

**ADOPTED REGULATION OF THE
DEPARTMENT OF EDUCATION**

LCB File No. R031-14

Effective October 24, 2014

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

AUTHORITY: §§1-3, NRS 391.055.

A REGULATION relating to educational personnel; adopting procedures for the notification, tracking and monitoring of the status of criminal cases involving licensed teachers and other licensed educational personnel; and providing other matters properly relating thereto.

Legislative Counsel’s Digest

Existing law requires the board of trustees of each school district and the governing body of each charter school to adopt a policy which requires an employee who is licensed as a teacher or as other educational personnel to report to the school district or charter school if the employee is arrested or convicted of a crime. (NRS 391.056) Existing law requires the Department of Education to adopt regulations establishing procedures for the notification, tracking and monitoring of the status of criminal cases involving licensed teachers and other licensed educational personnel. The procedures must include, without limitation: (1) a method by which the superintendent of schools of a school district or the administrative head of a charter school must notify the Department of certain information concerning the arrest or conviction of an employee who is licensed as a teacher or as other educational personnel; and (2) the steps that the Department must follow in response to the receipt of such notice, including, without limitation, the preparation of a separate file on the licensee for the documentation and monitoring of the status of the case. (NRS 391.055)

Section 2 of this regulation provides that not later than 15 calendar days after receiving notification or obtaining knowledge of the arrest of an employee who is licensed as a teacher or as other educational personnel, the superintendent of schools of the school district or the administrative head of the charter school must submit notification of the arrest to the Department on a form prescribed by the Department. The superintendent of a school district or the administrative head of a charter school is not required to submit notification if a licensed employee is arrested for a minor traffic violation or a misdemeanor not involving a minor. **Section 2** also prescribes the information that must be included on the form submitted to the Department and requires the superintendent of the school district or administrative head of the charter school to update the information under certain circumstances. Upon receipt of a form notifying the Department of the arrest of a licensee, **section 2** requires the Department to: (1)

create, maintain and monitor a file concerning the licensee that is separate from his or her permanent license record; and (2) provide a copy of the notification and supporting documentation to the licensee. Under **section 2**, not later than 15 calendar days after receiving a copy of the notification and supporting documentation, the licensee may submit a written response to the Department.

Section 3 of this regulation provides that the Department will keep confidential any information and documentation maintained by the Department as a result of a notification concerning the arrest of a person licensed as a teacher or as other educational personnel, unless the information or documentation is: (1) a court record that is deemed by law to be a public record; or (2) a document presented to the State Board of Education in connection with the suspension or revocation of the licensee's license.

Section 1. Chapter 391 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *Except as otherwise provided in subsection 6, not later than 15 calendar days after receiving notification or obtaining knowledge of the arrest of a licensed employee pursuant to the policy adopted by the board of trustees of the school district or the governing body of the charter school, as applicable, pursuant to NRS 391.056 the superintendent of schools of the school district or the administrative head of the charter school as applicable, must submit notification of the arrest of the licensed employee to the Department on a form prescribed by the Department.*

2. The form prescribed by the Department for notification pursuant to subsection 1 must require the superintendent of schools of a school district or the administrative head of a charter school, as applicable, to provide:

(a) The act for which the licensed employee was arrested.

(b) The date on which the licensed employee was arrested.

(c) The alleged crime for which the licensed employee was arrested.

(d) If a charge has been filed against the licensed employee, each charge against the licensed employee, the date on which the charging document was filed, the name and address

of the court in which the charging document was filed and the case number assigned by the court.

(e) Whether the alleged crime for which the licensed employee was arrested may be grounds for suspension or revocation of the license of the licensed employee pursuant to NRS 391.330 and, if so, the grounds for the suspension or revocation of the license.

(f) Whether the board of trustees of the school district or the governing body of the charter school recommends the suspension or revocation of the license of the licensed employee.

(g) Whether the victim of the alleged crime for which the licensed employee was arrested was a minor.

(h) Each action, if any, taken against the licensed employee by the school district or charter school after the arrest of the licensed employee.

(i) If the licensed employee is convicted of a crime, the crime for which he or she was convicted.

(j) If a charge against the licensed employee is resolved without a conviction, details of the resolution of the charge.

3. The superintendent of schools of a school district or the administrative head of a charter school, as applicable, must include in the initial form submitted pursuant to subsection 1 any information required by the form that is available to the superintendent or administrative head at the time the form is submitted. The superintendent or administrative head, as applicable:

(a) May update or amend a form submitted pursuant to subsection 1 as necessary.

(b) Not later than 15 calendar days after receiving notification or obtaining knowledge of any information required by subsection 2 that has not been submitted to the Department, shall update the form to include that information.

4. Upon receipt of an initial form pursuant to subsection 1, the Department will create, maintain and monitor a file concerning the licensed employee for whom the notification was received that is separate from the permanent license record of the licensed employee. Upon receipt of an update or amendment of the form pursuant to subsection 3, the Department will update the file maintained pursuant to this subsection.

5. Not later than 15 calendar days after receiving an initial form pursuant to subsection 1 or an update or amendment of the form pursuant to subsection 3, the Department will send by certified mail a copy of the form and any supporting documentation to the licensed employee named on the form. Not later than 15 calendar days after receiving a copy of the form and any supporting documentation pursuant to this subsection, the licensed employee may submit a written response to the information to the Department.

6. The superintendent of schools of a school district or the administrative head of a charter school, as applicable, is not required to submit the form required by subsection 1 if the violation or crime for which a licensed employee is arrested is a minor traffic violation or a misdemeanor that does not involve a minor.

7. As used in this section:

(a) "Arrest" has the meaning ascribed to it in NRS 391.053.

(b) "License" means a license issued pursuant to chapter 391 of NRS.

(c) "Licensed employee" means an employee of a school district or charter school who is licensed pursuant to chapter 391 of NRS.

(d) "Minor" means a person who is under 18 years of age.

Sec. 3. 1. Except as otherwise provided in this section, the Department will keep confidential all information and documents maintained by the Department pursuant to section 2 of this regulation.

2. Except as otherwise provided by law, the Department will not keep confidential any information or documents maintained by the Department pursuant to section 2 of this regulation if the information or documents are:

(a) Court records deemed by law to be public records, including, without limitation, arrest reports, charging documents, plea agreements, judgments of conviction or any documentation of the final resolution of a case.

(b) Documents that are presented to the Board in connection with the suspension or revocation of a license issued pursuant to chapter 391 of NRS.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R031-14

The Department of Education adopted regulations assigned LCB File No. R031-14 which pertain to chapter 391 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS—NRS 233B.066

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

To adopt procedures for the notification, tracking and monitoring of the status of criminal cases involving licensed teachers and other licensed educational personnel.

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

The Notice of Intent to Act Upon a Regulation for public hearing and adoption of Proposed Amendments was filed at the following locations on June 6, 2014: The offices of the Nevada Department of Education in Carson City and Las Vegas, at the 17 Nevada School District Superintendent's Offices, the 17 county main public libraries, the Nevada State Library and Archives, the Department of Education website and the Legislative Council Bureau website.

A summary 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. The number of persons who:

- (a) Attended each hearing: 3**
- (b) Testified at each hearing; 0**
- (c) Submitted written comments: 0**

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the Hearing:

- (a) Name:**
- (b) Business Address;**
- (c) Business telephone number;**
- (d) Electronic mail address;**
- (e) Name of entity or organization represented:**

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

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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 proposed regulations were adopted as submitted; there was no public comment

7. The estimated economic effect of the regulation on the business which it is to regulate and on the public:

(a) Estimated economic effect on the businesses which they are to regulate

None.

(b) Estimated economic effect on the public which they are to regulate

None

8. The estimated cost to the agency for enforcement of the proposed regulation: None

9. A description of any regulations of other State of governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency. None.

10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions. None.

11. Of the regulation provides a new fee or increases an existing fee, the total annual amount of the agency expects to collect and the manner in which the money will be used. None.