

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

LCB File No. R032-16

Effective September 9, 2016

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

AUTHORITY: §§1-3, NRS 385.080 and section 24 of Senate Bill No. 508, chapter 536, Statutes of Nevada 2015, at page 3730 (NRS 388.5243).

A REGULATION relating to special education; prescribing the circumstances under which certain extraordinary expenses incurred by a school district or charter school are eligible for reimbursement from the Contingency Account for Special Education Services; establishing requirements for applications for reimbursement, approval of applications and disbursement of money from the Account; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law creates the Contingency Account for Special Education Services. Where the money otherwise available is insufficient, money from the Account may be used to reimburse school districts and charter schools for extraordinary program expenses and related services for pupils with significant disabilities. The State Board of Education is required to adopt regulations governing applications for reimbursement, approval of applications and disbursement of money from the Account. (Section 24 of Senate Bill No. 508, chapter 536, Statutes of Nevada 2015, at page 3730 (NRS 388.5243))

This regulation is proposed pursuant to that requirement. **Section 2** of this regulation defines “pupil with significant disabilities” to mean a pupil with a disability for whom the cost of services exceeds the total funding otherwise available to the school district or charter school for the pupil. **Section 2** also describes the expenses that are eligible for reimbursement. **Section 3** of this regulation prescribes the required contents of an application to the Department of Education for reimbursement. For any application that is approved, **section 3** also requires the Department to identify the expenses for which reimbursement is allowed and to disburse money as those expenses are actually incurred.

Section 1. Chapter 395 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. An expense incurred by a school district or charter school is eligible for reimbursement from the Contingency Account for Special Education Services pursuant to section 24 of Senate Bill No. 508, chapter 536, Statutes of Nevada 2015, at page 3730 (NRS 388.5243), if:

(a) The expense is for special education, related services, supplementary aids and services or transition services provided to a pupil with significant disabilities;

(b) The school district or charter school has determined that the pupil to whom the services are provided is eligible to receive special education and related services pursuant to NRS 388.440 to 388.520, inclusive;

(c) The Superintendent of Public Instruction determines that the total cost of special education, related services, supplementary aids and services and transition services provided to the pupil exceeds the total funding available to the school district or charter school for the pupil;

(d) The services are set forth in an individualized education program developed by the school district or charter school for the pupil in accordance with NRS 388.520; and

(e) The school district or charter school has not received reimbursement for the expense from any other source.

2. As used in this section and section 24 of Senate Bill No. 508, chapter 536, Statutes of Nevada 2015, at page 3730 (NRS 388.5243), “pupil with significant disabilities” means a pupil with a disability:

(a) To whom special education, related services, supplementary aids and services or transition services are provided; and

(b) For whom the Superintendent of Public Instruction determines pursuant to paragraph (c) of subsection 1 that the total cost of services described in paragraph (a) that are provided to the pupil exceeds the total funding available to the school district or charter school for the pupil.

3. As used in this section:

(a) "Pupil with a disability" has the meaning ascribed to it in NAC 388.093.

(b) "Related services" has the meaning ascribed to it in NAC 388.101.

(c) "Special education" has the meaning ascribed to it in NAC 388.115.

(d) "Supplementary aids and services" has the meaning ascribed to it in NAC 388.132.

(e) "Transition services" has the meaning ascribed to it in NAC 388.133.

Sec. 3. 1. A school district or charter school may apply to the Department for reimbursement from the Contingency Account for Special Education Services pursuant to section 24 of Senate Bill No. 508, chapter 536, Statutes of Nevada 2015, at page 3730 (NRS 388.5243), by submitting an application in the form prescribed by the Department.

2. The application must:

(a) Clearly identify the services for which reimbursement is requested; and

(b) Include, without limitation, documentation of all such services and their respective expenses, and any other information required by the Department.

3. The Department shall review and approve or deny a completed application for reimbursement and give notice of its decision to the applicant. The Department may deny an application, wholly or in part, if it determines that the expense for which reimbursement is requested is excessive, unsubstantiated or not eligible for reimbursement pursuant to section 2 of this regulation.

4. If the Department approves an application for reimbursement, the Department shall clearly identify each expense or category of expenses for which reimbursement is approved. For any expense that has not been incurred as of the date the application is approved, the Department shall disburse the reimbursement as the expense is actually incurred.

5. A decision of the Department approving or disapproving an application for reimbursement, including, without limitation, that part of a decision establishing the amount of an approved reimbursement, is not subject to administrative or judicial review.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS—NRS 233B.066
Informational Statement
LCB File No. R032-16

1. **A clear and concise explanation of the need for the adopted regulation:** The contingency account was created as part of S.B. 508 Sec. 24 requiring an amendment to NAC 395.

Proposal to amend NAC 395 by adding a subsection addressing: “A pupil with significant disabilities” defined; “Special Education” defined; “Related Services” defined; “Supplementary aids and services” defined; “Transition services” defined; “Department” defined; “Superintendent” defined; Additionally adding the following sections and subsections regarding access to the special education contingency account: Application requirements and process; reimbursement requirements and allowable expenditures; development of a process for a timely review and approval or disapproval of applications; timeline for reimbursement of funds.

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: 45**
 - (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.

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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.** 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.