he or she determines that extenuating circumstances exist.

**Sec. 7.** NAC 389.664 is hereby amended to read as follows:

389.664 1. Except as otherwise provided in ~~[subsections]~~ *subsection 2*, ~~[and 3,]~~ to receive a standard diploma evidencing graduation from high school, a pupil must, in addition to having passed the proficiency examination required by NRS 389.015, have earned a minimum of 15 units of credit for required courses and 7 1/2 units of credit for elective courses for a total of at least 22 1/2 units of credit. The units for the required courses must be earned in accordance with the following table:

Required Course	Minimum Number of Units
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Required Course	Minimum Number of Units
American government .....	1
American history .....	1
Arts and humanities, or career and technical education .....	1
English, including reading, composition and writing .....	4
Health education.....	1/2
Mathematics .....	3
Physical education.....	2
Use of computers.....	1/2
Science .....	2
TOTAL:	15

2. ~~Except as otherwise provided in subsection 3, if a pupil enrolled in the ninth grade during or before the 1998-1999 school year, to receive a standard diploma evidencing graduation from high school, the pupil must, in addition to having passed the proficiency examination required by NRS 389.015, have earned a minimum of 1 unit of credit in American government, 1 unit of credit in American history, 1 unit of credit in arts and humanities, 4 units of credit in English, including reading, composition and writing, 1/2 unit of credit in health education, 2 units of credit in mathematics, 2 units of credit in physical education, 1/2 unit of credit in the use of computers and 2 units of credit in science, for a total of at least 14 units of credit for required~~

~~courses. The units of credit required by this subsection are in addition to a minimum of 8 1/2 units of credit for elective courses that the pupil must have earned for a total of at least 22 1/2 units of credit.~~

~~—3.]~~ If a pupil satisfactorily completes a course of study in the use of computers during the sixth, seventh or eighth grade, the pupil is not required to take the course of study in the use of computers and must only earn a minimum of 14 1/2 units of credit for required courses pursuant to subsection 1 . ~~{or 13 1/2 units of credit for required courses pursuant to subsection 2.}~~ The course of study in the use of computers must be for at least one semester or trimester, or the equivalent, and must not be taught as part of another course of study. This subsection authorizes, but does not require, a school district to offer a course in the use of computers as part of the curriculum of a middle school.

**NEVADA DEPARTMENT OF EDUCATION**  
**NEVADA STATE BOARD OF EDUCATION**  
**NEVADA STATE BOARD FOR CAREER AND TECHNICAL EDUCATION**

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED  
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
LCB File No. R037-12**

**Proposed Changes to NAC 389.061 – Specific Norm-Referenced and Criterion-Referenced Examinations Required; NAC 389.083 – Maintenance of Results of Examinations and List of Names and Scores; NAC 389.655 – Passage of Proficiency Examinations; NAC 389.659 – Units Required for Promotion to Next Higher Grade Level; Waiver of Certain Requirements; NAC 389.661 – Enrollment in Remedial Study Required for Failure of Proficiency Examinations Two or More Times; NAC 389.664 – Units Required to Receive Standard Diploma; NAC 389.666 – Units applicable toward graduation; NAC 389.445 Required Units of Credit**

**INFORMATIONAL STATEMENT**

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

1. A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.

Notice of Workshop to Solicit Comments on Proposed Regulations was sent to approximately 200 individuals and educational organizations. A workshop was held on March 23, 2012. There no was public comment

The Notice of Intent to Act Upon a Regulation for public hearing and adoption of the R037-12 was sent to approximately 200 individuals and educational organizations. Public hearings were conducted on June 1, 2012 and August 10, 2012 to provide the opportunity for comments by affected parties and the public. There was public comment.

2. The Number of Persons Who:

a) Attended Each Hearing: First Workshop: 12; First Hearing: 21; Second Hearing: 25

b) Testified at Each Hearing: First Workshop: 0; First Hearing: 2; Second Hearing: 2

c) Submitted Written Statements: First Workshop: 0; First Hearing: 0; Second Hearing: 0

A copy of any written comments may be obtained by contacting Karen Johansen, Administrative Assistant, Nevada Department of Education, 775-687-9225, or by writing to the Nevada Department of Education, 700 East Fifth Street, Carson City, Nevada 89701-5096.

3. A description of how comments were solicited from affected businesses, a summary of the response and an explanation how other interested parties may obtain a copy of the summary.

Comments were solicited through the workshop notice of April 17, 2012 and a public hearing notice of May 2, 2012. At the March 23, 2012 workshop to Solicit Comments there was public comment to the proposed regulation. At the June 1 and August 10, 2012 public hearings there was public comment to the proposed regulations. The Board adopted the proposed regulations at the August 10, 2012 meeting with the exception of no action on NAC 389.666 – Units applicable toward graduation.

Summary of Comments:

Workshop comments:

There were no public comments at the workshop

There were public hearing comments.

Public Hearing comments:

Bryn Lapenta, Washoe County School District expressed concerns with the foreign language requirement for entering college. She learned that the University of California admission office, the University of Oregon and Arizona shared the policy of accepting seventh and eighth grade credits as long as there is a progression by taking additional high school language credit.

Sue Daellenbach, Assistant Superintendent, Clark County School District (CCSD), said there are students in middle school taking Algebra I honors as well as Geometry and it is a concern requiring four more years of math when there are other programs the students want to take. She offered it may be premature to approve this until further discussion can occur.

Nicole Rourke, CCSD, expressed appreciation for addressing their concerns with section 8 of the regulation.

Angie Sullivan, Kindergarten teacher, CCSD, said when kids are behind in kindergarten they do not seem to catch up in the later grades and it is difficult to remediate a student who has been behind for so long. Ms. Sullivan stated Nevada's math proficiency exam is the third hardest in the nation and challenged board members to take the test.

A copy of the summary and/or minutes of the public hearing may be obtained by contacting Karen Johansen, Administrative Assistant, Nevada Department of Education, 775-687-9225, or by writing to the Nevada Department of Education at 700 East Fifth Street, Carson City, Nevada 89701-5096.

4. If the regulation was adopted with or without change to any part of the proposed regulation, a summary of the reasons for adopting.

The Nevada State Board of Education adopted the proposed regulation language at the public hearing held August 10, 2012 with the exception of NAC 389.666. The reason for adopting the regulations are to revise provisions governing the administration of examinations for the achievement and proficiency of pupils; revise provisions governing the units of credit which a pupil must earn to be promoted to high school and the next higher grade level; revise provisions governing the units of credit a pupil must earn to receive a standard diploma, prescribe when a pupil must earn the units of credit toward graduation from high school.

5. The estimated economic effect of the adopted regulation on the business that it is to regulate and on the public. These must be stated separately and each case must include:

There is no economic effect on the public or the business it regulates.

There is no cost to the Department of education to adopt these regulations. There is no federal law affecting the proposed regulations. There is no duplication or overlap of state or local governmental agencies. The proposed regulations do not establish a new fee nor increase an existing fee of the regulating agency.

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.