

LCB File No. T011-99

TEMPORARY REGULATION OF THE STATE BOARD OF EDUCATION

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

Explanation: Matter underlined is new; matter in brackets [] is material to be omitted.

AUTHORITY: NAC 385.080

SECTION 1. Chapter 394 is hereby be amended as follows:

PRIVATE KINDERGARTEN, ELEMENTARY AND SECONDARY SCHOOLS

SECTION 2. 394.010 Definitions. As used in NAC 394.010 to 394.180, inclusive, unless the context otherwise requires, the words and terms defined in NAC 394.012 to 394.018, inclusive, have the meanings ascribed to them in those sections.

SECTION 3. 394.012 “Administrator” defined. “Administrator” means the person who directs or manages the affairs of an institution.

SECTION 4. 394.013 “Applicant” defined. “Applicant” includes any person seeking a license or the renewal of a license.

SECTION 5. 394.014 “Board” defined. “Board” means the state board of education.

SECTION 6. 394.015 “Department” defined. “Department” means the department of education.

SECTION 7. 394.016 “Institution” defined. “Institution” means a private elementary or secondary educational institution.

SECTION 8. 394.017 “Private school license” defined. “Private school license” means a license to operate an institution.

SECTION 9. 394.018 “Supervisor” defined. “Supervisor” means a person who assists and supervises instructors in methods of instruction and planning of curricula or in the teaching of a special subject.

SECTION 10. “Teacher’s license” defined. “Teacher’s license” means a license issued by the department pursuant to NRS 391.031.

SECTION 11. 394.020 Appearance before board by representative of institution; notice and approval of proposed change.

1. A designated representative of the institution shall appear before the board, at the request of the superintendent of public instruction, at the time the application for a private school license or renewal of a private school license is considered.

2. After a private school license is issued, the licensee shall inform the department, in writing, of any proposed change in the staff and in the nature or purpose of the institution.

3. An institution shall secure the approval of the department before initiating any change in its nature or purpose. Failure to notify the department of such a change may result in the revocation of its private school license.

SECTION 12. 394.030 Required information concerning instruction; quality of instruction; costs.

1. The applicant shall submit to the department:
 - (a) A list containing the names, descriptions, and levels of proposed courses;
 - (b) Proposed schedules of classes;

- (c) A description of measurable objectives for each grade and course and the procedures to be used in evaluating attainment of the objectives;
- (d) An indication of the maximum number of pupils to be enrolled in each grade and course;
- (e) An indication of the number of instructors to be assigned to each grade and course;
- (f) The organizational structure and assignments of [**certificated and noncertificated**] licensed and non-licensed staff, including assignments to grades and courses;
- (g) A statement disclosing the cost of courses, including all fees; and
- (h) A copy of each financial agreement between the institution and the parents or guardian of a pupil.

2. All grades offered must be indicated in the application. Except as otherwise provided in this subsection, courses must, at a minimum, be commensurate to and offered at the levels described in the Nevada Elementary Course of Study, the Nevada High School Graduation Requirements and chapter 389 of NRS. An institution that offers special education to [**handicapped**] pupils with disabilities may present an alternative course of study for approval.

3. Schedules of classes must meet the minimum requirements contained in the Nevada Elementary Course of Study, the Nevada High Graduation Requirements, and chapter 389 of NRS.

4. Anticipated maximum enrollments are subject to the limitations of the facility and staff. Enrollments indicated must be reconciled with the sections of the applications relating to the facility, staff, and budget.

5. All costs, including instructional costs, costs of transportation and food, fees for activities, and other charges are to be paid by the pupil or his parent or guardian must be identified separately. The purpose of the charge must be described.

SECTION 13. 394.040 Size of institution, facilities and materials, ratios of pupils to instructors; administrator or liaison with department.

1. The applicant shall:

(a) Assure that the size of the institution is such that each pupil enrolled in:

(1) An academic program is provided with no less than 30 square feet of usable instructional space;

(2) A kindergarten is provided with not less than 35 square feet of usable instructional space; and,

(3) A vocational course or other program which, by its description, concentrates on a non-academic activity is provided with not less than 50 square feet of usable instructional space.

(b) Describe the facilities and equipment available for physical education and recreation and how the measurable objectives of a course in physical education are met.

(c) List the materials in the library and describe the other facilities and services available for instruction, research and study.

(d) Describe the available audio-visual and instructional equipment, such as audio-visual equipment, charts and maps, blackboards, tagboards, machines and models. All instructional material provided should be consistent with the measurable objectives for each grade and course.

(e) List textbooks and supplementary materials to be used for each course. Instructional material must be consistent with the measurable objectives for each grade and course and must be made available in sufficient amounts to accommodate the number of students projected for enrollment. Basic textbooks and appropriate supplementary materials must be made available to all pupils.

(f) Indicate the ratio of pupils to instructors. A minimum of one full-time instructor is required for every 35 pupils or fraction thereof, if the institution enrolls more than 35 pupils. If the institution enrolls less than 30 pupils, the ratio of pupils to instructors must be 15 to 1 when more than three grades are offered. In any event, the ratio of pupils to instructors must not exceed 35 to 1 if the institution has a single grade.

2. A full-time administrator must be employed for each institution which enrolls 150 or more pupils or employs six or more full-time instructors.

3. An institution which enrolls less than 150 pupils or employs less than six full-time instructors shall designate a person to serve as a liaison with the department. The liaison must hold a teacher's or administrator's [certificate] license issued by the department and shall:

(a) Ensure the institution is operated pursuant to all applicable laws and regulations.

(b) Develop curricular materials.

(c) Provide training to employees of the institution.

(d) Supervise and evaluate the staff of the institution.

SECTION 14. 394.050 Qualifications of staff; reports.

1. A full-time administrator must hold an administrator's [certificate] license issued by the department.

2. A supervisor must hold a teacher's [certificate] license issued by the department.

3. An instructor must hold a teacher's [certificate] license issued by the department appropriate for his assignment.

4. The licensee shall:

(a) On October 15 of each year and whenever there is a change in the staff of the institutions, submit a report identifying each [certificated] employee with a teacher's license, his assignment, and the identifying number on his [certificate] teacher's license, and a report identifying each [noncertificated] employee without a teacher's license and his social security number.

(b) Submit a resume of the previous applicable experience of the full-time administrator or designated liaison and three references, one of which must be local, attesting to the character, reputation, and competence of the administrator [of] or liaison.

(c) Prepare and submit descriptions of the jobs of each class of employee, including [both certificated and noncertificated] employees with or without a teacher's licenses. The descriptions must reinforce the philosophy of the institution.

(d) Submit a description of the procedures for evaluating administrators, supervisors, instructors, and other educational personnel.

SECTION 15. 394.060 Contents and distribution of catalog or brochure; calendars; school year.

1. The applicant shall provide a sample of the institution's catalog or brochure containing at least the following information:

- (a) The name and address of the institution;
- (b) The names of the members of its governing body, its officials, and faculty;
- (c) The date of publication of the catalog;
- (d) The philosophy of the institution;
- (e) A brief description of proposed grades and programs;
- (f) The institution's daily schedule of classes and, if secondary education is provided, the number of credits which a student must earn;
- (g) A description of all charges, the purpose of each charge and the methods and time of payment;
- (h) A detailed schedule of all fees including tuition, fees for books, supplies, activities for pupils, and for the use of laboratories, service charges, rentals, deposits, and charges for room and board.; and
- (i) A clear statement of the institution's policy on cancellations and refunds.

2. The applicant shall indicate the method he will use to distribute the approved catalog or brochure to parents and pupils before enrollment. The contents of the catalog or brochure must be incorporated in all agreements and contracts for enrollment.

3. Calendars showing legal holidays, beginning and ending dates of terms, and other important dates must be provided for each of the 2 years under the term of the license. The school year must include at least 180 school days.

SECTION 16. 394.070 Maintenance of records.

1. The applicant shall submit to the department:
- (a) The name of the person who is responsible for maintenance of records and provide an example of a proposed folder for the cumulative record of a pupil.
 - (b) The proposed location of all records of the institution.

(c) The name of the person who will be responsible for records in case of the termination of operations by the institution.

2. The institution shall maintain permanent records in a separate file on each pupil. Such records must show the pupil's attendance, grades, and other documentation directly related to his progress and contain his certificate of immunization.

3. Records must be maintained in a safe, secure place reasonably protected from fire and misuse and from access by unauthorized persons.

4. If an institution plans to close or otherwise terminate its operation, its owners or administrators shall notify the department and submit to it all permanent records of pupils as well as all records pertinent to the financial resolution of encumbrances and indebtedness.

SECTION 17. 394.080 Evaluation of pupil; transfer of credits.

1. The applicant shall:

(a) describe or provide a sample of the educational credentials to be used to indicate that the student has satisfactorily completed the course of instruction or study.

(b) State the institutional policy relative to transfer of credits for previous education and training.

(c) State how such credentials will be transferred to a comparable school without loss of credit.

(d) Provide an example of a proposed student transcript of credit.

(e) Provide a copy of the diploma or certificate of completion which the institution plans to issue to students.

2. Credits earned at the institution shall be such that an enrolled student may transfer to a comparable institution without loss of credit.

SECTION 18. 394.090 Records of attendance, progress, and performance

1. State institutional policy and regulations relative to absences, tardiness, and unsatisfactory attendance and the procedure used to maintain and report attendance.

2. State institutional policy and regulations relative to standards of progress required of students, including the grading system, conditions for probation, dismissal, and reentrance.

3. State the methods to be used in student evaluation.

SECTION 19. 394.100 Information required concerning existing or proposed institutional facilities.

1. An applicant shall submit plans, blueprints, or line drawings which describe in detail the facilities in which the institution will operate. "As built" drawings shall be submitted for existing facilities.

2. Facilities which are proposed, including extensive remodeling, repairs, or additions to existing buildings, shall be delineated by plans and specifications prepared by architects or engineers licensed to practice in this state. The board may require submission of plans for review. Costs of the review shall be paid by the applicant. A private school license will not be issued unless the plans include a firm schedule for construction of facilities.

SECTION 20. 394.110 Facilities; compliance with Occupational Safety and Health Act; vehicles.

1. The applicant shall submit documents certifying that the facilities have been inspected and meet the requirements of building codes, codes for the prevention of fire, and codes for safety, health, and sanitation before a license will be issued or renewed.

2. The applicant shall submit evidence that he has communicated with the division of industrial relations of the department of business and industry regarding compliance with federal occupational Safety and Health Act of 1970, as amended, before a license will be issued or renewed.

3. The applicant shall submit documents certifying that any vehicle for the transportation of pupils has been inspected by the department of motor vehicles and public safety as to its condition, equipment and identification.

SECTION 21. 394.120 Inspection of facilities and plans. Facilities or plans shall be inspected and approved by the department for conformity with acceptable educational standards and specifications, and for compliance with the provisions of this chapter before a private school license is issued.

SECTION 22. 394.130 Certificate of inspection; fire drills, insurance, applicability of requirements to rented or leased facilities.

1. The applicant shall:
 - (a) Provide a completed certificate of inspection by the department.
 - (b) Describe the procedures for fire drills and provide sample information to be posted in rooms.
 - (c) Describe the proposed or actual program of insurance for the institution and give the name of the agent.
 - (d) Maintain adequate insurance in force at all time covering buildings and equipment of the institution.
 - (e) Maintain a contract of insurance against loss arising from death, personal injury, or damage to property in an amount not less than [~~\$300,000~~] \$1,000,000 for each occurrence.
2. The provisions contained in NAC 394.100, 394.100, and 394.120, and this section apply to any facility which will be rented or leased by the applicant. The applicant shall submit to the department a copy of the rental agreement or lease and the name of the owner of the facility.

SECTION 23. 394.140 Evidence of financial stability; audit; declaration of tax-exempt status.

1. Applicants for an initial private school license or for renewal of a private school license shall submit a proposed budget showing estimated revenues and expenditures for each of the 2 years of operation authorized by the license, to establish reasonable financial stability.
2. An applicant shall:

(a) Fully disclose to the department all owners, directors, officers, shareholders, trustees, and any other parties maintaining a financial interest in the institution and the basis upon which the organization is legally constituted. An incorporated institution shall submit a certificate of authorization to do business from the secretary of state and a copy of its article of incorporation and bylaws. Any changes in the articles or bylaws must be reported to the board.

(b) Submit a financial statement. An institution with an enrollment of at least 30 pupils but not more than 150 pupils shall have a certified public accountant or public accountant compile the statement. An institution with an enrollment of more than 150 pupils shall have a certified public accountant review the statement and sign it.

3. If circumstances reflect adversely on the financial stability of the institution, the board may order that an audit be performed at the expense of the applicant.

4. Evidence of an official declaration of tax-exempt status by the Internal Revenue Service must be submitted with an application from a nonprofit organization.

SECTION 24. 394.150 Advertising

1. An applicant shall provide samples of proposed advertising.

2. Institutions licensed by the board shall not use the words “state board of education” in any outdoor advertising or on the building itself.

3. The words “licensed by the state board of education” or any other allusion to state private school licensing, if included in any brochure, stationery, or printed advertisement of any nature, must be in print no larger than the smallest print used elsewhere in the material.

SECTION 25. 394.160 Reputation and character of officers and staff.

1. All [**noncertified**] applicants who do not have a teacher’s license[, **employees of an applicant, and persons who volunteer their services**] shall hold valid local occupational permits before beginning any activity at an institution. Any fees or costs associated with the local occupational permit including, but not limited to, the cost of investigations by the Federal Bureau of Investigation must be paid by the applicant, or employee[, **or volunteer**].

2. If the institution is located in a jurisdiction in which a memorandum of understanding:

(a) Exists between the department and the local law enforcement agency, the local occupational permit must be obtained from that local law enforcement agency.

(b) Does not exist, the local occupational permit must be obtained from the department and the superintendent of public instruction who shall conduct an investigation of the background of the applicant and any employee of the applicant [or volunteer] and submit fingerprints to the Federal Bureau of Investigation for its report before any permit is issued.

3. The applicant shall:

(a) Submit three local references attesting to the character and reputation of the owner or chairman of the board of trustees of the institution.

(b) Notify the department in writing of the conviction of an officer or member of the staff of the institution of any crime or felony involving moral turpitude which could affect relationships with pupils.

4. An institution shall not knowingly employ any person who has been convicted of a crime involving moral turpitude with a minor unless otherwise permitted by the board.

SECTION 26. 304.165 Memorandum of understanding between department and local law enforcement agency. The superintendent of public instruction may enter into a memorandum of understanding between the department and a local law enforcement agency specifying the particular procedures and conditions for the issuance of a local occupational permit for employees of an institution including:

1. The conduct of investigations of the background of the applicant or any employee of the applicant[, and any person who volunteers his services to the institution]; and

2. The submission of fingerprints to the Federal Bureau of Investigation for its report.

SECTION 27. 394.170 Enrollment, entrance, and dismissal. The applicant shall:

1. State institutional policy and regulations on enrollment and entrance requirements. The policy and regulations shall be clearly stated in all literature.

2. File with the department a statement of assurance that students will be admitted to the institution without regard to race.

3. State institutional policy and regulations relating to student conduct or behavior and conditions for dismissal. Dismissal procedures must comply with requirements of due process of law.

SECTION 28. 394.180 Maintenance and operational standards, periodic reviews. The provisions contained in NAC 394.010 to 394.180, inclusive, shall also be used as maintenance and operational standards and criteria. Reviews will be conducted periodically to assure that the institution is maintained and operated in accordance with those sections.

SECTION 29. 394.190 Immunization against mumps.

1. The state board of health hereby declares the disease of mumps to be a communicable disease.

2. Unless excused because of religious belief or medical condition, a child may not be enrolled in a private school in this state unless he has been immunized against the mumps.

**NEVADA STATE BOARD OF EDUCATION
NEVADA STATE BOARD FOR OCCUPATIONAL EDUCATION**

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
NAC 394, Private Schools**

IMPACT STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 394, Private Schools:

1. A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.

Notice of Workshop to Solicit Comments on Proposed Regulations was sent to approximately one-hundred twenty-five individuals and educational organizations. One workshop was held October 23, 1998. There were no comments from the public. No written comments from the public were received.

The Notice of Intent to Act Upon a Regulation for public hearing on the proposed revisions was sent to approximately one-hundred twenty-five individuals and educational organizations. Two public hearings were conducted on October 24, 1998, and December 12, 1998, to provide the opportunity for comments by affected parties and the public. There were no comments from the public. No written comments were received.

2. The Number of Persons Who:

a) **Attended Each Hearing:** Workshop: 10 First Hearing: 18 Second Hearing: 12

b) **Testified at Each Hearing:** Workshop: 0 First Hearing: 0 Second Hearing: 0

and,

c) **Submitted Written Statements:** Workshop: 0 First Hearing: 0 Second Hearing: 0

A copy of any written comments may be obtained by calling LaDonna Byrd, Board Secretary, at the Department of Education (702) 687-9225, or by writing to the Department of Education, 700 East Fifth Street, Carson City, Nevada 89701-5096.

3. A description of how comment was solicited from affected businesses, a summary of the response and an explanation how other interested parties may obtain a copy of the summary.

Comment was solicited through the workshop notice of September 22, 1998, and public hearing notices of September 22, 1998, and November 9, 1998.

A copy of the summary and/or minutes of the public hearing may be obtained by calling LaDonna Byrd, Board Secretary, at the Department of Education (702) 687-9225, or by writing to the Department of Education at 700 East Fifth Street, Carson City, Nevada 89701-5096.

4. If the regulation was adopted with or without change to any part of the proposed regulation, a summary of the reasons for adopting.

The temporary regulation was adopted by the Nevada State Board of Education at the public hearing on December 12, 1998, with changes to the proposed language to remove reference to volunteers and the requirement for background checks

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

There is no economic effect on the school districts. There is no estimated economic effect on the public.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of this regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

No other state or government agency regulations will be overlapped or duplicated by the above noted regulations. There is no duplication or overlap of federal regulations.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There are none.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not provide or involve a new fee.