

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

**LCB File No. R131-22**

December 5, 2022

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

AUTHORITY: §§ 1-10, NRS 385.080 and 388.419; § 11, NRS 385.080.

A REGULATION relating to education; prescribing requirements relating to planning for and monitoring the education of certain children who are admitted to a facility which provides residential treatment for mental illness; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Before a child who is in the custody of an agency which provides child welfare services is admitted by a court to a facility which provides residential treatment for mental illness, existing law requires the public or private school or school district in which the child was enrolled or which was providing services to the child when the child was admitted to convene a meeting to consider the appropriateness of the placement. (NRS 432B.60847) **Sections 2-9** of this regulation define certain terms relevant to such meetings. **Section 10** of this regulation authorizes the inclusion of certain persons at such a meeting regarding a child who is a pupil with a disability. **Section 10** requires the persons who attend such a meeting to provide guidance to the court and the agency which provides child welfare services concerning the placement of the child. When providing such guidance, **section 10** requires those persons to consider: (1) certain factors relating to the ability of the facility to provide an appropriate education for the child; and (2) any measures necessary to facilitate the return of the child to that school following discharge from the facility. **Section 11** of this regulation recommends the inclusion of similar persons, the provision of similar guidance and the consideration of similar factors and measures at such a meeting regarding a child who is not a pupil with a disability.

While a child who is in the custody of an agency which provides child welfare services is admitted to a facility which provides residential treatment for mental illness, existing law requires the public or private school or school district in which the child was enrolled or which was providing services to the child when he or she was admitted to monitor the child’s progress. (NRS 432B.60847) To facilitate such monitoring, **section 10** requires such a school or school district to be invited to participate in any meetings to review the individualized education plan or services plan established for a child who is a pupil with a disability.

**Section 1.** Chapter 388 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this regulation.

**Sec. 2.** *As used in sections 2 to 11, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Agency which provides child welfare services” has the meaning ascribed to it in NRS 432B.030.*

**Sec. 4.** *“Fictive kin” has the meaning ascribed to it in NRS 432B.0657.*

**Sec. 5.** *“Foster home” has the meaning ascribed to it in NRS 424.014.*

**Sec. 6.** *“Integrated student support” has the meaning ascribed to it in NRS 388.885.*

**Sec. 7.** *“Parent” has the meaning ascribed to it in NRS 432B.080.*

**Sec. 8.** *“Relative” has the meaning ascribed to it in NRS 432B.6213.*

**Sec. 9.** *“School with special enrollment procedures” includes, without limitation:*

*1. A charter school whose enrollment is determined using a lottery pursuant to NRS 388A.453;*

*2. A magnet school, as defined in NAC 385B.030, or a magnet program; and*

*3. A private school with selective or competitive enrollment.*

**Sec. 10.** *1. An individualized education program meeting convened pursuant to paragraph (a) of subsection 3 of NRS 432B.60847:*

*(a) May include, without limitation, any persons required to attend a meeting convened pursuant to paragraph (b) of subsection 3 of NRS 432B.60847; and*

*(b) May additionally include, to the extent allowed under the policy of the agency which provides child welfare services:*

- (1) The child, if developmentally appropriate;*
- (2) A parent of the child;*
- (3) A person who conducts a foster home in which the child has been placed;*
- (4) A fictive kin of the child; or*
- (5) A relative of the child.*

*2. The persons described in subsection 1 shall provide guidance to the agency which provides child welfare services and the court concerning the appropriateness of a residential placement under federal law as it relates to the education needs of the child. Any such guidance is not an authoritative determination concerning placement under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and any regulations adopted pursuant thereto.*

*3. When providing guidance pursuant to subsection 2, the persons described in subsection 1 shall consider the ability of the facility which provides residential treatment for mental illness to:*

*(a) Comply with the individualized education program or services plan established for the child;*

*(b) Comply with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and any regulations adopted pursuant thereto;*

*(c) Comply with NRS 388.417 to 388.5243, inclusive, and any regulations adopted pursuant thereto; and*

*(d) Provide or ensure access to any integrated student supports that the child needs.*

*4. When performing the duties required by subsection 3 of NRS 432B.60847 with respect to a child who is a pupil with a disability and who is enrolled in a school with special*

*enrollment procedures, a public or private school and any other persons involved in the performance of those duties shall consider any measures necessary to facilitate the return of the child to that school following discharge from the facility which provides residential treatment for mental illness.*

*5. A public or private school or school district described in subsection 3 of NRS 432B.60847 must be invited to participate in any meetings to review the individualized education plan or services plan established for a child described in that subsection who is a pupil with a disability to:*

*(a) Facilitate the monitoring required by paragraph (c) of subsection 3 of NRS 432B.60847; and*

*(b) Discuss compliance with all applicable federal and state laws prescribing the educational rights of the child.*

*Sec. 11. 1. In addition to the persons described in paragraph (b) of subsection 3 of NRS 432B.60847, a meeting to consider the appropriateness of the residential placement of a child who is not a pupil with a disability may include, to the extent allowed under the policy of the agency which provides child welfare services:*

*(a) The child, if developmentally appropriate;*

*(b) A parent of the child;*

*(c) A person who conducts a foster home in which the child has been placed;*

*(d) A fictive kin of the child; and*

*(e) A relative of the child.*

*2. The persons described in subsection 1 may provide guidance to the agency which provides child welfare services and the court concerning the appropriateness of a residential*

*placement pursuant to the statewide framework for integrated student supports established pursuant to NRS 388.885.*

*3. When developing guidance for the purpose of subsection 2, the persons described in subsection 1 and any additional persons included in the meeting may consider the ability of the facility which provides residential treatment for mental illness to:*

*(a) Provide for the educational needs of the child, including, without limitation, access to any integrated student supports that the child needs; and*

*(b) Prevent any violation of the educational rights of the child under federal and state law.*

*4. When performing the duties required by subsection 3 of NRS 432B.60847 with respect to a child who is not a pupil with a disability and is enrolled in a school with special enrollment procedures, a public or private school and any other persons involved in the performance of those duties may consider any measures necessary to facilitate the return of the child to that school following discharge from the facility which provides residential treatment for mental illness.*