

**EMERGENCY REGULATION OF THE
STATE BOARD OF EDUCATION**

LCB FILE NO. E002-18A

**The following document is an emergency regulation submitted
by the agency on 08/23/2018**

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

LCB File No. R016-18

August __, 2018

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

AUTHORITY: §1, NRS 385.080 and 388A.515; §2, NRS 385.080 and 388C.200; §3, NRS 385.075, 385.080 and 391.104.

A REGULATION relating to education; establishing when a volunteer at a public school will be deemed to have regular contact with pupils; deeming certain students enrolled at an institution of higher education not to be volunteers in certain circumstances; exempting a volunteer from undergoing a background check if the volunteer has undergone a background check by another entity in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each volunteer at a charter school, university school for profoundly gifted pupils or other public school who is likely to have unsupervised or regular contact with pupils, before beginning his or her service as a volunteer and at least once every 5 years thereafter, to submit to the governing body of the school a complete set of fingerprints for the purpose of undergoing a criminal background check. (NRS 388A.515, 388C.200, 391.104) This regulation establishes when a volunteer will be deemed to have regular contact with pupils, thereby requiring a criminal background check. This regulation also deems certain students at an institution of higher education who are taking a course that requires them to be present in a classroom not to be volunteers for purposes of the statutes requiring background checks in certain circumstances. This regulation also allows a school to exempt a volunteer from a background check if the volunteer submits sufficient evidence or the entity responsible for conducting the background check otherwise determines that the volunteer has already undergone a background check for the same purpose within the immediately preceding 6 months and has been determined eligible to interact with pupils. In addition, this regulation allows a school to exempt a volunteer from a background check if the volunteer is employed in a position which required a background check and has been approved to have unsupervised meetings with pupils as part of his or her official duties.

Section 1. Chapter 388A of NAC is hereby amended by adding thereto a new section to read as follows:

1. For purposes of NRS 388A.515:

(a) A volunteer at a charter school, including, without limitation, a parent or guardian of a pupil, student teacher, unpaid coach, advisor, tutor or mentor, shall be deemed to have regular contact with pupils if the volunteer interacts with pupils at the same charter school:

(1) At least four times in 1 month; or

(2) At least once each week for 4 or more consecutive weeks.

(b) A student who is enrolled at an institution of higher education shall not be deemed to be a volunteer if the student is:

(1) Taking a course which requires the student to be present in the classroom of the charter school on a limited basis to observe and to be observed in the classroom; and

(2) Under direct supervision of a teacher or his or her professor at all times while in the classroom.

2. The governing body of a charter school is not required to forward fingerprints submitted by a volunteer pursuant to NRS 388A.515 to the Central Repository for Nevada Records of Criminal History if the volunteer submits sufficient evidence to the governing body or the governing body otherwise determines that:

(a) Not more than 6 months before the date on which the volunteer is required by NRS 388A.515 to submit his or her fingerprints, a federal, state or local governmental entity or nonprofit entity conducted an investigation into the criminal background of the volunteer that

included the submission of fingerprints to the Federal Bureau of Investigation for the purpose of interacting with pupils at school as a volunteer; and

(b) The person was determined eligible to interact with pupils as a volunteer after the investigation.

3. In addition to the exception described in subsection 2, the governing body of a charter school is not required to forward fingerprints submitted by a volunteer pursuant to NRS 388A.515 to the Central Repository for Nevada Records of Criminal History if the volunteer submits sufficient evidence or the governing body otherwise determines that:

(a) The volunteer is employed by a federal, state or local governmental entity which conducted an investigation into the criminal background of the volunteer that included the submission of fingerprints to the Federal Bureau of Investigation; and

(b) The employer subsequently determined that the person is eligible to have unrestricted interaction with pupils as part of his or her official duties, which may include an unsupervised meeting with a pupil at a school.

Sec. 2. Chapter 388C of NAC is hereby amended by adding thereto a new section to read as follows:

1. For the purposes of NRS 388C.200:

(a) A volunteer at a university school for profoundly gifted pupils, including, without limitation, a parent or guardian of a pupil, student teacher, unpaid coach, advisor, tutor or mentor, shall be deemed to have regular contact with pupils if the volunteer interacts with pupils at the same university school for profoundly gifted pupils:

(1) At least four times in 1 month; or

(2) At least once each week for 4 or more consecutive weeks.

(b) A student who is enrolled at an institution of higher education shall not be deemed to be a volunteer if the student is:

(1) Taking a course which requires the student to be present in the classroom of the university school for profoundly gifted pupils on a limited basis to observe and to be observed in the classroom; and

(2) Under direct supervision of a teacher or his or her professor at all times while in the classroom.

2. The governing body of a university school for profoundly gifted pupils is not required to forward fingerprints submitted by a volunteer pursuant to NRS 388C.200 to the Central Repository for Nevada Records of Criminal History if the volunteer submits sufficient evidence to the governing body or the governing body otherwise determines that:

(a) Not more than 6 months before the date on which the volunteer is required by NRS 388C.200 to submit his or her fingerprints, a federal, state or local governmental entity or nonprofit entity conducted an investigation into the criminal background of the volunteer that included the submission of fingerprints to the Federal Bureau of Investigation for the purpose of interacting with pupils at school as a volunteer; and

(b) The person was determined eligible to interact with pupils as a volunteer after the investigation.

3. In addition to the exception described in subsection 2, the governing body of a university school for profoundly gifted pupils is not required to forward fingerprints submitted by a volunteer pursuant to NRS 388C.200 to the Central Repository for Nevada Records of

Criminal History if the volunteer submits sufficient evidence or the governing body otherwise determines that:

(a) The volunteer is employed by a federal, state or local governmental entity which conducted an investigation into the criminal background of the volunteer that included the submission of fingerprints to the Federal Bureau of Investigation; and

(b) The employer subsequently determined that the person is eligible to have unrestricted interaction with children as part of his or her official duties, which may include an unsupervised meeting with a pupil at a school.

Sec. 3. Chapter 391 of NAC is hereby amended by adding thereto a new section to read as follows:

1. For purposes of NRS 391.104:

(a) A volunteer at a public school, including, without limitation, a parent or guardian of a pupil, student teacher, unpaid coach, advisor, tutor or mentor, shall be deemed to have regular contact with pupils if the volunteer interacts with pupils at the same public school:

(1) At least four times in 1 month; or

(2) At least once each week for 4 or more consecutive weeks.

(b) A student who is enrolled at an institution of higher education shall not be deemed to be a volunteer if the student is:

(1) Taking a course which requires the student to be present in the classroom of the public school on a limited basis to observe and to be observed in the classroom; and

(2) Under direct supervision of a teacher or his or her professor at all times while in the classroom.

2. The board of trustees of a school district is not required to forward fingerprints submitted by a volunteer pursuant to NRS 391.104 to the Central Repository for Nevada Records of Criminal History if the volunteer submits sufficient evidence to the board of trustees or the board of trustees otherwise determines that:

(a) Not more than 6 months before the date on which the volunteer is required by NRS 391.104 to submit his or her fingerprints, a federal, state or local governmental entity or nonprofit entity conducted an investigation into the criminal background of the volunteer that included the submission of fingerprints to the Federal Bureau of Investigation for the purpose of interacting with pupils at school as a volunteer; and

(b) The person was determined eligible to interact with pupils as a volunteer after the investigation.

3. In addition to the exception described in subsection 2, the board of trustees of a school district is not required to forward fingerprints submitted by a volunteer pursuant to NRS 391.104 to the Central Repository for Nevada Records of Criminal History if the volunteer submits sufficient evidence or the board of trustees otherwise determines that:

(a) The volunteer is employed by a federal, state or local governmental entity which conducted an investigation into the criminal background of the volunteer that included the submission of fingerprints to the Federal Bureau of Investigation; and

(b) The employer subsequently determined that the person is eligible to have unrestricted interaction with pupils as part of his or her official duties, which may include an unsupervised meeting with a pupil at a school.

BRIAN SANDOVAL
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STEVE CANAVERO, Ph.D.
Superintendent of Public Instruction

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**Statement of Emergency Clarifying Requirements for Volunteers in Schools to Comply
With Individual Background Checks**

Public schools across the state are now in session. A key component to our education system is the numerous volunteers that generously give their time and effort in support of students and teachers. The 79th Session of the Nevada Legislature passed Senate Bill 287 that aimed to maintain important protections for students through requiring certain individuals volunteering in our schools to pass a background check. The State Board of Education is permitted to adopt regulations to effectuate the law to establish uniformity in the application of Senate Bill 287 throughout the state. The Department held a public workshop and the proposed regulations are on track for adoption in fall.

The proposed emergency regulation is necessary to provide immediate clarity to our schools and volunteers as they begin the school year, rather than in fall or later when the proposed regulations are adopted by the Legislative Commission. The proposed emergency regulations include three important provisions: a definition of a volunteer for purposes of NRS 388A.515; 388C.200; and 391.104; a definition to determine whether or not a volunteer has regular contact with pupils; and clear exemption from a background check for volunteers that have regular contact with pupils under very specific conditions.

Requested: Endorsed:

Requested:

A handwritten signature in blue ink, appearing to read "Steve Canavero".

Steve Canavero
Superintendent of Public Instruction

Endorsed:

A handwritten signature in blue ink, appearing to read "Brian Sandoval".

Brian Sandoval
Governor

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