

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

LCB File No. R024-18

February 14, 2018

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

AUTHORITY: §1, NRS 385.080, 385.114 and 389.160; §§2-7, NRS 385.080, 394.221 and 394.241.

A REGULATION relating to education; replacing references to the Northwest Accreditation Commission with references to AdvancED; eliminating the requirement that a person licensed to operate a private school must submit certain information; replacing the requirement that certain employees of a private school hold an occupational permit with a requirement that such employees undergo a criminal background check; requiring certain personnel of a private school accredited by AdvancED to undergo a criminal background check before beginning activity at the school; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing regulations require a school district to grant a pupil credit toward graduation from high school or toward completion of an adult high school program for his or her successful completion of a correspondence course accredited by the Northwest Accreditation Commission. (NAC 389.680) Existing regulations also establish different requirements for the licensure of schools that are or are not accredited by the Northwest Accreditation Commission. (NAC 394.030-394.235) In 2012, the Northwest Accreditation Commission merged with AdvancED. **Sections 1, 2 and 5** of this regulation replace references to the Northwest Accreditation Commission with references to AdvancED.

Existing law requires certain private schools to obtain a license from the Superintendent of Public Instruction. (NRS 394.251) Existing regulations require a person who holds a license to operate a private school to submit an annual report to the Department of Education, which must contain the social security number of each unlicensed administrator or instructor at the private school. (NAC 394.050) **Section 3** of this regulation eliminates the requirement that the report contain the social security numbers of such personnel.

Existing regulations require: (1) each applicant for a license to operate a private school that is not accredited by AdvancED and each employee of such an applicant who does not hold a teacher's or administrator's license to hold an occupational permit, which verifies that the applicant or employee has undergone a criminal background check, before beginning any activity at a private school; and (2) each employee of a private school that is accredited by

AdvancED who works with pupils and does not hold a teacher's or administrator's license to hold an occupational permit. (NAC 394.160, 394.225) **Sections 4, 6 and 7** of this regulation replace the requirement to obtain an occupational permit with a requirement to undergo a criminal background check. **Section 6** additionally requires an applicant for a license to operate a private school that is accredited by AdvancED or an employee of such an applicant who does not work with pupils to undergo a background check.

Section 1. NAC 389.680 is hereby amended to read as follows:

389.680 1. A school district may, in accordance with policies developed by the board of trustees of the school district, grant a pupil credit toward graduation from high school or toward completion of an adult high school program for his or her successful completion of a correspondence course if:

(a) The course is provided by a secondary educational institution which is approved by the State Board of Education; and

(b) The course is equivalent to a course offered in a regular program in the school district or a course offered in an adult high school program in the school district, as applicable.

2. A school district shall, in accordance with policies developed by the board of trustees of the school district, grant a pupil credit toward graduation from high school or toward completion of an adult high school program, as applicable, for his or her successful completion of a correspondence course if:

(a) The course is provided and credit was issued by a secondary educational institution which is accredited by:

(1) The Middle States Association of Colleges and Schools;

(2) The New England Association of Schools and Colleges;

(3) The North Central Association of Colleges and Schools;

(4) ~~{The Northwest Accreditation Commission;}~~ *AdvancED or its successor organization, or any affiliate thereof;*

(5) The Southern Association of Colleges and Schools; *or*

(6) The Western Association of Schools and Colleges; ~~for~~ *and*

~~{(7) The Commission on International and Trans-Regional Accreditation; and}~~

(b) The course is equivalent to a course offered in a regular program in the school district or a course offered in an adult high school program in the school district, as applicable.

Sec. 2. NAC 394.025 is hereby amended to read as follows:

394.025 1. An applicant that is not accredited by ~~{the Northwest Accreditation Commission}~~ *AdvancED or its successor organization, or any affiliate thereof*, shall comply with the provisions of NAC 394.020, 394.030 to 394.180, inclusive, and 394.250.

2. An applicant that is accredited by ~~{the Northwest Accreditation Commission}~~ *AdvancED or its successor organization, or any affiliate thereof*, shall comply with the provisions of NAC 394.020 and 394.200 to 394.250, inclusive.

Sec. 3. 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. 4. NAC 394.160 is hereby amended to read as follows:

394.160 1. ~~Each~~ *An* applicant *shall*:

(a) Ensure that the applicant and *each* employee of ~~an~~ *the* applicant ~~without~~ *who does not hold* a teacher's license or administrator's license ~~shall hold local occupational permits~~ *has*

undergone a criminal background check pursuant to 34 U.S.C. § 20962(b)(2) before beginning any activity at a private school ~~§~~; and

(b) Maintain the results of background checks for the applicant and his or her employees on file and provide those results to the Superintendent of Public Instruction upon request.

2. Any fees or costs associated with the ~~local occupational permit,~~ *criminal background check conducted pursuant to subsection 1*, including, but not limited to, the cost of investigations by the Federal Bureau of Investigation, must be paid by the applicant or employee.

~~{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.}~~

3. 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 involving moral turpitude which could affect relationships with pupils.

4. A private school shall not knowingly employ any person who has been convicted of a crime involving moral turpitude with a minor unless otherwise permitted by the Board.

Sec. 5. NAC 394.200 is hereby amended to read as follows:

394.200 An applicant shall submit to the Department, on a form prescribed by the Department:

1. Documentation sufficient to verify the accreditation of the private school by ~~the Northwest Accreditation Commission.~~ *AdvancED or its successor organization, or any affiliate thereof.*
2. A copy of the articles of incorporation for the private school, the bylaws for the private school or other documentation acceptable to the Department which sets forth the purpose of the private school.
3. Documentation which indicates that the facility occupied by the private school has been inspected and meets the requirements of applicable building codes, codes for the prevention of fire and codes pertaining to safety, health and sanitation.
4. Documentation which indicates that an owner or administrator of the private school has communicated with the Division of Industrial Relations of the Department of Business and Industry regarding compliance with the federal Occupational Safety and Health Act of 1970, as amended.
5. If the private school uses motor vehicles for the transportation of pupils, evidence of compliance with NRS 394.190 ~~H~~, *as amended by section 6 of Assembly Bill No. 485, chapter 352, Statutes of Nevada 2017, at page 2183.*
6. Plans, blueprints or line drawings which describe in detail the facilities in which the private school will operate. "As-built" drawings must be submitted for existing facilities.
7. Evidence that a surety bond or certificate of deposit has been filed pursuant to NRS 394.271.

8. If the application is submitted by a nonprofit organization, evidence of an official declaration of tax-exempt status by the Internal Revenue Service.

9. The policies and regulations of the private school concerning the requirements for the enrollment and entrance of pupils, which must be clearly stated in the applicable literature.

10. A statement of assurance that pupils will be admitted to the private school without regard to race.

11. A statement of the policies and regulations of the private school relating to the conduct and behavior of pupils. Procedures for the dismissal of pupils must comply with the requirements of due process of law.

12. Three local references attesting to the character and reputation of the owner or chair of the board of trustees of the private school.

Sec. 6. NAC 394.225 is hereby amended to read as follows:

394.225 1. An applicant shall ~~submit an occupational permit for~~ :

(a) Ensure that the applicant and each employee ~~who works with pupils if that employee~~ of the applicant who does not hold a teacher's license or an administrator's license ~~is~~ has undergone a criminal background check pursuant to 34 U.S.C. § 20962(b)(2) before beginning any activity at the private school; and

(b) Maintain the results of the criminal background check on file and provide those results to the Superintendent of Public Instruction upon request.

2. Any fees or costs associated with the ~~local occupational permit,~~ *criminal background check required by subsection 1*, including, without limitation, the cost of investigations by the Federal Bureau of Investigation, must be paid by the applicant or employee.

~~12.1~~ 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.

~~13.1~~ 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 involving moral turpitude which could affect relationships with pupils.

~~14.1~~ 5. A private school shall not knowingly employ any person who has been convicted of a crime involving moral turpitude with a minor unless otherwise permitted by the Board.

Sec. 7. 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.