

**PROPOSED REGULATION OF THE
STATE BOARD OF EDUCATION**

LCB File No. R038-14

April 14, 2014

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

AUTHORITY: §§1-4, NRS 394.221.

A REGULATION relating to education; revising provisions governing the hiring and employment of an unlicensed person by a private elementary or secondary school; repealing provisions relating to certain memorandums of understanding between the Department of Education and local law enforcement agencies; and providing other matters properly relating thereto.

Section 1. NAC 394.050 is hereby amended to read as follows:

394.050 1. A full-time administrator must:

(a) Hold an administrator's license issued by the Department or by another state or territory of the United States;

(b) Hold a bachelor's degree from an institution accredited by a regional accrediting association that is approved by the United States Department of Education and have 5 years of verified experience in educational administration; or

(c) Hold a master's degree from an institution accredited by a regional accrediting association that is approved by the United States Department of Education and have 3 years of verified experience in educational administration.

2. An instructor must:

(a) Hold a teacher's license issued by the Department or by another state or territory of the United States that is appropriate for the instructor's assignment;

(b) Hold a bachelor's degree from an institution accredited by a regional accrediting association that is approved by the United States Department of Education and have 3 years of verified full-time or supervised experience in teaching the appropriate grade level; or

(c) Hold a master's degree in an area that is appropriate for the instructor's assignment from an institution accredited by a regional accrediting association that is approved by the United States Department of Education and have 1 year of verified full-time or supervised experience in teaching the appropriate grade level.

3. The licensee shall:

(a) On or before October 15 of each year and whenever there is a change in the staff of the private school, submit a report to the Department identifying:

(1) Each employee with a teacher's or administrator's license issued by the Department, the employee's assignment and the identifying number on his or her license; and

(2) Each employee without a teacher's or administrator's license issued by the Department who meets the alternative requirements set forth in subsection 1 or 2, ~~the employee's social security number;~~ a brief description of his or her qualifications set forth in subsection 1 or 2 ~~;~~ ~~if any;~~ and the identifying number on the teacher's or administrator's license issued by another state or territory of the United States, if any.

(b) On or before October 15 of each year and whenever there is a change in the staff of the private school, submit to the parents or guardian of any current or prospective student a written list of:

(1) Each employee without a teacher's or administrator's license issued by the Department who meets the alternative requirements set forth in subsection 1 or 2; and

(2) The qualifications set forth in subsection 1 or 2 of each such employee.

(c) Submit a resume of the previous applicable experience of the full-time administrator or designated liaison and three references, one of which must be local, attesting to the character, reputation and competence of the administrator or liaison.

(d) Prepare and submit descriptions of the jobs of each class of employee, including employees with or without a teacher's or administrator's license. The descriptions must reinforce the philosophy of the private school.

(e) Submit a description of the procedures for evaluating administrators, supervisors, instructors and other educational personnel.

4. On or before November 15 of each year, the Department shall prepare the annual directory of private schools. The Department shall include in the annual directory of private schools the number of the staff who:

(a) Hold a teacher's or administrator's license issued by the Department;

(b) Hold a teacher's or administrator's license issued by another state or territory of the United States;

(c) Hold a bachelor's degree and have the experience described in subsection 1 or 2; and

(d) Hold a master's degree and have the experience described in subsection 1 or 2.

Sec. 2. NAC 394.160 is hereby amended to read as follows:

394.160 1. Each applicant and employee of an applicant without a teacher's license or administrator's license shall , ~~hold local occupational permits~~ before beginning any activity at a private school ~~†~~.

~~Any fees or costs associated with the local occupational permit, including, but not limited to, the cost of investigations by the Federal Bureau of Investigation ., must be paid by the applicant or employee.†~~ , *submit to the Department:*

(a) A complete set of his or her fingerprints and written permission authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(b) The amount of the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories.

2. ~~If the private school is located in a jurisdiction in which a memorandum of understanding:~~

~~—(a) Exists between the Department and the local law enforcement agency, the local occupational permit must be obtained from that local law enforcement agency:~~

~~—(b) Does not exist, the local occupational permit must be obtained from the Department and the Superintendent of Public Instruction, who shall conduct an investigation of the background of the applicant and any employee of the applicant and submit fingerprints to the Federal Bureau of Investigation for its report before any permit is issued.]~~ *The Department may authorize an applicant or employee of an applicant to begin activity at a private school pending receipt of the report of the Federal Bureau of Investigation if the Department determines that the applicant or employee is otherwise qualified.*

3. *If the Department is notified that an applicant or employee of an applicant has been convicted of a felony or any offense involving moral turpitude, the Department shall request the applicant or employee, as applicable, to submit an explanation of the conviction. If an employee of an applicant has been convicted of a felony or any offense involving moral turpitude, the Department shall:*

(a) Notify the applicant of the conviction; and

(b) If the applicant desires to employ or continue to employ the employee regardless of the conviction, direct the applicant to submit to the Department a written request for approval of the employment or continued employment, accompanied by a letter of support for employment or continued employment.

4. If the Department receives a request to employ or continue to employ an employee regardless of a conviction and the conviction occurred within the immediately preceding 10 years, the Board will consider the request at its next regularly scheduled meeting. Except as otherwise provided in NRS 241.030, the Board will consider the request during a closed session of that meeting and will vote upon the request during an open meeting.

5. If the Department receives a request to employ or continue to employ an employee regardless of a conviction and the conviction occurred more than 10 years before the date on which the request is received, the Department shall approve or disapprove the request for employment. If the Department denies the request, the applicant may request a hearing before the Board.

6. The applicant shall:

(a) Submit three local references attesting to the character and reputation of the owner or chair of the board of trustees of the private school.

(b) Notify the Department in writing of the conviction of an officer or member of the staff of the private school of any ~~crime or~~ felony *or any offense* involving moral turpitude . ~~which could affect relationships with pupils.~~

~~—4.†~~ 7. A private school shall not knowingly employ any person who has been convicted of a ~~crime~~ *felony or any offense* involving moral turpitude ~~with a minor~~ unless ~~otherwise permitted by~~ the Board ~~†~~ *or the Department, as applicable, determines that the conviction is*

unrelated to the position within the private school for which the person has applied or for which he or she is currently employed.

8. As used in this section, “employee” means a current or prospective employee.

Sec. 3. NAC 394.225 is hereby amended to read as follows:

394.225 1. ~~{An applicant}~~ *A private school* shall ~~{submit an occupational permit for}~~ *maintain a file for* each employee who ~~{works with pupils if that employee}~~ does not hold a teacher’s license or an administrator’s license. *The file must include, without limitation:*

(a) A report of the employee’s criminal history;

(b) The date on which the employment of the employee was approved by the applicant;

(c) The name of the person who approved the employment; and

(d) Any other information required by the Department.

2. Any fees or costs associated with the ~~{local occupational permit, including, without limitation, the}~~ cost of investigations by the Federal Bureau of Investigation, must be paid by the applicant or employee.

~~{2.}~~ **3.** On or before October 15 of each year and whenever there is a change in the staff of the private school, a private school shall submit a report to the Department identifying the members of the staff who:

(a) Hold a teacher’s or an administrator’s license issued by the Department.

(b) Hold a teacher’s or an administrator’s license issued by another state or territory of the United States.

(c) Hold a bachelor’s degree and have the experience described in subsection 1 or 2 of NAC 394.050.

(d) Hold a master's degree and have the experience described in subsection 1 or 2 of NAC 394.050.

~~3.4.~~ 4. A private school shall notify the Department in writing of the conviction of an officer or member of the staff of the private school of any ~~crime or~~ felony *or any offense* involving moral turpitude. ~~which could affect relationships with pupils.~~

~~4.5.~~ 5. A private school shall not knowingly employ any person who has been convicted of a ~~crime~~ *felony or any offense* involving moral turpitude ~~with a minor~~ unless ~~otherwise permitted by~~ the Board ~~it~~ *determines that the conviction is unrelated to the position within the private school for which the person has applied or for which he or she is currently employed.*

Sec. 4. NAC 394.165 is hereby repealed.

TEXT OF REPEALED SECTION

394.165 Memorandum of understanding between Department and local law enforcement agency. (NRS 385.080, 394.221, 394.241) The Superintendent of Public Instruction may enter into a memorandum of understanding between the Department and a local law enforcement agency specifying the particular procedures and conditions for the issuance of a local occupational permit for employees of a private school, including:

1. The conduct of investigations of the background of the applicant or any employee of the applicant; and
2. The submission of fingerprints to the Federal Bureau of Investigation for its report.