

**PROPOSED REGULATION OF THE  
DEPARTMENT OF EDUCATION**

**LCB FILE NO. R159-20I**

**The following document is the initial draft regulation proposed  
by the agency submitted on 09/20/2020**

Nevada Department of Education Regulation Draft Request

NAC 388A.xxx - A Topic for Consideration Regarding Distance Learning Charter Schools

Submitted by Craig Statucki, Director

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**Background:** With the passage of SB441, language was removed from NRS 388.854 regarding school districts needing to receive written permission from the board of trustees to enroll students from outside their district of residence in a full-time program of distance education. “Before a pupil may enroll full-time in a program of distance education that is provided by a school district other than the school district in which the pupil resides, the pupil must obtain the written permission of the board of trustees of the school district in which the pupil resides. Except as otherwise provided in NRS 388.850 or other specific statute, a board of trustees from whom permission is requested pursuant to this subsection shall grant the requested permission.”

**Problem:** NAC 388.850 has similar language to what was removed by SB441. If left in place, the NAC would conflict with the new language in NRS 388.854.

**Solution:** The proposed revision to NAC 388.850, removes Section Three and renumbers the rest of the sections accordingly.

**NAC 388.850 Written agreement with board of trustees of school district. (NRS 388.874)**  
The written agreement required by subsection ~~32~~ of [NRS 388.854](#) authorizing a pupil to enroll in a program of distance education must, in addition to the information required by that subsection, include:

1. The name of the pupil and his or her school identification number;
  2. ~~The written permission of the board of trustees of the school district in which the pupil resides for the pupil to enroll full-time or part-time in a program of distance education provided by another school district or a charter school;~~
  - ~~32.~~ If the pupil is:
    - (a) Less than 18 years of age, the name and signature of the pupil’s parent or legal guardian;or
    - (b) At least 18 years of age, the signature of the pupil;
  - ~~43.~~ The name of the provider of the program of distance education;
  - ~~54.~~ A list indicating each course of distance education in which the pupil will be enrolled;
- and
- ~~65.~~ An identification of the category pursuant to which the pupil is eligible to enroll in a program of distance education, as set forth in [NRS 388.850](#).
- (Added to NAC by Bd. of Education by R007-02, eff. 4-5-2002)

**Background:** Senate Bill 441 and the corresponding NRS 388A.740 state the Nevada Department of Education (NDE) shall develop regulations regarding Distance Learning Charter Schools. The

State Public Charter School Authority (SPCSA) held a focus group to discuss the three sections in NRS 388A.740 and provided their findings to NDE.

**Problem:** These are new regulations. Sections 1 and 3 of NRS 388A.740 are addressed in the proposed NAC language below. Section 2 of NRS 388A.740 needs additional guidance from the Deputy Attorney General. NRS 388A.740 Section 2 and SB 441 state that NDE shall develop regulations but the SPCSA focus group did not determine items that would fall into a regulation for this section of the NRS. NRS 388A.470 utilizes the word “expel” for failing to actively participate in distance learning. This language is not in alignment with NRS 392.467, NRS 392.472, and NAC 387.200

**Solution:** The proposed regulations for NRS 388A.740 Section 1 and Section 3 meet the requirements of the NRS and SB 441. The language for NRS 388A.740 is updated to include the correct terminology for withdrawing a student and referencing the correct NRS regarding student expulsion.

Opinion from DAG Gardner: “The only requirement, when it comes to subcommittees, is that the Department needs to establish regulations regarding “delegation of oversight responsibilities to any subcommittee” of the SPCSA. This regulation needs to only cover the process for the SPCSA to delegate oversight responsibility if the SPCSA so desired. The SPCSA does not need to act on it or create a subcommittee unless it wants to.”

**Regulation regarding NRS 388A.740 (1) (“...shall adopt any regulations necessary to carry out provisions;” specifics, such as defining a subcommittee, are unclear):**

388A.xxx – Any subcommittee created by the State Public Charter School Authority for the purpose of providing oversight as it relates to distance learning charter schools has the following guidelines when making recommendations to the Charter Authority for consideration.

1. Any subcommittee formed by the Charter Authority to provide oversight as it relates to distance learning charter schools may make recommendations to the Charter Authority regarding:
  - a. May make recommendations regarding criteria related to approving or revoking a charter for a full-time distance learning school,
  - b. May make recommendations regarding procedures for supporting students who are approaching ten days of non-activity to avoid a withdrawal status, and
  - c. May make recommendations regarding best practices to increase student and educator success at distance learning charter schools.
  - d. May not make recommendations regarding the approval or revocation of an individual charter for a full-time distance learning school,
  - e. May not make recommendations regarding the academic standing or enrollment status of a student attending a distance learning charter schools,

- f. May not make recommendations regarding the hiring, firing, or disciplinary review process of an employee at a distance learning charter schools, and
  - g. May not make recommendations regarding the funding of a distance learning charter school or the academic standards or diploma requirements as that authority is under the Legislature and the Department of Education.
2. The Charter Authority is under no obligation to adopt any recommendation made by the subcommittee.

**Regulation regarding NRS 388A.740 (2):**

SPCSA focus group did not provide any unanimous recommendations regarding what should be included in this regulation. Since SB 441 states that the department SHALL establish any regulation necessary to carry out the provisions of this bill, guidance from the DAG should be sought to ensure we are following the intent of the law. At this time, CRALEO and Sarah could not identify any additional items worthy of being exercised in the “catch all” provision. This is the broadest of all provisions, and is stated so in the memo from the SPCSA. DAG Gardner was contacted to verify if any additional regulations should be included hereto carry out the provisions of SB441.

Opinion from DAG Gardner on 09/02: These types of sections are common in bills. The purpose is to allow the Department the flexibility to fix something it catches as long as the regulation complies with the bill. One potential regulation stated in Section 13(2) of the bill, is that the Department may adopt regulations to allow an online charter school to be a LEA.

**Regulation regarding NRS 388A.740 (3): Regarding Students who Fail to “Actively Participate” in the Charter School For Distance Education (“shall” regulations):**

388A.xxx – A pupil enrolled at a charter school for distance education may be withdrawn from such charter school for failing to actively participate in the charter school for distance education set forth in NAC 387.200 and NAC 387.193 and pursuant to NRS 392.467.