

**ADOPTED REGULATION OF THE
NEVADA INTERSCHOLASTIC ACTIVITIES ASSOCIATION**

LCB File No. R173-12

Effective February 26, 2014

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

AUTHORITY: §§1-5, NRS 386.430.

A REGULATION relating to interscholastic activities; authorizing any high school in this State to apply for limited membership in the Nevada Interscholastic Activities Association; authorizing the Board of Control of the Association to approve such an application under certain circumstances; requiring the Board to determine the number of games, contests or meets in which such a school may participate in a sanctioned sport; and providing other matters properly relating thereto.

Section 1. Chapter 386 of NAC is hereby amended by adding thereto a new section to read as follows:

- 1. Any high school in this State may apply to the Board for limited membership in the Association. The application must be submitted:*
 - (a) On a form approved by the Association; and*
 - (b) Not later than July 1 of the year in which the school applies for that membership.*
- 2. The Board may approve an application submitted pursuant to subsection 1 if:*
 - (a) The board of trustees or governing board of the school adopts the regulations of the Association as its code governing interscholastic activities;*
 - (b) The applicant pays annual dues in the amount of \$5,000; and*
 - (c) The applicant agrees to comply with the policies and regulations of the Association.*

3. A high school that is granted limited membership in the Association pursuant to this section:

(a) May participate on a restricted schedule in each sanctioned sport determined pursuant to subsection 4;

(b) May not participate in a league, regional or state tournament for a sanctioned sport; and

(c) May not include on its roster for any sanctioned sport a pupil who:

(1) Is a resident of this State;

(2) Has attended a high school for more than 4 years; or

(3) Has received a high school diploma or general equivalency diploma.

4. For each high school that is granted limited membership in the Association pursuant to this section, the Board shall annually determine the number of games, contests or meets in which the school may participate for each season for each sanctioned sport.

Sec. 2. NAC 386.652 is hereby amended to read as follows:

386.652 1. Except as otherwise provided in NAC 386.653 ~~†~~ *and section 1 of this regulation*, any high school in this State may apply to the Board for membership in the Association. The application must be submitted:

(a) On a form approved by the Association; and

(b) Not later than July 1 of the year in which the school applies for membership in the Association.

2. The Board shall approve an application submitted pursuant to subsection 1 if:

(a) The board of trustees or governing board of the school adopts the regulations of the Association as its code governing interscholastic activities;

- (b) The applicant pays the annual dues required pursuant to NAC 386.655; and
- (c) The applicant agrees to comply with the policies and regulations of the Association.

3. A high school that is located in Arizona, California, Idaho, Oregon or Utah may submit an application to the Board for admission as an affiliate school. The application must be submitted:

- (a) On a form approved by the Association; and
- (b) Not later than July 1 of the year in which the school applies for membership in the Association.

4. A high school that submits an application pursuant to subsection 3 may be admitted as an affiliate school if:

(a) The school is recommended for membership in the Association by:

- (1) A member school; and
- (2) The committee appointed by the Executive Director to inspect the facilities of the

school;

(b) The school submits to the Association specific information relating to the athletic programs of the school and any other information that may assist the Association in considering the application;

(c) The school complies with the requirements of the Association for accreditation;

(d) After considering the possible effect the addition of the school will have upon out-of-state school time, costs of transportation, costs of per diem allowances, duration of seasons and factors concerning the level of competition among schools, the school is approved for membership by at least two-thirds of the schools that are assigned to the class and league of which the school will be a member;

- (e) The school pays a nonrefundable fee of \$850 for the application; and
- (f) The Board and the Legislative Commission approve the application.

5. The Executive Director shall, within 30 days after the Board and Legislative Commission approve or deny an application, notify the applicant in writing of the decision of the Board and Legislative Commission.

Sec. 3. NAC 386.653 is hereby amended to read as follows:

386.653 1. ~~Any~~ *Except as otherwise provided in section 1 of this regulation, any* private high school in this State may apply for membership in the Association by submitting a written request to the Executive Director.

2. Except as otherwise provided in subsection 6, upon receipt of a written request submitted pursuant to subsection 1, the Executive Director shall place the school on independent status for 2 years beginning on the date the written request is received. A school that is placed on independent status may, during the period in which the school is on independent status, schedule a game, contest or meet with a member or affiliate school for a season for a sanctioned sport. The school may not, during the period in which it is on independent status, participate in any game, contest or meet for a sanctioned sport that is conducted after the regular season for that sanctioned sport.

3. A school that is placed on independent status shall, if the class into which the school is placed conducts a meeting of the class not later than August 31 of the year after the school is placed on independent status, attend the meeting of the class and submit a request for membership in the Association at that meeting. As soon as practicable after the meeting, the members of the class shall evaluate:

- (a) The facilities of the school; and

(b) The extent to which the school has complied with:

(1) The schedule of the school for participating in games, contests or meets pursuant to this section; and

(2) The regulations of the Association concerning participation by the school in a sanctioned sport.

4. As soon as practicable after conducting an evaluation of a school pursuant to subsection 3, the class shall submit to the Board a recommendation to approve or deny the written request of the school for membership in the Association.

5. If the Board approves a written request for membership in the Association pursuant to subsection 4, the Board shall, in accordance with NAC 386.667, place the school in a class and align it in a league for the school year after the Board approves the request.

6. On and after August 1, 2012:

(a) Each school that submits a written request for membership in the Association pursuant to subsection 1 must have at least one athletic program for boys and at least one athletic program for girls during the fall season, winter season and spring season of each school year.

(b) If the Board receives a written request for membership in the Association pursuant to subsection 1, the Board shall, based upon twice the number of pupils specified in the report of enrollment submitted for the school for the first month of the school year immediately preceding the school year in which the Board considers the written request, place the school in a class and align it in a league pursuant to NAC 386.667.

Sec. 4. NAC 386.655 is hereby amended to read as follows:

386.655 1. ~~HF~~ *Except as otherwise provided in section 1 of this regulation, if* a school enrolls less than 600 pupils during a school year, the annual dues for the membership of the

school in the Association for that school year is \$850. If a school enrolls at least 600 pupils during a school year, the annual dues for the membership of the school in the Association is \$1.50 for each pupil who is enrolled in the school for that school year.

2. Each school shall pay the annual dues specified in subsection 1 not later than August 1 of each year. The Executive Director may require a school to pay a penalty in an amount determined by the Board if the school fails to pay the annual dues for the school later than August 21 of that year.

3. The Board may impose a special assessment against each school. Any special assessment imposed against a school pursuant to this subsection must not exceed 20 percent of the annual dues paid by that school for the year in which the Board imposes the special assessment.

Sec. 5. NAC 386.667 is hereby amended to read as follows:

386.667 1. ~~The~~ *Except as otherwise provided in section 1 of this regulation, the* Board shall, not later than September 1, 2006, and every 4 years thereafter, appoint a committee to place each school in a class and align that school in a league or region. The committee must consist of the members of the Board who are selected by the Board for that purpose and one or more representatives from each classification of schools who are selected by the Board for that purpose. As soon as practicable after the creation of the committee, the committee shall consider the requirements for the classification of each school pursuant to subsection 3 along with any relevant considerations set forth in subsection 4 and submit to the Board a written recommendation for the classification and alignment of each school. The written recommendation must be submitted on or before the date specified by the Board for that purpose.

2. As soon as practicable after receiving the written recommendation, the Board shall conduct a public hearing to consider the written recommendation. The Board shall provide a

notice to each school setting forth the date, time and place of the hearing. The classification and alignment of each school must be determined by a majority vote of the Board. A determination of the Board relating to a written recommendation of the committee is final and binding on each school. The initial classification and alignment of a school approved by the Board pursuant to this section becomes effective on August 1, 2008. A classification and alignment of a school approved after that date and before August 1, 2012, becomes effective on August 1, 2012. Each 4 years thereafter, any classification and alignment made during the 4-year period becomes effective on August 1 at the end of the 4-year period.

3. Except when a different determination is justified based on a consideration set forth in subsection 4, the Board and the committee appointed pursuant to subsection 1 shall, based upon the report of enrollment submitted for the school for the first school month of the school year immediately preceding the school year in which the Board and the committee consider the classification and alignment of a school pursuant to subsection 1, place the school in:

- (a) Class 1A, if not more than 169 pupils are enrolled in the school;
- (b) Class 2A, if not less than 170 but not more than 460 pupils are enrolled in the school;
- (c) Class 3A, if not less than 461 but not more than 1,200 pupils are enrolled in the school; or
- (d) Class 4A, if 1,201 or more pupils are enrolled in the school.

4. In determining the classification and alignment of a school pursuant to this section, the Board and the committee may consider:

- (a) Any geographic factors relating to the school;
- (b) The requirements of the school to travel to an interscholastic activity;
- (c) Any traditional rivalries of the school;

(d) Any financial factors relating to any interscholastic activities conducted at or by the school;

(e) Any competitive factors relating to the school; and

(f) On and after August 1, 2012, whether the school has at least one athletic program for boys and at least one athletic program for girls during the fall season, winter season and spring season of a school year.

5. Except as otherwise provided in this section, the Board shall not revise the classification or alignment of a school more than once every 4 years.

6. If, during the 4 years after a school is classified and aligned pursuant to this section, the enrollment of pupils in the school, based on the report of enrollment for the school for a school year, exceeds the maximum number required for its classification pursuant to subsection 3 or falls below the minimum number of pupils required for that classification based on that report of enrollment, the school shall notify the Association of that fact.

7. If a school notifies the Association pursuant to subsection 6 that the number of pupils in the school exceeds the maximum number of pupils required for its classification pursuant to subsection 3, the Board shall:

(a) As soon as practicable after receiving the notice, notify the school that the Board will make a determination of the classification of the school for the next school year pursuant to paragraph (b).

(b) Based upon the report of enrollment for the school for the next school year, determine whether the number of pupils enrolled in the school exceeds the maximum number of pupils required for its classification. If the Board determines that the number of pupils enrolled in the school exceeds the maximum number required for its classification based on the report of

enrollment, the Board shall designate the school for placement into the next highest classification for the next school year and the school year immediately following that school year. If the Board determines that the number of pupils enrolled in the school does not exceed the maximum number required for its classification based on the report of enrollment, the Board shall allow the school to remain in the classification into which it was placed at the time the school submitted the notice to the Association pursuant to subsection 6.

8. If, during the second school year in which a school is designated for placement into a higher classification pursuant to paragraph (b) of subsection 7, the Board determines that, based on the report of enrollment for the second school year, the number of pupils enrolled in the school:

(a) Continues to exceed the maximum number of pupils required for the classification into which it was placed at the time the school submitted the notice to the Association pursuant to subsection 6, the Board shall place the school into the higher classification in which the school was designated for placement pursuant to paragraph (b) of subsection 7.

(b) Does not continue to exceed the maximum number required for the classification into which it was placed at the time the school submitted the notice to the Association pursuant to subsection 6, the Board shall allow the school to remain in that classification.

9. If a school notifies the Association pursuant to subsection 6 that the number of pupils enrolled in the school is less than the minimum number of pupils required for its classification pursuant to subsection 3, the Board shall:

(a) As soon as practicable after receiving the notice, notify the school that the Board will make a determination of the classification of the school for the next school year pursuant to paragraph (b).

(b) Based upon the report of enrollment for the school for the next school year, determine whether the number of pupils enrolled in the school is less than the minimum number of pupils required for its classification. If the Board determines that the number of pupils enrolled in the school is less than the minimum number of pupils required for its classification based on the report of enrollment, the Board shall designate the school for placement into the next lowest classification for the next school year and the school year immediately following that school year. If the Board determines that the number of pupils enrolled in the school is not less than the minimum number of pupils required for its classification based on the report of enrollment, the Board shall allow the school to remain in the classification in which it was placed at the time the school submitted the notice to the Association pursuant to subsection 6.

10. If, during the second school year that a school is designated for placement into a lower classification pursuant to paragraph (b) of subsection 9, the Board determines that, based on the report of enrollment for the second school year, the number of pupils enrolled in the school:

(a) Continues to be less than the minimum number of pupils required for the classification into which it was placed at the time the school submitted the notice to the Association pursuant to subsection 6, the Board shall place the school into the lower classification for which the school was designated for placement pursuant to paragraph (b) of subsection 9.

(b) Does not continue to be less than the minimum number required for the classification into which it was placed at the time the school submitted the notice to the Association pursuant to subsection 6, the Board shall allow the school to remain in that classification.

11. Within each classification established pursuant to this section, the Board:

(a) Shall align at least two leagues within the classification consisting of at least two schools in each of those leagues; and

(b) May align not less than two regions within the classification consisting of at least two leagues in each of those regions.

12. If a school believes that a pupil or team of the school is unable to participate successfully in a sanctioned sport or that it is in the best interests of the pupil or team to participate in the sanctioned sport in a classification that is higher or lower than the classification of the school or in a league or region that is aligned in a classification other than the classification of the school, the school may submit a written request to the Board to allow the pupil or team, based upon the factors set forth in subsection 4, to participate in a classification, league or region other than the classification, league or region in which the school is placed or aligned pursuant to this section. The Board shall include each written request received pursuant to this subsection on the agenda for the next regularly scheduled meeting of the Board, if the Board receives the written request before that meeting or before any other date specified by the Board for the submission of items for that meeting. Each school that submits a written request pursuant to this subsection has the burden of establishing that, if the written request is approved, the participation of the school in another classification will improve the competitive balance among the schools to which the written request applies. To become effective for a school year, each appeal submitted pursuant to NAC 386.6685 concerning the written request must be heard and a final decision rendered on the appeal at a regularly scheduled meeting of the Board held during September or November of that school year. Any written request that the Board approves pursuant to this subsection:

(a) Is subject to any term or condition specified by the Board for the written request, including, but not limited to, the year or season in which the placement of a school into another classification pursuant to this section will begin; and

(b) Is a final decision and binding on each school to which the written request applies.

13. As used in this section, “report of enrollment” means a report setting forth the enrollment of a school that is submitted by:

(a) The board of trustees of a school district pursuant to NRS 387.303; or

(b) The principal or other person in charge of a private school pursuant to NRS 394.130.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB FILE No. R173-12**

The following statement is submitted for adopted amendments to Nevada Administrative Code (“NAC”) Chapter 386.

1. A clear and concise explanation of the need for the adopted regulation.

This regulation is necessary to address the ever changing nature of high school athletics governed by the Nevada Interscholastic Activities Association (“NIAA”). This regulation provides schools an opportunity to obtain a limited membership in the NIAA which will further the mission of these schools to compete on a national basis while also allowing the NIAA to regulate the activities of such schools.

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

Copies of the proposed regulations, and notices of intent to act upon the regulation were sent by U.S. mail and by email to persons who were known to have an interest in the subject of the governance of high school athletics in the State of Nevada, including all member schools of the NIAA, and to all persons who had specifically requested such notice. These documents were also made available at the website of the NIAA’s office, www.niaa.com, and were mailed to all county libraries in Nevada and posted at the following locations:

Nevada Interscholastic
Activities Association
549 Court Street
Reno, NV 89501

Washoe County School District
425 East Ninth Street
Reno, NA 89520

Clark County School District
2832 E. Flamingo
Las Vegas, NV 89121

These regulations were reviewed by the NIAA Board of Control at regularly scheduled quarterly meetings in 2012 and 2013, which included the opportunity for public comment concerning the proposed amendments. Thereafter, on or about September 16, 2013, the Executive Director issued a Notice of Hearing for the Adoption of Regulations pursuant to NRS 233B.0603, which incorporated in the proposed amendments all discussions held at the above-described Board of Control meetings, as well as comments from LCB staff attorneys. That Notice is attached as Exhibit “1.” On October 7, 2013 this regulation was again reviewed by the NIAA Board of Control at its regularly scheduled meeting of that date with the opportunity for public comment. The Minutes from the October 7 and 8, 2013 meeting are attached as Exhibit “2.”

3. **The number of persons who:**
 - (a) **Attended each hearing:** 32
 - (b) **Testified at each hearing:** 0
 - (c) **Submitted to the agency written comments:** 0

4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information is provided to the agency conducting the hearing:**
 - (a) **Name;**
 - (b) **Telephone number;**
 - (c) **Business address;**
 - (d) **Business telephone number;**
 - (e) **Electronic mail address; and**
 - (f) **Name of entity or organization represented.**

There was no testimony provided by any of the persons in attendance at this meeting and, therefore, no information to provide in response hereto.

5. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

No businesses are affected by these regulations. Comments were solicited from member schools of the NIAA and other persons having an interest in the governance of interscholastic high school activities in the state, as well as members of the public. The summary of those comments is included in response to question No. 1, above.

6. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The regulation was adopted on October 7, 2013, and included all of the changes suggested at prior meetings where the regulations were discussed.

7. **The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**
 - (a) **Both adverse and beneficial effects; and**
 - (b) **Both immediate and long-term effects.**

- (a) Both adverse and beneficial effects:

This regulation will have no economic effect, beneficial or adverse, with respect to any business or the public.
- (b) Both immediate and long-term effects:

See response to No. 5.a., above.

