

**PROPOSED REGULATION OF THE
DEPARTMENT OF EDUCATION**

LCB FILE NO. R052-201

**The following document is the initial draft regulation proposed
by the agency submitted on 04/28/2020**

Proposed Regulations NRS §387.1225

Suggest placement of a new section after NAC §387.320, but anywhere from §387.296 to §387.550 would work. These provisions are in addition to the statutory requirements. (Could also be placed in NAC Chapter 388.)

1. Pursuant to NRS 387.1225:
 - a. A hospital or other facility which is licensed by the Division of Public and Behavioral Health of the Nevada Department of Health and Human Services that provides residential treatment to children and which operates a private school licensed pursuant to chapter 394 of NRS may request reimbursement from the Nevada Department of Education for the cost of providing educational services to a child; or
 - b. A hospital or other facility licensed in the District of Columbia or any state or territory of the United States that provides residential treatment and which operates an educational program accredited by a national organization and approved by the Nevada Department of Education may request reimbursement from the Nevada Department of Education for the cost of providing educational services to a child.
2. The hospital or other facility authorized to seek reimbursement pursuant to paragraph (a) of subsection 1, must submit an application in the form and manner prescribed by the Nevada Department of Education and shall include:
 - a. Documentation that verifies the child is a patient or resident of the hospital or facility;
 - b. Documentation that verifies the child has attended the private school for more than 7 school days;
 - c. The assurances required in the application, including:
 - i. Compliance with applicable provisions of federal and Nevada state law, including Part B of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto; NRS 388.417 to 388.5241, inclusive, and NAC 388.001 to 388.450, inclusive;
 - ii. Written agreement to collect data and to use mandatory forms in the provision of educational services. The hospital or other facility shall furnish the data and forms in the form and manner prescribed by the Nevada Department of Education;
 - iii. Written agreement to the Nevada Department of Education's auditing of the hospital or other facility. The areas to be audited will be prescribed by the Nevada Department of Education to ensure compliance with NRS 388.1225 and this section and will include compliance with any applicable provisions of federal and Nevada state law;
 - iv. Documentation that the hospital or other facility has complied with the requirements of paragraphs (a) and (b) of subsection 4; and
 - v. Written agreement that the Nevada school district or Nevada charter school in which the child is enrolled is the local educational agency for the child for the purposes of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., NRS 388.417 to 388.5243, inclusive, and any regulations adopted pursuant thereto.

3. A hospital or other facility authorized to seek reimbursement pursuant to paragraph (b) of subsection 1 must submit an application in the form and manner prescribed by the Department and shall include:
 - a. Documentation that verifies that the child is a patient or resident of the hospital or facility;
 - b. Documentation that verifies the child is a resident of the State of Nevada;
 - c. Documentation that verifies the child is admitted to the hospital or facility on an order from a physician because the necessary treatment required for the child is not available in the State of Nevada;
 - d. Documentation that verifies the child has attended the accredited educational program for more than 7 school days;
 - e. Documentation that verifies the child is not homeschooled or enrolled in a private school and was not homeschooled or enrolled in a private school prior to being admitted to the hospital or facility;
 - f. Documentation that verifies the child has been admitted to the medical facility under the order of a physician to receive medically necessary treatment for a medical or mental health condition with which the child has been diagnosed;
 - g. Documentation that the hospital or other facility has complied with the requirements of paragraphs (a) and (b) of subsection 4;
 - h. The assurances required in the application, including:
 - i. Compliance with applicable provisions of federal and Nevada state law, including Part B of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto; NRS 388.417 to 388.5241, inclusive, and NAC 388.001 to 388.450, inclusive;
 - ii. Written agreement to collect data and to use mandatory forms as required by the Nevada Department of Education in the provision of educational services. The hospital or other facility shall furnish the data and forms in the form and manner prescribed by the Nevada Department of Education;
 - iii. Written agreement to the Nevada Department of Education's auditing of the hospital or other facility. The areas to be audited will be prescribed by the Nevada Department of Education to ensure compliance with NRS 388.1225 and this section and will include compliance with any applicable provisions of federal and Nevada state law;
 - iv. Written agreement that the Nevada school district or Nevada charter school in which the child is enrolled is the local educational agency for the child for the purposes of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., NRS 388.417 to 388.5243, inclusive, and any regulations adopted pursuant thereto.
4. A hospital or other facility that wishes to receive reimbursement pursuant to this section shall:
 - a. Notify the Nevada school district or Nevada charter school in which the child is enrolled upon admitting the child to the educational program;

- b. Request the transfer of the education records of the child collected, maintained, or used by the Nevada school district or Nevada charter school in which the child is enrolled to the hospital upon admitting the child to the hospital or residential treatment facility
 - c. Transfer the education records of the child collected, maintained, or used by the hospital or other facility to the Nevada school district or Nevada charter school in which the child is enrolled upon admitting the child to the educational program;
 - d. Notify the Nevada school district or Nevada charter school in which the child is enrolled upon the child's discharge from the hospital or facility and the educational program;
 - e. Transfer the education records of the child collected, maintained, or used by the hospital or other facility to the Nevada school district or Nevada charter school in which the child is enrolled upon the child's discharge from the hospital or facility and educational program;
 - f. When the child is ready for reentry into a Nevada school district or Nevada charter school, meet with the Nevada school district or Nevada charter school to develop a plan of reentry for the child upon the child's discharge from the hospital or other facility and the educational program; and
 - g. Maintain daily attendance records documenting the child's attendance and receipt of educational services as prescribed by Nevada Department of Education and submit the child's attendance records upon the request of the Nevada Department of Education.
5. Notwithstanding NAC §§387.117, 387.200 and 387.215:
 - a. If a hospital or other facility requests reimbursement from the Nevada Department of Education for the cost of providing educational services to a pupil with a disability pursuant to subsection 1, the Nevada school district or Nevada charter school in which the child is enrolled shall be deemed to be the local educational agency for the child for the purposes of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., NRS 388.417 to 388.5243, inclusive, and any regulations adopted pursuant thereto.
 - b. If the Nevada charter school in which the child is enrolled is a school of the State Public Charter School Authority pursuant to NRS 388A.159, the State Public Charter School Authority and the Nevada charter school shall be jointly responsible as the designated local educational agency for purposes of this subsection.
6. The Nevada Department of Education shall review and approve or deny a completed application for reimbursement for the cost of providing educational services to a child submitted pursuant to subsection 2 or 3 and give notice of its decision to the applicant.
7. A decision of the Nevada Department of Education approving or disapproving an application for reimbursement for the cost of providing educational services to a child submitted pursuant to subsection 2 or 3 is not subject to administrative or judicial review.