

**PROPOSED REGULATION OF THE
OFFICE FOR A SAFE AND RESPECTFUL LEARNING ENVIRONMENT**

LCB FILE NO. R022-22I

**The following document is the initial draft regulation proposed
by the agency submitted on 02/18/2022**

REQUESTED AMENDMENT TO NAC XXX.XXX

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

NAC XXX.XXX Development of a plan for the continued education of a child who is in the custody of a child welfare agency and who is admitted to a psychiatric hospital or facility pursuant to NRS 432B.6076.

1. The plan for the continued education of a child who is in the custody of an agency which provides child welfare services and who is admitted pursuant to NRS 432B.6076 shall be developed by the psychiatric hospital or facility in consultation with:

(a) The person or persons from the psychiatric hospital or facility who serve as the educational director or liaison for school aged children who are admitted to the psychiatric hospital or facility;

(b) Representatives from the public or private school and any school district in which the child was enrolled or which was providing services to the child when he or she was admitted, including but not limited to;

(1) For a child who is a pupil with a disability, the person or persons who are responsible for the case management of the individualized education program of the child, as applicable;

(2) A school counselor, school psychologist, school social worker, or other specialized instructional support personnel, as defined in NRS 388.890, who provides non-instructional supports to the child;

(3) A classroom teacher who is currently providing instruction to the child;

(c) Representatives from the agency which provides child welfare services, including at minimum the child's caseworker;

(d) The educational decision maker appointed for the child pursuant to NRS 432B.462; and

(e) The child, as developmentally appropriate, to ensure that the personal rights and wishes of the child are considered.

2. In addition to the persons identified in subsection 1, the plan for the continued education of a child who is in the custody of an agency which provides child welfare services and who is admitted pursuant to NRS 432B.6076 may be developed, in accordance with the policies of the agency which provides child welfare services, in consultation with:

(a) The parent or parents of the child, as defined by NRS 432B.080 and in accordance with the provisions of NRS 432B.392;

(b) The person or persons who maintain a foster home, as defined by NRS 424.014, in which the child has been placed;

(c) The fictive kin of the child, as defined by NRS 432B.6205; or

(d) The relative of the child, as defined by NRS 432B.6213.

3. A copy of the plan that is developed pursuant to subsections 1 and 2, as applicable:

(a) Must be provided to each individual identified in subsection 1; and

(b) May be provided to any individual identified in subsection 2, in accordance with the policies of the agency which provides child welfare services.

4. If a psychiatric hospital or facility requests reimbursement from the Department for the cost of providing educational services to a child who is in the custody of an agency which provides child welfare services and who is admitted pursuant to NRS 432B.6076, the plan

developed pursuant to this section must be included with the request for reimbursement as required by NRS 387.1225 and any regulations adopted pursuant thereto, including within any timelines prescribed by the Department for the purposes of reimbursement.

5. To facilitate compliance with the provisions of NAC XXX.XXX to XXX.XXX [all sections of this draft regulatory language per SB 210 (2021)], inclusive, the Department will post on the Internet website maintained by the Department and review at least annually a list of resources that reflect nationally accepted best practices for the development of a plan for the continued education of a child while the child remains enrolled in a public or private school or the school district yet is admitted to the psychiatric hospital.

6. As used in NAC XXX.XXX to XXX.XXX [all sections of this draft regulatory language per SB 210 (2021)], inclusive, “psychiatric hospital” or “facility” means a facility as defined in NRS 432B.6072 and includes, without limitation:

(a) Any facility in which a pupil from this state may be admitted pursuant to NRS 432B.6076 and which is located within the state or outside of the state; and

(b) Any facility in which a pupil from this state has been admitted pursuant to NRS 432B.6076 for 14 or more days, regardless of the type of license for residential services the psychiatric hospital or facility has been granted by the state or the type of residential services for which the facility has entered into a contract with the state for the provision of.

NAC XXX.XXX Enrollment requirements for a child who is in the custody of a child welfare agency and who is admitted to a psychiatric hospital or facility pursuant to NRS 432B.6076.

1. Pursuant to NRS 432B.XXX (Section 1 of SB 210 (2021)), a public or private school or any school district in which the child was enrolled or which was providing services to the child

when he or she was admitted to the facility pursuant to NRS 432B.6076 shall not unenroll the child while he or she is admitted to a psychiatric hospital or facility, and must use the appropriate codes for enrollment within the student information system as prescribed by the Department and as required pursuant to NRS 387.1225 for reimbursement from the Department for the cost of providing educational services to a child.

2. For a pupil with a disability, the school district or 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.

3. If a pupil was not enrolled in a public or private school or any school district when he or she was admitted to a psychiatric hospital or facility, the pupil must be enrolled:

(a) In a county whose population is 100,000 or more, in the school district of the county in which the agency which provides child welfare services is located, pursuant to NRS 432B.030; or

(b) In a county whose population is less than 100,000, any school district of the state in which the Division of Child and Family Services, in consultation with the educational decision maker appointed for the child pursuant to NRS 432B.462 and in accordance with the personal rights of the child pursuant to NRS 432B.6082, determines is in the best interests of the child.

4. The enrollment of any child pursuant to this subsection must be counted for apportionment purposes.

NAC XXX.XXX Convening of a meeting to review the individualized education program or services plan of a child who is a pupil with a disability and who is in the custody

of a child welfare agency and who is admitted to a psychiatric hospital or facility pursuant to NRS 432B.6076.

1. For a child who is a pupil with a disability, the individualized education program meeting which is convened by a public or private school and the school district must be attended by the representatives included in paragraph (b) of subsection 3 of NRS 432B.XXX (Section 1 of SB 210 (2021)), and may be attended by, without limitation and in accordance with the policies of the agency which provides child welfare services:

(a) The child who is a pupil with a disability, as developmentally appropriate, to ensure that the personal rights and wishes of the child are considered;

(b) The parent or parents of the child who is a pupil with a disability, as defined by NRS 432B.080 and in accordance with the provisions of NRS 432B.392;

(c) The person or persons who maintain a foster home, as defined by NRS 424.014, in which the child who is a pupil with a disability has been placed;

(d) The fictive kin of the child who is a pupil with a disability, as defined by NRS 432B.6205;
or

(e) The relative of the child who is a pupil with a disability, as defined by NRS 432B.6213.

2. In considering the appropriateness of a residential placement of a child who is a pupil with a disability and who is being admitted to a psychiatric hospital or facility, the representatives shall consider the ability of the psychiatric hospital or facility to comply with provisions of the individualized education program or services plan, including, but not limited to:

(a) The Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the

regulations adopted pursuant thereto;

(b) The requirements of NRS 388.417 to 388.5243, inclusive; and

(c) Other measures for integrated student supports, pursuant to subsection 4 of NRS 388.885.

3. If it is determined during the meeting which is convened by a public or private school and the school district, as applicable, that the psychiatric hospital or facility cannot comply with the provisions of the individualized education program or services plan, the child who is a pupil with a disability must not be admitted to the psychiatric hospital or facility.

4. If a child who is a pupil with a disability is admitted to a psychiatric hospital or facility, the psychiatric hospital or facility must ensure that the individualized education program or services plan is reviewed and maintained according to the timelines and processes required by the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto, and is not allowed to expire while the child is admitted.

5. The public or private school and the school district must participate in meetings to review and maintain the individualized education program or services plan while the child who is a pupil with a disability is admitted to a psychiatric hospital or facility, to ensure compliance and consistency with the educational rights of the pupil as defined in all applicable state and federal laws.

6. If a child who is a pupil with a disability is enrolled in a school with special enrollment processes, including but not limited to a charter school whose enrollment is determined by lottery, pursuant to NRS 388A.453, or a magnet school program or private school with selective or competitive enrollment, the representatives shall consider provisions which will facilitate the

ability of the child to return to the school following discharge from the psychiatric hospital or facility.

7. The anticipated length of the admission period of a child who is a pupil with a disability and who is in the custody of an agency which provides child welfare services and who is admitted pursuant to NRS 432B.6076 to a psychiatric hospital or facility cannot be increased or threatened to be increased solely as a result of the requirements and provisions of the individualized education program or services plan.

8. If a child who is a pupil with a disability also has one or more mental health diagnoses, the psychiatric hospital or facility shall include measures and strategies to address both the educational needs and mental health needs of the pupil.

NAC XXX.XXX Convening of a meeting to review the educational needs of a child who is a pupil without a disability and who is in the custody of a child welfare agency and who is admitted to a psychiatric hospital or facility pursuant to NRS 432B.6076.

1. For a child who is a pupil without a disability, the meeting which is convened by a public or private school and any school district, as applicable, must be attended by the representatives identified in paragraph (b) of subsection 3 of NRS 432B.XXX (Section 1 of SB 210 (2021)), and may be attended by, without limitation and in accordance with the policies of the agency which provides child welfare services:

(a) The child, as developmentally appropriate, to ensure that the personal rights and wishes of the child are considered;

(b) The parent or parents of the child, as defined by NRS 432B.080 and in accordance with the provisions of NRS 432B.392;

(c) The person or persons who maintain a foster home, as defined by NRS 424.014, in which the child has been placed;

(d) The fictive kin of the child, as defined by NRS 432B.6205; or

(e) The relative of the child, as defined by NRS 432B.6213.

2. In considering the appropriateness of a residential placement of a child who is a pupil without a disability and who is being admitted to a psychiatric hospital or facility, the representatives shall consider the ability of the psychiatric hospital or facility to provide for the educational needs and rights of the pupil as defined in all applicable state and federal laws, including but not limited to measures for integrated student supports pursuant to NRS 388.885.

3. If a child who is a pupil without a disability is enrolled in a school with special enrollment processes, including but not limited to a charter school whose enrollment is determined by lottery, pursuant to NRS 388A.453, or a magnet school program or private school with selective or competitive enrollment, the representatives shall consider provisions which will facilitate the ability of the child to return to the school following discharge from the psychiatric hospital or facility.

NAC XXX.XXX Requirements of the plan for the continued education of a child who is in the custody of a child welfare agency and who is admitted to a psychiatric hospital or facility pursuant to NRS 432B.6076.

1. To facilitate compliance with requirements for a public or private school and any school district in which the child was enrolled or which was providing services to the child when he or she was admitted to the facility to monitor the child's progress while the child is admitted to the facility, the plan for the continued education of the child which is developed by the psychiatric hospital or facility must include, without limitation:

(a) The name, phone number, and electronic mail address for:

(1) The primary point of contact at the psychiatric hospital or facility;

(2) The primary point of contact at the public or private school;

(3) The primary point of contact at the school district, as applicable;

(4) The child's caseworker as assigned by the agency which provides child welfare services; and

(5) The educational decision maker appointed for the child pursuant to NRS 432B.462,

(b) The names of the person or persons at the psychiatric hospital or facility, the public or private school and the school district, as applicable, who are responsible for each required component in the plan for the continued education of the child, including the provision of instruction.

(c) Methods, processes and timelines for communication between the persons identified pursuant to paragraph (a), including but not limited to:

(1) The frequency of communication by the psychiatric hospital or facility to the primary points of contact at the public or private school and school district, as applicable, and the case worker, regarding the pupil's progress according to the provisions and requirements of the plan for the continued education of the child, to include at minimum weekly communications for the first 30 days of the period of admission, and bi-weekly communications for each period of admission beyond the first 30 days;

(2) Agreements regarding timelines for responding to inquiries or requests for information

on the part of any of the primary points of contact identified pursuant to paragraph (a), to include at minimum provisions for providing a response within 3 business days; and

(3) Provisions for ensuring that the educational records and personally identifiable information of the pupil is safeguarded in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232 and 34 CFR Part 99, and the Protection of Pupil Rights Amendment, at 34 CFR Part 98.

(d) Mechanisms for the transfer of instructional materials to the psychiatric hospital or facility from the public or private school and any school district in which the child was enrolled or which was providing services to the child when he or she was admitted, including provisions for:

(1) Processes and timelines for the transfer of instructional materials, including but not limited identification of which entity will assume financial responsibility for any costs incurred as a result of the transfer of instructional materials;

(2) The identification of persons within the psychiatric hospital or facility and the public or private school who are responsible for the transfer of instructional materials;

(3) The safe storage and maintenance of instructional materials by the psychiatric hospital or facility, including but not limited to any electronic devices provided by the public or private school for the purposes of the pupil's education while they are admitted and provisions for replacement by the psychiatric hospital or facility of any instructional materials that are lost or damaged as a result of the actions of the psychiatric hospital or facility while the child is admitted;

(4) The safe storage and transfer of educational records by the psychiatric hospital or facility to the public or private school and any district, as applicable, in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232 and 34 CFR Part 99, and the Protection of Pupil Rights Amendment, at 34 CFR Part 98; and

(5) If a psychiatric hospital or facility requests reimbursement from the Department for the cost of providing educational services to a child who is in the custody of an agency which provides child welfare services and who is admitted pursuant to NRS 432B.6076, the transfer of educational materials to the local education agency by the psychiatric hospital or facility as required by NRS 387.1225 and any regulations adopted pursuant thereto.

(e) Provisions regarding the pupil's ability to demonstrate satisfactory completion of required courses, including but not limited to:

(1) Any means by which a pupil who is in foster care may receive full or partial credit, pursuant to NRS 389.320 and NRS 388A.489, and in accordance with procedures adopted by the board of trustees of each school district and the sponsor of each charter school pursuant to subsection 2 of NRS 389.320;

(2) The average number of instructional hours per week that must be provided to the child while the child is admitted, including adjusted instructional hours in alignment with national best practices for home hospital services, and mechanisms for modifying the number of adjusted instructional hours per week based on the mental health needs and functioning level of the pupil;

(3) Methods for recording the attendance of the pupil according to the identified number of instructional hours that must be provided to the child while the child is admitted;

(4) For pupils in grade 11 or grade 12, any modifications to a course of study that will assist the pupil to satisfy the requirements for graduation, pursuant to NRS 389.330, including through mutual agreement by the pupil and the pupil's parent or legal guardian;

(5) The consideration of how non-academic programming and activities provided by the psychiatric hospital or facility as a component of the child's treatment may be counted toward elective credits required for promotion or graduation, including but not limited to requirements for physical education; and

(6) The consideration of arrangements for shared instructional responsibilities between the public or private school and the psychiatric hospital or facility, including but not limited to options for web-based or virtual instruction provided by the public or private school or another online school that has been approved by the Department, or a hybrid approach that incorporates both in-person and web-based or virtual learning.

(f) The educational services and instruction that will be provided to the child while they are admitted to a psychiatric hospital or facility, including but not limited to:

(1) Academic instruction which will assist the pupil to maintain current educational functioning and skills and to prevent the pupil from falling behind their peers;

(2) For a pupil who is enrolled in a public school, instructional content that is aligned with the state's academic standards for public schools, as defined in NRS 389.500 to 389.540, inclusive;

(3) The method or methods by which the instructional content will be provided, including but not limited to in-person individual instruction, in-person small group or classroom

instruction, web-based or virtual instruction, or some combination thereof;

(4) The identification of current or previous challenges experience by the pupil in accessing instruction and instructional content, including behaviors the pupil has engaged in to avoid or escape instruction;

(5) The inclusion of strategies and methods that have been effective in supporting the pupil in successfully accessing instruction and instructional content and the successful completion of assignments by the pupil;

(6) Consideration of the needs of pupils who are English learners, as defined in NRS 388.405 to 388.413, inclusive; and

(7) Mechanisms and processes for responding to instances in which the transfer of instructional materials is delayed due to unexpected events or an unexpected inability to access technology required for the completion of instruction, included provisions for notifying the public or private school in accordance with the the requirements of paragraph (c) of this section;

(g) Processes for monitoring, recording and reporting the progress of the pupil in meeting the educational services and instructional goals identified in pursuant to paragraph (f), including but not limited to:

(1) The frequency and method by which the psychiatric hospital or facility will provide reports of progress by the pupil to the primary points of contact included in paragraph (a);

(2) Mechanisms and processes for the identification of instances in which the plan for the continued education of the child shall be reviewed and considered for revision if the pupil not making satisfactory academic progress or is experiencing learning loss; and

(3) Consideration by the psychiatric hospital or facility the inclusion of regular meetings to review the child's academic progress as a component of the child's treatment plan, including with the child's parent or parents, the person or persons who maintain the foster home, the child's fictive kin or the child's relative, as appropriate and in accordance with the policies of the agency which provides child welfare services.

(h) Provisions and timelines for the transfer and review of the plan for the continued education of the child if the child's admission to a psychiatric hospital or facility is changed to a different psychiatric hospital or facility prior to discharge of the child from residential treatment.

NAC XXX.XXX Requirements of the plan for continuing the education of the child after he or she is discharged from the psychiatric hospital or facility and for transitioning the child into a school or any other educational setting in which the child will receive instruction after discharge.

1. Prior to the discharge of a child who is in the custody of an agency which provides child welfare services and who has been admitted to a psychiatric hospital or facility pursuant to NRS 432B.6076, the psychiatric hospital or facility must provide written notice to the school or other educational setting in which the child will receive instruction after discharge at least 10 days before the anticipated date of discharge of the child from the facility.

2. The plan for continuing the education of the child after he or she is discharged which is developed by the psychiatric hospital or facility must be developed in consultation with:

(a) The person or persons from the psychiatric hospital or facility who serve as the educational director or liaison for school aged children who are admitted to the psychiatric hospital or facility;

(b) Representatives from the school or any other educational setting in which the child will receive instruction after discharge, including but not limited to;

(1) For a child who is a pupil with a disability, the person or persons who will be responsible for the case management of the individualized education program of the child, as applicable;

(2) A school counselor, school psychologist, school social worker, or other specialized instructional support personnel, as defined in NRS 388.890, who provides non-instructional supports at the school or any other educational setting in which the child will receive instruction following discharge; and

(3) A classroom teacher who will provide instruction to the child following discharge;

(c) Representatives from the agency which provides child welfare services, including at minimum the child's caseworker;

(d) The educational decision maker appointed for the child pursuant to NRS 432B.462; and

(e) The child, as developmentally appropriate, to ensure that the personal rights and wishes of the child are considered.

3. In addition to the persons identified in subsection 2, the plan for continuing the education of the child after he or she is discharged which is developed by the psychiatric hospital or facility may be developed, in accordance with the policies of the agency which provides child welfare services, in consultation with:

(a) The parent or parents of the child, as defined by NRS 432B.080 and in accordance with the provisions of NRS 432B.392;

(b) The person or persons who maintain a foster home, as defined by NRS 424.014, in which the child has been placed;

(c) The fictive kin of the child, as defined by NRS 432B.6205; or

(d) The relative of the child, as defined by NRS 432B.6213.

4. The plan which is developed pursuant to subsections 2 and 3 must include, without limitation:

(a) The name, phone number, and electronic mail address for:

(1) The person or persons who have been designated as the emergency contacts for the child;

(2) The child's caseworker as assigned by the agency which provides child welfare services;

(3) The educational decision maker appointed for the child pursuant to NRS 432B.462;

(4) Any providers of mental health services who will provide care, treatment or training to the child after the child is discharged from the facility, if appropriate, pursuant to NRS 432B.6081; and

(5) Any other person or persons who have been identified for the provision of services to the child pursuant to NRS 433B.300.

(b) Information regarding the health and medical needs of the child which may need to be addressed when the child is attending the school or other educational setting, including any medications the child has been prescribed and any side effects which staff at the school or other

educational setting may be required to respond to.

(c) Information regarding any psychiatric needs or symptoms the child may experience when the child is attending the school or other educational setting for which staff at the school or other educational setting may be required to monitor or respond to.

(d) Information regarding immediate steps for de-escalation that will be taken to assist the child in the event of a mental or emotional crisis, including steps that the child can take if they become overwhelmed during instructional time or other activities at the school or other educational setting.

(e) Any services or supports that may be provided at the school or other educational setting to support the continued care, treatment and training of the child upon discharge from the facility, as determined in consultation with representatives from the school or other educational setting and based on the resources and capacity of the school or other educational setting, including but not limited to any counseling supports or other routine contact with the child that will be provided by personnel of the school or other educational setting.

(f) The identification of current or previous challenges experienced by the child in accessing instruction and instructional content while the child was admitted to a psychiatric hospital or facility, including behaviors the pupil has engaged in to avoid or escape instruction.

(g) The inclusion of strategies and methods that have been effective in supporting the child in successfully accessing instruction and instructional content and the successful completion of assignments by the child while the child was admitted to a psychiatric hospital or facility.

(h) Pursuant to NRS 389.320 and 389.330, any modifications to classroom instruction or a

specific course of study that will serve to eliminate any unnecessary barriers to academic achievement and allow the child to achieve their greatest possible academic success, including consideration of needs that may result as a consequence of the mode of instruction that is employed by the school or other educational setting as a result of in-person instruction, web-based or virtual instruction, or some combination thereof.

(i) Strategies that will support the prevention of the child becoming a target of bullying or cyberbullying at the school or other educational setting, including steps that may be taken by the child to report instances of bullying or cyberbullying and any behavioral supports that may be provided by the school or other educational setting to assist the child in appropriate behaviors for responding to such instances if they occur; and

(j) Mechanisms and processes for regularly reviewing the plan for continuing the education of the child after he or she is discharged from a psychiatric hospital or facility, including consideration of instances in which the plan may be revised if the child is not making satisfactory academic progress or is experiencing learning loss.

5. Pursuant to NRS 388.885, the plan which is developed pursuant to subsections 2 and 3 may include, without limitation, any other services or supports that will assist the child in transitioning to a school or other educational setting following discharge as determined by the representatives identified in subsections 2 and 3 and based upon the resources and capacity of the school or other educational setting.