

**PROPOSED REGULATION OF THE
DEPARTMENT OF EDUCATION**

LCB File No. R020-18

February 14, 2018

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

AUTHORITY: §§1-3, NRS 388D.270.

A REGULATION relating to education; revising the dates on which certain information relating to the Nevada Educational Choice Scholarship Program must be submitted; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law establishes the Nevada Educational Choice Scholarship Program, whereby nonprofit organizations accept donations and provide grants to pupils from certain low-income families to allow the pupils to attend schools chosen by the parents or guardians of those pupils, which may include private schools. (NRS 388D.270) Existing regulations require each such organization and each school that is registered to participate in the Program to submit to the Department of Education certain information concerning pupils who are receiving scholarships on prescribed dates four times each year. (NAC 385.602, 385.6065) **Sections 1 and 3** of this regulation revise the dates on which this information must be submitted.

Existing regulations require a nonprofit organization that participates in the Program to calculate the household income of a pupil receiving a grant to verify that the pupil meets the income requirements of the Program. (NAC 385.6043) **Section 2** of this regulation clarifies that such calculations must be performed using the income reported on the application filed on behalf of the pupil.

Existing regulations require a nonprofit organization that participates in the Program to prioritize certain pupils for the awarding of grants. (NAC 385.6043) **Section 2** clarifies that a pupil who is entitled to priority must submit a timely application in order to be prioritized.

Section 1. NAC 385.602 is hereby amended to read as follows:

385.602 1. Each scholarship organization that is registered with the Department pursuant to NAC 385.6015 shall:

(a) By not later than ~~{August 15,}~~ October 15, January 15 , ~~{and}~~ March 15 *and June 15* of each year, provide to the Department in a format prescribed by the Department an electronic list of each pupil on behalf of whom the scholarship organization awarded a grant pursuant to ~~{section 5 of Assembly Bill No. 165, chapter 22, Statutes of Nevada 2015, at page 87,}~~ *NRS 388D.270* for the previous quarter. The electronic list must include:

(1) Demographic information for each pupil, including the name, date of birth, grade level, gender and race or ethnicity of the pupil, whether the pupil has a disability, the household income of the pupil calculated pursuant to NAC 385.6043 and the name and address of the parent or guardian of the pupil;

(2) The amount of each grant provided on behalf of a pupil;

(3) The manner in which money from each grant has been used, including, without limitation:

(I) The name of each school that has received money from a grant;

(II) The tuition and fees charged by each such school; and

(III) Any portion of such money that has been used to pay for the transportation to and from the school; and

(4) The number of applications for a grant received by the scholarship organization for which a grant was not awarded and the reason that a grant was not awarded in each case.

(b) Annually submit to the Department the name of the school attended by each pupil on whose behalf a grant is provided during the school year immediately preceding the school year for which the grant is awarded or, if such a pupil was not enrolled in a school, whether the pupil was a homeschooled child, an opt-in child or was not required to attend school pursuant to NRS 392.040 for that school year.

2. The Department will annually:

(a) Compile the information submitted by each scholarship organization pursuant to subsection 1; and

(b) Review the information to determine whether to change the priority for awarding grants prescribed by NAC 385.6043 or to recommend legislation to revise the priority for awarding grants to the Legislature.

Sec. 2. NAC 385.6043 is hereby amended to read as follows:

385.6043 1. The parent or guardian of a pupil who meets the requirements to receive a grant pursuant to ~~section 5 of Assembly Bill No. 165, chapter 22, Statutes of Nevada 2015, at page 87,;~~ **NRS 388D.270** may apply to a scholarship organization registered with the Department pursuant to NAC 385.6015 for such a grant. A scholarship organization may charge each family that applies for a grant on behalf of one or more children of the family an administrative fee of not more than \$25.

2. A scholarship organization shall:

(a) Establish written procedures that the scholarship organization will use to determine whether a pupil meets the requirements to receive a grant pursuant to ~~section 5 of Assembly Bill No. 165, chapter 22, Statutes of Nevada 2015, at page 87,;~~ **NRS 388D.270** and to award grants on behalf of qualified pupils.

(b) Post the procedures established pursuant to paragraph (a) on an Internet website maintained by the scholarship organization and provide a written copy of the procedures with each application form.

(c) Provide an application form to be completed by an applicant for a grant. A scholarship organization may only award a grant on behalf of a pupil for whom a complete application is

submitted but is not required to award a grant to a pupil solely because his or her application is complete.

(d) Verify annually that each pupil on behalf of whom the organization awards a grant is a member of a household that has a household income which is not more than 300 percent of the federally designated level signifying poverty. Such verification must:

(1) Use the most recent federal poverty guidelines published in the Federal Register by the United States Department of Health and Human Services; and

(2) Calculate household income based on the *information reported in the application submitted on behalf of the pupil and in accordance with the* most recent ~~formulas~~ *guidance* established by the Food and Nutrition Service of the United States Department of Agriculture for determining eligibility of pupils for free and reduced-price meals.

3. A scholarship organization shall award grants on behalf of pupils in the following order of priority:

(a) A grant must be awarded for the current school year on behalf of a pupil *for whom a completed application was received on or before the deadline for the submission of such applications by the scholarship organization and* on whose behalf a grant was awarded for the immediately preceding school year before a grant is awarded on behalf of any other pupil.

(b) A grant must be awarded on behalf of *a pupil for whom a completed application was received on or before the deadline for the submission of such applications by the scholarship organization and who is* the sibling of a pupil on whose behalf a grant has been awarded for the current school year before a grant is awarded on behalf of other pupils.

(c) A grant must be awarded on behalf of a pupil who is not described in paragraph (a) or (b) in the order in which the completed application is received. If there are an insufficient number of

grants available to award a grant on behalf of each pupil for whom a complete application was received on the same day:

(1) A grant must be awarded on behalf of a pupil who is a member of a household that has a lower household income before a grant is awarded on behalf of a pupil who is a member of a household that has a higher household income;

(2) If two or more applicants are members of households that have the same household income, a grant must be awarded on behalf of the pupil who is enrolled in a public school that has received a lower rating based on the most recent annual report of the statewide system of accountability for public schools before a grant is awarded on behalf of a pupil who is enrolled in a public school that has received higher ratings; and

(3) If two or more applicants are members of households that have the same household income and attend public schools that received the same rating based on the most recent annual report of the statewide system of accountability for public schools, grants must be awarded on behalf of pupils in this category on a random basis.

Sec. 3. NAC 385.6065 is hereby amended to read as follows:

385.6065 1. By not later than ~~August 15,~~ October 15, January 15 , ~~and~~ March 15 *and June 15* of each year, each school that is registered pursuant to NAC 385.6055 shall submit to the Department electronically a list of each pupil on behalf of whom the school received money from a grant for the previous quarter pursuant to ~~section 5 of Assembly Bill No. 165, chapter 22, Statutes of Nevada 2015, at page 87.~~ *NRS 388D.270*. The electronic list must include, for each grant:

(a) Demographic information for each pupil on behalf of whom grant money is received, including the name, date of birth, grade level, gender and race or ethnicity of the pupil and the name and address of the parent or guardian of the pupil;

(b) The name of each scholarship organization that awarded a grant to the school on behalf of a pupil and the amount of each grant; and

(c) The manner in which money from each grant has been used, including, without limitation, any portion of such money that has been used to pay for:

(1) Tuition and fees charged by the school; and

(2) Transportation to and from the school.

2. The Department will collect the records of academic progress that each school that is registered pursuant to NAC 385.6055 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,~~ **NRS 388D.270** and aggregate the information contained in the records. By not later than December 15 of each even-numbered year, the Department will submit a report containing the aggregated information to the Governor, the State Board and the Director of the Legislative Counsel Bureau. The Department will not report information in a manner that discloses personally identifiable information of a pupil.