

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

LCB File No. R036-14

§§1, 3, 4 and 5 become effective on December 22, 2014
§2 becomes effective on January 1, 2020

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

AUTHORITY: §§1-5, NRS 386.578.

A REGULATION relating to the Account for Charter Schools; transferring responsibility for the administration of the Account from the Department of Education to the State Public Charter School Authority; revising the requirements for an application by a charter school for a loan from the Account; revising provisions governing repayment of a loan from the Account by a charter school; and providing other matters properly relating thereto.

Legislative Counsel’s Digest

Under prior law, the Account for Charter Schools, which exists to provide loans at or below market rate to charter schools for various purposes, was administered by the Department of Education. Senate Bill No. 3 of the 27th Special Session of the Nevada Legislature transferred the responsibility for administering the Account to the State Public Charter School Authority. (NRS 386.576-386.578) **Sections 1-4** of this regulation revise regulations relating to the Account to reflect that the Authority is to administer the Account. **Section 1** also changes the date for submission of an application for a loan from the Account. **Section 1** also newly requires a charter school that is applying for a loan from the Account to include in the application a letter from the sponsor of the charter school, unless the sponsor is the Authority. **Section 4** of this regulation newly provides that the period of repayment for a loan from the Account must not exceed 3 years.

Section 1. NAC 386.435 is hereby amended to read as follows:

386.435 1. An application for a loan from the Account must be submitted by the governing body of a charter school to the ~~Department on or before September 30~~ *State Public Charter School Authority on or after January 1 and on or before March 15* of the calendar year ~~immediately preceding the calendar year~~ in which the loan will be made. The

FIRST
PARALLEL
SECTION

~~{Department}~~ *State Public Charter School Authority* shall not accept an application for a loan from the Account unless the ~~{Department}~~ *State Public Charter School Authority* has determined pursuant to subsection 2 that the balance of money in the Account is \$5,000 or more.

An application must include:

- (a) The name of the charter school.
- (b) The name, address and telephone number of the person whom the ~~{Department}~~ *State Public Charter School Authority* may contact regarding the application.
- (c) The proposal of the charter school to repay the loan, consistent with NAC 386.445.
- (d) A description of:
 - (1) The financial needs of the charter school;
 - (2) The business plan for the charter school;
 - (3) The effect that receipt of the loan will have on the operation of the charter school; *and*
 - (4) The effect, if any, that receipt of the loan will have on the ability of the governing body or the charter school to obtain other financial assistance from public and private sources . ~~†~~
and
~~— (5) The plan, if any, for the use of the money obtained from the loan, including, without limitation, methods to enhance the credit of the charter school.]~~
- (e) A list of the anticipated expenses for which the money obtained from the loan will be used.
- (f) A budget for the charter school for the fiscal year in which the loan is received and for each fiscal year of the proposed period for repayment of the loan. The budget must:
 - (1) Include an identification of all sources of revenue and expenses;
 - (2) Include the cost for repayment of the loan; and

(3) Be accompanied by a written narrative explaining each of the assumptions made in developing the budget.

(g) If the charter school is an operational charter school ~~f, a~~ :

(1) A statement of the financial history of the applicant ~~f~~ ; and

(2) Three credit references for the applicant.

(h) If a member of the governing body has or had an association or affiliation with another charter school in this State or another state, a statement of the financial history of the charter school with which the member has or had such an association or affiliation. The provisions of this paragraph apply regardless of whether the member has terminated the association or affiliation.

(i) ~~Three credit references for the applicant.~~

~~(j)~~ A statement of the monthly cash flow for the operation of the charter school, including, without limitation, an identification of the amount and timing of receipt of revenue relating to the amount and timing of expenditures.

~~(k)~~ (j) A resolution of the governing body authorizing submission of the application.

(k) If the charter school is sponsored pursuant to subsection 5 or 7 of NRS 386.527, a letter of endorsement from the sponsor of the charter school.

(l) Any other information the Director of the State Public Charter School Authority determines is necessary.

2. On or before July 1 of each year, the ~~Department~~ *State Public Charter School Authority* shall determine the balance of money in the Account. If the ~~Department~~ *State Public Charter School Authority* determines that the balance of money in the Account is \$5,000 or more, the ~~Department~~ *State Public Charter School Authority* shall provide notice of that fact

and the availability of loans from the Account to each charter school that has been issued a written charter *or has a charter contract executed* pursuant to NRS 386.527.

Sec. 2. NAC 386.435 is hereby amended as follows:

SECOND
PARALLEL
SECTION

386.435 1. An application for a loan from the Account must be submitted by the governing body of a charter school to the State Public Charter School Authority on or after January 1 and on or before March 15 of the calendar year in which the loan will be made. The State Public Charter School Authority shall not accept an application for a loan from the Account unless the State Public Charter School Authority has determined pursuant to subsection 2 that the balance of money in the Account is \$5,000 or more. An application must include:

- (a) The name of the charter school.
- (b) The name, address and telephone number of the person whom the State Public Charter School Authority may contact regarding the application.
- (c) The proposal of the charter school to repay the loan, consistent with NAC 386.445.
- (d) A description of:
 - (1) The financial needs of the charter school;
 - (2) The business plan for the charter school;
 - (3) The effect that receipt of the loan will have on the operation of the charter school; and
 - (4) The effect, if any, that receipt of the loan will have on the ability of the governing body or the charter school to obtain other financial assistance from public and private sources.
- (e) A list of the anticipated expenses for which the money obtained from the loan will be used.
- (f) A budget for the charter school for the fiscal year in which the loan is received and for each fiscal year of the proposed period for repayment of the loan. The budget must:

(1) Include an identification of all sources of revenue and expenses;

(2) Include the cost for repayment of the loan; and

(3) Be accompanied by a written narrative explaining each of the assumptions made in developing the budget.

(g) If the charter school is an operational charter school:

- (1) A statement of the financial history of the applicant; and
- (2) Three credit references for the applicant.

(h) If a member of the governing body has or had an association or affiliation with another charter school in this State or another state, a statement of the financial history of the charter school with which the member has or had such an association or affiliation. The provisions of this paragraph apply regardless of whether the member has terminated the association or affiliation.

(i) A statement of the monthly cash flow for the operation of the charter school, including, without limitation, an identification of the amount and timing of receipt of revenue relating to the amount and timing of expenditures.

(j) A resolution of the governing body authorizing submission of the application.

(k) If the charter school is sponsored pursuant to subsection 5 or 7 of NRS 386.527, a letter of endorsement from the sponsor of the charter school.

(l) Any other information the Director of the State Public Charter School Authority determines is necessary.

2. On or before July 1 of each year, the State Public Charter School Authority shall determine the balance of money in the Account. If the State Public Charter School Authority determines that the balance of money in the Account is \$5,000 or more, the State Public Charter

School Authority shall provide notice of that fact and the availability of loans from the Account to each charter school that has ~~been issued a written charter or has~~ a charter contract executed pursuant to NRS 386.527.

Sec. 3. NAC 386.440 is hereby amended to read as follows:

386.440 1. To the extent that money is available in the Account, the ~~Department~~ *State Public Charter School Authority* shall grant priority for loans from the Account to those charter schools with approved *loan* applications that will use the money obtained from the loan in preparing to commence the first year of operation.

2. In determining whether to approve an application, the ~~Department~~ *State Public Charter School Authority* shall consider the:

- (a) Reliability of the business plan submitted with the application;
- (b) Ability of the charter school to obtain financial assistance from other sources;
- (c) Information submitted in the application; and
- (d) Effect of approval of the application on the equitable geographic distribution throughout this State of loans from the Account.

Sec. 4. NAC 386.445 is hereby amended to read as follows:

386.445 1. The rate of interest for loans made from the Account is the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the transaction.

2. If a loan is made to a charter school from the Account, the Department shall deduct from the apportionments made to the charter school pursuant to NRS 387.124, an amount of money equal to the annual repayment amount of the loan, including interest. The deductions must be made:

(a) In quarterly amounts corresponding with the quarterly apportionment to the charter school.

(b) In equal amounts during the period of repayment, *which must not exceed 3 years*, agreed upon by the governing body of the charter school and the ~~{Department, not to exceed 3 years.}~~ *State Public Charter School Authority.*

3. If a loan is made to an operational charter school, the deductions must be made commencing in the same fiscal year in which the loan is made. If a loan is made to a charter school that ~~{has a written charter issued}~~ *is not operational but which has a charter contract executed* pursuant to ~~{subsection 7 of}~~ NRS 386.527, the deductions must be made commencing with the first fiscal year immediately succeeding the fiscal year in which the charter school becomes an operational charter school.

4. If a charter school that receives a loan:

(a) Defaults on repayment of the ~~{full amount}~~ *outstanding balance* of the loan; *or*

(b) ~~{Was issued a written charter pursuant to subsection 7 of NRS 386.527 and the charter school fails to obtain a written charter issued pursuant to subsection 5 of NRS 386.527; or~~
~~{(c)}~~ Closes or otherwise ceases operation,

↳ the charter school ~~{shall be solely}~~ *is* liable for repayment of the ~~{full amount}~~ *outstanding balance* of the loan.

5. As used in this section, “fiscal year” means the 12-month period beginning on the first day of July and ending on the last day of June.

Sec. 5. 1. This section and sections 1, 3 and 4 of this regulation become effective upon filing with the Secretary of State.

2. Section 2 of this regulation becomes effective on January 1, 2020.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS—NRS 233B.066
Informational Statement
LCB File No. 036-14

1. A clear and concise explanation of the need for the adopted regulation. To revise the requirements for an application by a charter school for a loan from the Account; authorizing the Authority to use money from the Account to reimburse a charter school for certain expenses; revising provisions governing repayment of a loan from the Account by a charter school and its governing body. Adds criteria to be considered by SPCSA in granting loans. Eliminates joint and several liability provisions. Eliminates provision that loan amounts can only be used to reimburse expenditures.

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 September 30, 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: 42 first hearing on May 29, 2014; 32 at second hearing on November 6, 2014

(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: (Please see attached)

(a) Name:

(b) Telephone number;

(c) Business Address;

(d) Business telephone number;

(e) Electronic mail address;

(f) 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.

The Notice of Intent to Act Upon a Regulation for public hearing and adoption of Proposed Amendments was filed at the following locations on September 30, 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.

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 with proposed revisions from Patrick Gavin, the new director of the State Public Charter School Authority (SPCSA).

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.