

**ADOPTED REGULATION OF THE
DEPARTMENT OF EDUCATION**

LCB File No. R027-16

Effective September 9, 2016

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

AUTHORITY: §1, section 5 of Assembly Bill No. 165, chapter 22, Statutes of Nevada 2015, at page 87 (NRS 388D.270).

A REGULATION relating to education; revising requirements for a norm-referenced test that a private school is required to administer to each pupil for whom grant money is provided pursuant to the Nevada Educational Choice Scholarship Program; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law establishes the Nevada Educational Choice Scholarship Program. (Sections 2-6 of Assembly Bill No. 165, chapter 22, Statutes of Nevada 2015, at pages 86-88 (NRS 363A.139, 363B.119, 388D.520-388D.280)) Pursuant to the Program, a taxpayer may receive a tax credit against its modified business tax for making a donation to a scholarship organization. (Section 4 of Assembly Bill No. 165, chapter 22, Statutes of Nevada 2015, at page 86 (NRS 363A.139, 363B.119)) The scholarship organization uses such donations to provide grants to allow pupils who are members of certain low-income households to attend a private school, attend a different public school or participate in certain tuition-based programs at a public school chosen by the parents of the pupils. (Section 5 of Assembly Bill No. 165, chapter 22, Statutes of Nevada 2015, at page 87 (NRS 388D.270))

Existing regulations require each registered private school to administer at least one nationally norm-referenced test each year to each pupil for whom grant money is provided and include the results of the test in the record of academic progress of the pupil. Such a test is required to: (1) have high validity, as evidenced by the alignment of the test with nationally recognized content standards as well as specific evidence of content, concurrent or criterion validity; and (2) serve as a measure of pupil achievement in core academic areas for pupils enrolled in kindergarten through grade 12. (Section 11 of LCB File No. R035-15) This regulation instead provides that such a test must: (1) have high content validity; and (2) serve as a measure of pupil achievement in English language arts and mathematics for such pupils. This regulation also defines “content validity” to mean the extent to which a test accurately measures the subject area that it purports to measure.

Section 1. Section 11 of LCB File No. R035-15, which was adopted by the Department of Education and was filed with the Secretary of State on October 27, 2015, is hereby amended to read as follows:

Sec. 11. 1. At least once each school year, each registered private school shall administer at least one nationally norm-referenced test that has been approved by the Department pursuant to subsection 2 to each pupil on behalf of whom a grant is provided pursuant to section 5 of Assembly Bill No. 165, chapter 22, Statutes of Nevada 2015, at page 87. The registered private school must include the results of the test in the record of the academic progress of the pupil that the school is required to maintain pursuant to subsection 5 of section 5 of Assembly Bill No. 165, chapter 22, Statutes of Nevada 2015, at page 87.

2. Except as otherwise provided in subsection 3, the Department will approve a nationally norm-referenced test for administration to pupils on behalf of whom grants are awarded if:

(a) The test has a reliability coefficient of at least 0.8 measuring the internal consistency of the test;

(b) The test has high *content* validity ; ~~as evidenced by the alignment of the test with nationally recognized content standards as well as specific evidence of content, concurrent or criterion validity;~~

(c) Norming studies have been conducted on the test within the immediately preceding 10 years; and

(d) The test serves as a measure of pupil achievement in ~~core academic areas~~ *English language arts and mathematics* for pupils enrolled in kindergarten through grade 12.

3. The Department may approve a test that does not meet the requirements of subsection 2 for administration to pupils on behalf of whom grants are awarded who are enrolled in kindergarten, first grade or second grade.

4. The Department will maintain a list of each test that is approved pursuant to subsections 2 and 3.

5. As used in this section, “content validity” means the extent to which a test accurately measures the subject area that it purports to measure.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS—NRS 233B.066
Informational Statement
LCB File No. R027-16-15

- 1. A clear and concise explanation of the need for the adopted regulation:** To clarify language that was previously adopted in R035-15

The amended language clarifies the meaning of “content” validity” and narrows the topics the test serves to measure from core academic areas to English language arts and mathematics.

A.B. 165 provided that the Department would establish the procedures and content for scholarship application and the law required additional measures for accountability and reporting.

- 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 May 11, 2016: 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: 14**
- (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) 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 May 11, 2016: 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.** Because there was no public testimony that would warrant a change.
- 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.