

**PROPOSED REGULATION OF THE
NEVADA INTERSCHOLASTIC ACTIVITIES ASSOCIATION**

LCB File No. R130-17

December 7, 2018

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

AUTHORITY: §§1-8, NRS 385B.060.

A REGULATION relating to interscholastic activities; revising provisions governing the membership of a spirit squad that performs cheers or stunts at a school; authorizing a school or school district to impose limits upon such a spirit squad under certain circumstances; revising provisions governing the determination of eligibility of a pupil to participate in a sanctioned sport; revising provisions governing certain evidence used to establish the residency of a pupil within the zone of attendance of a school; revising provisions governing the eligibility of a foreign exchange student or international student to participate in a sanctioned sport; reducing the period during which a hearing officer appointed to conduct an appeal must prepare findings of fact and conclusions of law and submit those findings to certain persons; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the formation of the Nevada Interscholastic Activities Association, composed of all of the school districts of the State, for the purpose of controlling, supervising and regulating all interscholastic athletic events and other interscholastic events in the public schools in this State and requires the Association to adopt regulations governing those events. (NRS 385B.050, 385B.060) Existing law requires those regulations to provide for the membership of charter schools, private schools and parochial schools which may elect to join the Association. (NRS 385B.110) Pursuant to those laws, the Association has adopted regulations which extensively regulate sanctioned sports and other interscholastic activities in this State. (NAC 386.600-386.886)

Existing law requires the Association to adopt regulations setting forth the standards of safety for each event, competition or other activity engaged in by a spirit squad of a school. (NRS 385B.060) Existing regulations set forth the maximum number of members of a varsity, junior varsity and freshman spirit squad that performs cheers or stunts at a school. (NAC 386.7542) **Section 3** of this regulation revises the number of members on each of those spirit squads when performing any cheers or stunts during an indoor athletic contest other than a spirit competition. If any facility is not safe for participation by the maximum number of members of a

spirit squad, **section 3** authorizes a school or school district in which the facility is located to impose a different limit.

Existing regulations: (1) authorize a school to establish a separate spirit squad to perform stunts during the fall season and winter season of a school year; and (2) require the number of members of such a spirit squad to be included in the maximum number of members allowed for the spirit squad. (NAC 386.7543) **Section 4** of this regulation deletes the requirement that the number of members of such a spirit squad be included in the maximum number of members allowed for the spirit squad.

Under existing regulations, to be eligible to participate in a sanctioned sport, a pupil must attend the school that is located in the zone of attendance of the residence of a parent or legal guardian of the pupil as determined by the school district in which the residence is located. A pupil whose parents are divorced or separated is eligible to participate in a sanctioned sport at the school that is located in the zone of attendance of the residence of the parent having primary physical custody of the pupil. A pupil who is enrolled in a school based on an affidavit of residency is not eligible to participate in a sanctioned sport at the school. (NAC 386.782) **Section 5** of this regulation provides that: (1) when a pupil initially enrolls in a school, one residence of the pupil must be identified as the residence of the pupil within the zone of attendance of the school regardless of the number of homes in which the pupil may actually reside; and (2) a pupil who is enrolled in a school based on an affidavit of residency is not eligible to participate in any sanctioned sport at the school for 180 school days beginning on the date the pupil first attends the school. **Section 5** also revises the requirements for determining the eligibility of a pupil to participate in a sanctioned sport if the pupil's parents are divorced or separated and the parents jointly share primary physical custody of the pupil. **Section 1** of this regulation defines the term "residence" for those purposes and for other provisions governing interscholastic activities.

Existing regulations require a pupil or a parent or legal guardian of a pupil to establish his or her residence within the zone of attendance of a school in order for the pupil to participate in a sanctioned sport at the school. The burden of proof is upon the pupil or parent or legal guardian to submit evidence of his or her residence to the school district or Executive Director of the Association. (NAC 386.783) **Section 6** of this regulation revises the evidence which must be submitted to establish residence.

Existing regulations require the Association to allow a foreign exchange student to participate in a sanctioned sport at a school if the foreign exchange student complies with certain requirements, including, without limitation: (1) attending the school on the first day of the school year; (2) enrolling in a foreign exchange program at the school for at least 1 year; and (3) being eligible for not more than 1 year at any school or combination of schools in this State or any other state beginning on his or her initial date of enrollment in a school in the United States. (NAC 386.795) **Section 7** of this regulation instead requires a foreign exchange student to: (1) attend the school on the first day of the semester in which the first day of practice for the sanctioned sport is conducted; (2) enroll in a foreign exchange program at the school that is conducted for at least 1 semester; and (3) be eligible in not more than 1 school year at any school or combination of schools in this State or any other state. **Section 7** also specifies that the eligibility of a foreign exchange student to participate in a sanctioned sport terminates upon his or her completion of the foreign exchange program in which he or she participates.

Existing regulations: (1) authorize a pupil who is adversely affected by a determination of his or her eligibility to participate in a sanctioned sport to appeal that determination to a hearing officer appointed by the Executive Director and the Board; and (2) require the hearing officer to prepare findings of fact and conclusions of law and submit his or her decision to certain persons within 14 days after closing the hearing on the appeal. (NAC 386.855) **Section 8** of this regulation requires the hearing officer to prepare the findings of fact and conclusions of law and submit the findings to those persons within 10 days after closing the hearing.

Section 1. Chapter 386 of NAC is hereby amended by adding thereto a new section to read as follows:

1. "Residence" means any house, room, apartment, tenement or other place where:

(a) A pupil and his or her parent or legal guardian regularly eat, sleep and otherwise reside; and

(b) The pupil and his or her parent or legal guardian intend to return for such purposes on a regular basis.

2. The term does not include any house, room, apartment, tenement or other place which is designated as a residence by a pupil or his or her parent or legal guardian to circumvent or attempt to circumvent the requirements for eligibility of the pupil to participate in a sanctioned sport as prohibited by NAC 386.825.

Sec. 2. NAC 386.600 is hereby amended to read as follows:

386.600 As used in NAC 386.600 to 386.886, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 386.601 to 386.622, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

Sec. 3. NAC 386.7542 is hereby amended to read as follows:

386.7542 1. Each school may establish not more than the following number of spirit squads to perform cheers or stunts:

(a) One varsity spirit squad;

(b) One junior varsity spirit squad; and

(c) One freshman spirit squad.

2. ~~Each~~ *When performing any cheers or stunts during an indoor athletic contest other than a spirit competition, the number of members of the spirit squad at any one time during the cheers or stunts must not exceed:*

(a) *For a* varsity spirit squad, ~~that performs cheers or stunts must not exceed~~ 20 members, not including the mascot for the school ~~each~~ ;

(b) *For a* junior varsity spirit squad, ~~that performs cheers or stunts must not exceed 14~~ 16 members ; and ~~each~~

(c) *For a* freshman spirit squad ~~that performs cheers or stunts must not exceed 12~~ , 14 members. ~~The coach of each such spirit squad may determine the placement of each member on the spirit squad.~~

3. Except as otherwise provided in this section, a school may specify the number of members of a spirit squad that may perform during an event. If a spirit squad performs as a stunt, dance, drill or pom group and the spirit squad is combined with a spirit squad that performs cheers ~~it~~ *during an indoor athletic contest in an activity other than a spirit competition*, the number of members of the combined spirit squad *participating in the cheers or stunts at any time* must not exceed 20 members.

4. *If a facility is not safe for participation by the maximum number of members of a spirit squad set forth in this section, the school or the school district in which the facility is located may impose a different limit. Any limit imposed pursuant to this subsection must apply equally to all schools involved in an event conducted at the facility.*

5. The coach of a spirit squad of a school may, during any play-off game for football in which the school participates or for any performance conducted during the halftime of a football or basketball game in which the school participates, specify the number of members of the spirit squad who may perform during the play-off game or halftime. The coach shall not allow a pupil to engage in activities as a member of the varsity spirit squad, junior varsity spirit squad or freshman spirit squad pursuant to this subsection unless the pupil is a regular member of the spirit squad.

Sec. 4. NAC 386.7543 is hereby amended to read as follows:

386.7543 1. A school may conduct separate tryouts for spirit squads for the fall season and the winter season of a school year. The number of members of a spirit squad formed pursuant to this subsection must not exceed the number of members of the appropriate spirit squad specified in NAC 386.7542.

2. A school may establish a separate spirit squad to perform stunts during a season specified in subsection 1. ~~The number of members of such a spirit squad must be included in the maximum number of members allowed for the spirit squad pursuant to NAC 386.7542.~~

3. The provisions of this section do not authorize a school to extend or limit the duration of seasons for spirit squads established pursuant to NAC 386.7541.

Sec. 5. NAC 386.782 is hereby amended to read as follows:

386.782 1. ~~For~~ *Except as otherwise provided in this section, to* be eligible to participate in a sanctioned sport, a pupil must attend the school that is located in the zone of attendance of the residence of ~~a~~ *the pupil and his or her* parent or legal guardian . ~~of the pupil as determined by the school district in which the residence is located.~~ *When a pupil initially enrolls in a school, one residence of the pupil must be identified as the residence of the pupil within the*

zone of attendance of the school regardless of the number of homes in which the pupil may actually reside and that school is the pupil's school of residence for the purposes of determining eligibility to participate in a sanctioned sport.

2. A pupil enrolled in a school based on an affidavit of residency is not eligible to participate in any sanctioned sport at the school ~~†~~.

~~—2.† for 180 school days beginning on the date on which the pupil first attends the school.~~

3. A pupil whose parents are divorced or separated is eligible to participate in a sanctioned sport at the school that is located within the zone of attendance of the residence of the parent having primary physical custody of the pupil as determined ~~†by an order or decree issued by a court of competent jurisdiction establishing that the parent has been awarded primary physical custody of the pupil.~~

~~3.† pursuant to subsection 1.~~

4. If the primary physical custody of a pupil whose parents are divorced or separated is jointly shared at the separate residences of the parents and if the pupil:

(a) Was enrolled in a member school at the time of the divorce or separation, the pupil remains eligible to participate in a sanctioned sport at that member school.

(b) Was not enrolled in a member school at the time of the divorce or separation, the ~~†member~~ school ~~†that is located within the zone of attendance of the residence of~~ *in which* the pupil ~~†at the time of the divorce or separation~~ *initially enrolls in ninth grade in accordance with subsection 1* is the pupil's ~~†home~~ school *of residence* for the purposes of ~~†NAC 386.600 to 386.886, inclusive.~~

~~4.† eligibility to participate in a sanctioned sport.~~

5. A pupil who begins ninth grade at a private school that serves all pupils who are located within the zone of attendance of the residence of a parent or legal guardian of the pupil is eligible to participate in a sanctioned sport at the private school.

~~15.1~~ 6. For the purposes of NAC 386.600 to 386.886, inclusive, the Association will not recognize a temporary guardianship that is granted without the approval of a court pursuant to NRS 159.205 or 159.215.

~~16.1~~ 7. A pupil is not eligible to participate in a sanctioned sport at a school that is located within the zone of attendance of the legal guardian of the pupil unless the legal guardian has complied with subsection 3 of NAC 386.785.

Sec. 6. NAC 386.783 is hereby amended to read as follows:

386.783 1. The burden of proof rests with a parent or legal guardian of a pupil, or a pupil if he or she is 18 years of age or older and does not live with a parent or legal guardian, to prove to the satisfaction of the school district or the Executive Director, as appropriate, that the pupil has established a residence within the zone of attendance of a school.

2. A pupil who is 18 years of age or older and does not live with a parent or legal guardian must comply with subsection 6 of NAC 386.785 to establish residency.

3. ~~17.1~~ *If a pupil has a new residence, to* establish residency pursuant to this section, ~~18.1~~ *the* pupil or ~~19.1~~ *his or her* parent or legal guardian ~~20.1~~ *of a pupil* must submit to the school district or Executive Director, as appropriate, evidence establishing to the satisfaction of the school district or Executive Director ~~21.1~~ *:*

(a) The right of the pupil ~~22.1~~ *and each* parent or legal guardian *with whom the pupil resided at the former residence* to use the new residence ~~23.1~~ *and other evidence establishing* ~~24.1~~ *abandonment of* *for the purpose of establishing eligibility to participate in a sanctioned sport;*

(b) That the new residence is located within the zone of attendance of the school at which eligibility is sought; and

(c) That the pupil and his or her parent or legal guardian no longer reside at the former residence . ~~[by the pupil, parent or legal guardian.]~~ Evidence submitted pursuant to this paragraph must include, without limitation, information and documentation establishing that:

(1) The former residence has been sold or transferred from the legal ownership or possession of the parent or legal guardian;

(2) The transfer of personal property ordinarily associated with a legitimate change of residence has been completed; and

(3) The former residence is not currently being used by the parent or legal guardian or by any other relative of the pupil or parent or legal guardian under circumstances in which the school district or Executive Director may reasonably infer that the pupil has not changed residences and the request is an attempt to circumvent the requirements for eligibility to participate in a sanctioned sport prohibited pursuant to NAC 386.825.

4. The evidence *required pursuant to subsection 3* may include, without limitation:

(a) A document indicating the sale of the former residence and the issuance of the deed for the new residence to the pupil, parent or legal guardian;

(b) A document indicating the pupil, parent or legal guardian leases the *entire* new residence ~~[]~~ *and the previous occupants of the new residence have vacated the new residence;*

(c) A bill for the payment of utility services, including a bill for telephone, power, sewer or garbage service at the new residence;

(d) A driver's license or certificate of registration of a vehicle that includes the address of the new residence;

(e) A change of address included on a form for the registration of voters;

(f) An order or decree issued by a court of competent jurisdiction declaring that the parent or the legal guardian described in subsection 3 of NAC 386.785 with whom the pupil resides at the new residence has been awarded primary physical custody of the pupil; and

~~(f)~~ (g) Any other evidence indicating that the pupil ~~to~~ and the parent or legal guardian ~~resides~~ reside at the new address.

~~4.~~ 5. If a pupil establishes eligibility to participate in a sanctioned sport pursuant to subsection 3 and, within 1 year after establishing that eligibility, reestablishes a residence in his or her former school district or zone of attendance, the pupil is ineligible to participate in interscholastic activities at the former school for 180 school days unless the pupil has complied with the provisions of NAC 386.786.

Sec. 7. NAC 386.795 is hereby amended to read as follows:

386.795 1. The provisions of this section govern the eligibility of:

- (a) A foreign exchange student; and
- (b) An international student who enrolls in a school and is not a foreign exchange student.

2. The Association will allow a foreign exchange student to participate in a sanctioned sport if the foreign exchange student:

(a) Is sponsored by and placed with a host family in the United States by an international student exchange program that:

(1) Is approved for listing by the Council on Standards for International Educational Travel or its successor organization;

(2) Is recognized by the United States Department of State; and

(3) Assigns students to host families in a manner which ensures that a student, school or other interested party is unable to influence the assignment of the student to a host family for athletic or other purposes or in any other manner which ensures that the student is not chosen or placed because of his or her athletic interests or abilities;

(b) Possesses a J-1 Visa issued by the United States Citizenship and Immigration Services of the Department of Homeland Security;

(c) Attends the school on the first day of the ~~{school year}~~ *semester in which the first day of practice for the sanctioned sport is conducted* and enrolls in a foreign exchange program at the school that is conducted for at least 1 ~~{year;}~~ *semester;*

(d) Is eligible ~~{for}~~ *in* not more than 1 *school* year at any school or combination of schools in this State or any other state ; ~~{beginning on his or her initial date of enrollment in a school in the United States;}~~

(e) Has not completed the 12th grade or its equivalent in the United States or any other country; and

(f) Complies with any other requirements for eligibility of the Association during the period in which he or she is a pupil enrolled in a school.

3. If a foreign exchange student transfers to another school during the school year because of a change in residence by the student and the host family with whom he or she was placed at the time of enrollment in the original school, the transfer does not affect the student's eligibility to participate in a sanctioned sport. If the transfer occurs because the student is placed with another host family, the student is ineligible to participate in a sanctioned sport at the school to which he or she transfers for the remainder of the school year.

4. If a school or coach of a school places or arranges for the placement of a student in violation of any provision of this section, the student is ineligible to participate in a sanctioned sport and the Association may impose a penalty against the school or coach pursuant to NAC 386.600 to 386.886, inclusive.

5. A student from a foreign country who is enrolled in a school because he or she has been issued an F-1 Visa by the United States Citizenship and Immigration Services of the Department of Homeland Security shall be deemed to be a transfer student. If the student is in the 12th grade, the student is ineligible to participate in a sanctioned sport. If the student is in the 9th, 10th or 11th grade, the student:

(a) Must comply with the provisions for eligibility that are applicable to a transfer student; and

(b) May only participate in a sanctioned sport at a level other than varsity in accordance with subsection 4 of NAC 386.703.

6. *The eligibility of a foreign exchange student to participate in a sanctioned sport pursuant to this section terminates upon his or her completion of the period during which he or she participates in the foreign exchange program.*

7. For the purposes of this section, ~~that~~ :

(a) A foreign exchange student shall be deemed to be placed with a host family if:

~~(a)~~ (1) The school that the student attends was not involved in the selection or assignment of the student; and

~~(b)~~ (2) The principal office for the sponsoring organization approves the placement of the student.

(b) A sanctioned sport which is conducted during the fall season of a school year shall be deemed to begin during the first semester of that school year regardless of whether the first day of practice for the sanctioned sport is held before the beginning of that school year.

7. As used in this section, “foreign exchange student” has the meaning ascribed to it in NRS 483.075.

Sec. 8. NAC 386.855 is hereby amended to read as follows:

386.855 1. A pupil who is adversely affected by a determination made pursuant to NAC 386.854 may appeal that determination pursuant to this section.

2. An appeal filed pursuant to this section must be:

(a) Heard by a hearing officer who is appointed by the Executive Director and approved by the Board;

(b) Heard in Reno or Las Vegas unless the Executive Director specifies another location for the appeal; and

(c) Except as otherwise provided in subsection 3, accompanied by a nonrefundable fee of \$500.

3. The Executive Director may waive the fee for filing an appeal specified in subsection 2 if he or she determines that:

(a) The pupil who filed the appeal qualifies for the school lunch program pursuant to 42 U.S.C. §§ 1751, et seq.; or

(b) The payment of the fee will impose a substantial financial hardship on the pupil.

4. Except as otherwise provided in this section, each hearing held pursuant to this section must be:

(a) Conducted in accordance with the provisions of chapter 233B of NRS relating to contested cases;

(b) Except as otherwise provided in subsection 5, closed to the general public; and

(c) Recorded on audiotape.

5. A pupil who is at least 18 years of age and who files an appeal pursuant to this section is entitled to have any hearing conducted concerning the appeal open to the general public.

6. Each party to an appeal may present a closing argument after the submission of evidence at any hearing concerning the appeal that is conducted pursuant to this section.

7. The Association must be represented by legal counsel at any hearing held pursuant to this section.

8. A hearing officer who is appointed to conduct an appeal pursuant to this section shall:

(a) After the submission of the evidence and the presentation of any closing arguments, declare the hearing closed; and

(b) Within ~~14~~ 10 days after closing the hearing, prepare findings of fact and conclusions of law and submit his or her decision to:

(1) The Executive Director;

(2) The legal counsel representing the Association; and

(3) Each party to the appeal.

9. The decision of a hearing officer issued pursuant to this section is final and binding and may not be appealed.

10. The office of the Executive Director shall:

(a) Provide administrative and clerical support for each hearing officer who is appointed pursuant to this section; and

(b) If money is available for that purpose, reimburse the hearing officer for any per diem or travel expenses incurred or fees charged by him or her for conducting the appeal.