

**ADOPTED REGULATION OF THE
STATE BOARD OF EDUCATION**

LCB File No. R007-02

Effective April 5, 2002

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

AUTHORITY: §§1-23, NRS 385.080 and 388.874.

Section 1. Chapter 387 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *A pupil who is enrolled in a program of distance education that has been approved pursuant to section 15 of this regulation shall be deemed an enrolled pupil if, for each course of distance education in which the pupil is enrolled:*

(a) The course is included on the list of approved courses of distance education prepared and published by the department pursuant to NRS 388.834; and

(b) A teacher meets or otherwise communicates with the pupil at least once each week during the course to discuss the pupil's progress.

2. Each pupil enrolled in a course of distance education offered through a program of distance education must be recorded in full attendance for each week that a teacher meets or otherwise communicates with the pupil during the course to discuss the pupil's progress. Each weekly meeting or communication with a pupil must be included in the master register of enrollment and attendance required by NAC 387.171.

3. A pupil who is enrolled full time in a program of distance education provided by the board of trustees of a school district must be entered as an enrolled pupil in the master register

of enrollment and attendance for the public school to which the pupil is declared affiliated by the board of trustees pursuant to NRS 388.862.

4. If a pupil is enrolled part time in a program of distance education, the record of the part-time attendance of the pupil must be maintained separately from the record of attendance maintained by the school in which the pupil is otherwise enrolled.

Sec. 3. *1. If a pupil is enrolled full time in a regular school program of a school district and the pupil is concurrently enrolled in a program of distance education provided by the same school district, the pupil must be counted only once for purposes of apportionment and the school district is not eligible for additional basic support for the pupil.*

2. If a pupil is enrolled full time in a regular school program of a charter school and the pupil is concurrently enrolled in a program of distance education provided by the same charter school, the pupil must be counted only once for purposes of apportionment and the charter school is not eligible for additional basic support for the pupil.

3. The count of pupils who are enrolled part time in a program of distance education pursuant to subparagraph (4) of paragraph (a) of subsection 1 of NRS 387.1233 is based upon the percentage of time, rounded to the nearest whole number, that each pupil participates in a program of distance education during a school day in proportion to the total time that services are provided to full-time pupils enrolled in a regular school program of the school district or charter school, as applicable. The requirements for the count of pupils enrolled part time in a program of distance education set forth in this subsection and subparagraph (4) of paragraph (a) of subsection 1 of NRS 387.1233 apply to pupils who are enrolled full time in a:

(a) Public school of a school district and are concurrently enrolled part time in a program of distance education provided by another school district or a charter school.

(b) Charter school and are concurrently enrolled part time in a program of distance education provided by a school district or another charter school.

Sec. 4. NAC 387.010 is hereby amended to read as follows:

387.010 As used in NAC 387.010 to 387.355, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 387.012 to 387.117, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NAC 387.171 is hereby amended to read as follows:

387.171 Each school or school district shall maintain a master register of enrollment and attendance containing the following information for each pupil:

1. The name of the pupil.
2. The date of birth of the pupil.
3. The school in which the pupil is enrolled.
4. The grade or ungraded category of educational service to which the pupil is admitted.
5. The dates, if applicable, of enrollment and reenrollment.
6. The date of withdrawal, if applicable, and the reason for the withdrawal, as described in

NAC 387.215.

7. The pupil's record of daily attendance.

8. The gender of the pupil.

9. *If the pupil is enrolled in a program of distance education, the information required by subsection 2 of section 2 of this regulation.*

10. The ethnic group or race to which the pupil belongs, according to the following designations:

- (a) American Indian/Alaskan Native;

- (b) Asian or Pacific Islander;
- (c) Black;
- (d) Hispanic; or
- (e) White.

FLUSH The master register of enrollment and attendance may be maintained on an electronic database or other computerized system if the school district obtains the approval of the superintendent of public instruction.

Sec. 6. NAC 387.185 is hereby amended to read as follows:

387.185 1. ~~[A]~~ *Except as otherwise provided in section 2 of this regulation, a* pupil may be counted as in attendance only if he is actually at school or engaged in an activity which is:

- (a) Sponsored by the school;
- (b) Part of the program of the school; and
- (c) Personally supervised by a member of the staff of the school.

2. Except as otherwise provided in NAC 387.286, 387.291 ~~[and 387.306:]~~ *, 387.306 and section 2 of this regulation:*

(a) A full day of attendance must be recorded for a pupil if he is in attendance for at least two-thirds of the required number of minutes in the daily session for his grade or department or, if applicable, if he is in attendance for at least two-thirds of the required number of class periods per day, as determined by the school district; and

(b) A half-day of attendance must be recorded for a pupil if he is in attendance for at least one-third of the required number of minutes in the daily session for his grade or department or, if applicable, if he is in attendance for at least one-third of the required number of class periods per day, as determined by the school district.

Sec. 7. NAC 387.200 is hereby amended to read as follows:

387.200 1. ~~[A]~~ *Except as otherwise provided in subsection 4 of section 2 of this regulation, a* pupil must not be entered as an enrolled pupil in the master register of enrollment and attendance of more than one public school on the same day.

2. A pupil remains enrolled in the public school until he is transferred from the school or his name is withdrawn from its master register. A pupil is not withdrawn from school if he is:

(a) Truant from school and documentation of the truancy is maintained by the school district;
or

(b) Absent from school with an expected date of return.

3. If a pupil:

(a) Enrolls in another school, the effective date of withdrawal is the day immediately after the last day that the pupil attended class.

(b) Does not enroll in another school, the effective date of withdrawal is the date that the parent or legal guardian of the pupil notifies the school district of the withdrawal.

(c) Is placed in a detention home or alternative program in another school district, the effective date of withdrawal is the last day that the pupil attended class or the day on which the pupil is placed in control of the personnel for the detention home or alternative program, including days for processing and proceedings for placement, whichever is earlier.

(d) Does not attend school for 10 consecutive school days and the whereabouts of the pupil are unknown, the effective date of withdrawal is the day immediately after the 10th consecutive school day that the pupil failed to attend school.

Sec. 8. Chapter 388 of NAC is hereby amended by adding thereto the provisions set forth as sections 9 to 21, inclusive, of this regulation.

Sec. 9. As used in sections 9 to 21, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 10, 11 and 12 of this regulation have the meanings ascribed to them in those sections.

Sec. 10. "Department" means the department of education.

Sec. 11. "Provider of a course of distance education" means a person or entity, located within this state or in another state, that provides a course of distance education which has been approved for inclusion on the list of approved distance education courses pursuant to NRS 388.834 and section 14 of this regulation.

Sec. 12. "Provider of a program of distance education" means a school district or charter school located in this state that provides a program of distance education which has been approved pursuant to NRS 388.838 and section 15 of this regulation.

Sec. 13. 1. On January 2 and July 1 of each year, the department shall prepare and publish a list of approved distance education courses pursuant to NRS 388.834.

2. A person or entity that has developed a course of distance education may submit an application pursuant to NRS 388.834 and section 14 of this regulation to the department for inclusion of the course on the list of approved distance education courses prepared and published by the department. The department shall conduct reviews of applications for approval of courses for inclusion on the list twice each year. An application that is received by the department on or before:

(a) April 1 will be considered for inclusion on the list published by the department on July 1 of that same year.

(b) October 1 will be considered for inclusion on the list published by the department on January 2 of the immediately succeeding year.

Sec. 14. 1. *The department shall prescribe the form for an application for inclusion of a course of distance education on the list of approved distance education courses prepared and published by the department. The department shall not accept or review an application for a course that contains a commercial advertisement. Each application must include:*

(a) The name of the person or entity that is the provider of the course of distance education;

(b) The original signature of the person or authorized representative of the entity submitting the application;

(c) If applicable, the date on which the application was approved by the board of directors, board of regents, board of trustees or other governing body of the entity that submitted the application;

(d) If applicable, a description of the regional or national accreditation status attained by the entity that submitted the application and the date on which such accreditation was granted; and

(e) For each course identified in the application:

(1) The specific title of the course;

(2) The amount of credit to be awarded for successful completion of the course;

(3) The number of instructional hours provided as part of the course;

(4) A description of the course, including, without limitation, the syllabus for the course, a list of each textbook that will be used for the course and any supplemental materials that will be used for the course;

(5) A description of the method used for delivery of instruction, including, without limitation, the method by which a teacher will meet or otherwise communicate with each pupil enrolled in the course at least once each week to discuss the pupil's progress;

(6) A description of the manner by which the academic achievement of pupils enrolled in the course will be assessed and the criteria that will be used to determine the grades assigned to pupils who complete the course;

(7) If the subject area offered by the course is a subject area for which the state board of education has:

(I) Adopted standards of content and performance pursuant to NRS 389.520, documentation which demonstrates that the course is aligned with those standards; or

(II) Otherwise adopted regulations setting forth the requirements for the subject area offered by the course, documentation which demonstrates that the course is aligned with those requirements;

(8) If available at the time the application is submitted, the name of the teacher who will provide instruction for the course and, if the course is a core academic subject, as defined in NRS 389.018, a copy of the license of the teacher;

(9) If a teacher has not been identified at the time the application is submitted, a description of the qualifications that will be used to employ a teacher for the course; and

(10) The name, address and telephone number of the person who will administer the course.

2. Not more than 45 calendar days after receipt of an application pursuant to this section, the department shall provide written notice of its approval or denial of the application to the applicant. If an application is denied, the applicant may, not later than 30 calendar days after

receipt of the notice of denial, correct the deficiencies identified in the notice of denial and resubmit the application to the department.

3. Except as otherwise provided in section 21 of this regulation, if a course is approved pursuant to this section, the approval is valid for 3 years, commencing with the date on which the course is first included on the list of approved distance education courses published by the department. The department shall prescribe forms for the renewal of an application. A provider of a course of distance education must submit an application for renewal to the department at least 60 days before the expiration of the approval to maintain the course on the list of approved distance education courses.

4. If a provider of a course of distance education intends to change or modify the course with regard to the items set forth in subparagraphs (1) to (10), inclusive, of paragraph (e) of subsection 1, the provider shall obtain the written approval of the department before making such a change or modification. If the provider changes or modifies the course without the approval of the department pursuant to this subsection, the department may revoke its approval of the course.

Sec. 15. 1. *The department shall engage in the process of reviewing applications for programs of distance education once per year. An application must be received by the department from the board of trustees of a school district or a governing body of a charter school on or before January 15 for consideration of a program that will begin operation in the immediately succeeding school year. An application must be received by the department from a committee to form a new charter school on or before September 1 for a program that will begin operation in the immediately succeeding school year.*

2. The department shall prescribe the form for the application. An application must include:

(a) The name of the school district or charter school submitting the application;

(b) The date on which the board of trustees of the school district, the governing body of the charter school or the committee to form a charter school, as applicable, reviewed and approved the application;

(c) The original signature of the president of the board of trustees, or his designee, a member of the governing body of the charter school or a member of the committee to form a charter school, as applicable, indicating approval of the application;

(d) The name, address and telephone number of the person who will administer the program of distance education;

(e) A list designating each course of distance education that will be offered through the program;

(f) If a course of distance education that will be offered through the program is included on the list of approved distance education courses prepared by the department, an identification of each course, including, without limitation, the title of the course and the name of the provider of the course of distance education;

(g) If a course of distance education that will be offered through the program is not included on the list of approved distance education courses prepared by the department, the information required by subparagraphs (1) to (10), inclusive, of paragraph (e) of subsection 1 of section 14 of this regulation;

(h) A description of the manner by which the school district or charter school will document the attendance and participation of each pupil who is enrolled in a course offered

through the program, consistent with the provisions of sections 2 and 3 of this regulation;

(i) A description of the criteria that will be used to enroll pupils in the program, including, without limitation, the manner by which the eligibility of each pupil for enrollment will be determined and documented in compliance with NRS 388.850;

(j) A description of the plan for assessing the academic achievement of pupils who are enrolled in the program, which must include, without limitation, the administration of the achievement and proficiency examinations required by NRS 389.015 and 389.550;

(k) A description of the manner by which the school district or charter school will document the completion of a course by a pupil enrolled in the program and award credit to each pupil who completes a course; and

(l) A description of the manner by which the school district or charter school will monitor the progress of each pupil enrolled in the program, including, without limitation:

(1) A method for identifying pupils who are experiencing difficulty with completing assignments or who are otherwise not demonstrating satisfactory progress; and

(2) The assistance or support that will be provided to pupils identified pursuant to subparagraph (1) in addition to any assistance or support offered by the provider of the course of distance education.

2. If a school district or charter school submits an application pursuant to this section to provide a program of distance education and the application is approved, the school district or charter school is not required to submit a separate application pursuant to NRS 388.834 and section 14 of this regulation for approval of a course that is included in the approved program.

3. Not more than 45 calendar days after receipt of an application pursuant to this section, the department shall provide written notice of its approval or denial of the program to the

applicant. If an application is denied, the applicant may, not later than 30 calendar days after receipt of the notice of denial, correct the deficiencies identified in the notice of denial and resubmit the application to the department.

4. Except as otherwise provided in this subsection and section 21 of this regulation, if a program of distance education is approved pursuant to this section, the approval is valid for 3 years. The department shall prescribe the form for the renewal of an application. To continue providing a program of distance education, the provider of the program must submit an application for renewal to the department at least 60 days before the expiration of the approval. If the department approves a program of distance education submitted by a committee to form a new charter school and the committee's application to form a charter school is denied by the department, the board of trustees of a school district or the state board of education, as applicable, the approval of the program of distance education is automatically revoked and the procedure for revocation set forth in section 21 of this regulation does not apply.

5. If a provider of a program of distance education intends to change or modify the program with regard to the items set forth in the application, the provider shall obtain the written approval of the department before making such a change or modification. If the provider changes or modifies the program without the approval of the department pursuant to this subsection, the department may revoke its approval of the program.

6. A school district or charter school shall not enroll pupils in a program of distance education unless the department has provided documentation indicating that the program has been approved pursuant to this section for operation in this state.

Sec. 16. *A licensed teacher designated by the provider of a program of distance education to fulfill the requirements of subsection 1 of NRS 388.866 for a course of distance education must hold a license that authorizes him to teach in the state in which the license was issued:*

- 1. In the subject area offered by the course of the distance education; and*
- 2. At the appropriate grade level for which the course of distance education is offered.*

Sec. 17. *If a program of distance education includes courses from a provider of a course of distance education, the provider of the program of distance education is responsible for any costs associated with the use of such courses for the program.*

Sec. 18. *A provider of a program of distance education shall award the credit earned by pupils who complete a course of distance education on official transcripts of the school district or charter school, as applicable.*

Sec. 19. *The written agreement required by subsection 2 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 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;*
- 3. 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;*
- 4. The name of the provider of the program of distance education;*

5. *A list indicating each course of distance education in which the pupil will be enrolled;*
and

6. *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.*

Sec. 20. *The written agreement required by subsection 3 of NRS 388.858 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 school identification number;*

2. *The written permission of the governing body of the charter school in which the pupil is enrolled for the pupil to enroll part time in a program of distance education provided by another charter school or a school district;*

3. *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;*

4. *The name of the provider of the program of distance education;*

5. *A list indicating each course of distance education in which the pupil will be enrolled;*
and

6. *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.*

Sec. 21. 1. *The state board of education may revoke approval for a course of distance education to be included on the list of approved distance education courses published by the department or for a program of distance education to operate in this state if the state board*

determines, by majority vote, that the provider of the course or program has failed to comply with:

(a) The terms and conditions of the application to provide the course or program, as approved by the department pursuant to section 14 or 15 of this regulation;

(b) Subsection 4 of section 14 of this regulation or subsection 5 of section 15 of this regulation, as applicable;

(c) Generally accepted standards of accounting and fiscal management; or

(d) The provisions of NRS 388.820 to 388.874, inclusive, or any other statute or regulation applicable to distance education.

2. If the department receives a complaint concerning a course of distance education or a program of distance education, or otherwise has reason to believe that a provider of a course or program has failed to comply with paragraphs (a), (b), (c) or (d) of subsection 1, the department may conduct a review of the course or program, including, without limitation, an audit of the course or program, to determine whether to recommend revocation of the course or program.

3. If the department conducts a review pursuant to subsection 2, the department shall provide written notice to the provider of the course or program that the department will conduct a review of the course or program. The notice must include the scheduled dates for the review and the specific concerns that will be addressed during the review.

4. If the department finds deficiencies in a course or program during a review that is conducted pursuant to subsection 2, the department shall provide written notice to the provider of the course or program that includes a statement of the deficiencies and a timeline by which the provider may correct the deficiencies before the department recommends revocation of the

course or program to the state board of education. If the provider does not correct the deficiencies to the satisfaction of the department within the time period prescribed in the written notice, the department may recommend that the state board revoke approval of the course or program. If the department determines to recommend revocation, the department shall present its recommendation to the state board at the next regularly scheduled meeting of the state board after the time period prescribed in the written notice has expired.

5. If the state board of education decides to proceed with revocation, it will provide written notice of the proposed revocation by certified mail to the provider of the course or program.

The notice must:

(a) Include the time and location set by the state board for a hearing concerning the proposed revocation, which will be conducted during a regularly scheduled meeting of the state board;

(b) Identify the deficiencies in the course or program that have caused the state board to proceed with revocation; and

(c) Be provided to the provider of the course or program at least 30 calendar days before the hearing.

6. Within 7 calendar days after a hearing is conducted pursuant to subsection 5, the state board of education will provide written notice by certified mail to the provider of the course or program of the decision of the state board concerning the revocation.

7. If the state board of education revokes approval for a course of distance education to be included on the list of approved distance education courses published by the department, the provider of the course shall cease to offer the course in this state immediately upon receipt of notice from the state board pursuant to subsection 6. If the state board revokes approval for

a program of distance education to operate in this state, the provider of the program shall cease to operate the program immediately upon receipt of notice from the state board pursuant to subsection 6.

Sec. 22. 1. Notwithstanding the provisions of section 14 of this regulation, the department of education shall adopt a revised timeline for review and approval of applications for courses of distance education for implementation during the 2002-2003 school year. The revised timeline must allow for late submissions of applications and approval of a course before August 15, 2002.

2. Notwithstanding the provisions of section 15 of this regulation, the department of education shall adopt a revised timeline for review and approval of applications for programs of distance education for implementation during the 2002-2003 school year. The revised timeline must allow for late submissions of applications and approval of a program before August 15, 2002.

Sec. 23. 1. Notwithstanding the provisions of subsection 3 of NRS 388.854, the department of education shall accept late submissions of the written agreement required by that subsection for the fall semester of 2002. A late submission must not be accepted after the last day of the first school month of the school district.

2. Notwithstanding the provisions of subsection 4 of NRS 388.858, the department of education shall accept late submissions of the written agreement required by that subsection for the fall semester of 2002. A late submission must not be accepted after the last day of the first school month of the school district in which the charter school is located.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R007-02

The State Board of Education adopted regulations assigned LCB File No. R007-02 which pertain to distance education programs (chapters 387 & 388 of the Nevada Administrative Code) on March 2, 2002.

Notice date: Workshop 11/9/2001
Hearing 1/31/2002

Date of adoption by agency: 3/2/2002

Hearing date: 3/2/2002

Filing date: 4/5/2002

INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code 387 & 388:

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.

The Notice of Workshop to Solicit Comments on Proposed Regulations was sent to approximately one-hundred fifty individuals and educational organizations. The workshop was conducted by the Nevada State Board of Education on December 1, 2001. One person from the public spoke to the proposed language.

Notice of Intent to Act Upon a Regulation for public hearing and adoption of regulation language, NAC 387 & 388, Distance Education Programs (LCB File R 007-02) was sent to approximately one-hundred fifty individuals and educational organizations. A one-time only public hearing was conducted March 2, 2002, to provide the opportunity for comments by affected parties and the public. There were comments from the public. The Board adopted the permanent language on March 2, 2002 with revisions.

2. The Number of Persons Who:

a) Attended Each Hearing: Workshop: 17 Hearing: 10

b) Testified at Each Hearing; Workshop: 1 Hearing : 2

and,

c) Submitted Written Statements: Workshop: 0 Hearing: 0

Copies of written statements can be requested by calling LaDonna Byrd, Executive Assistant to the Board at the Department of Education (775) 687-9225, or by writing to the Department of Education, Suite 100, 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 November 9, 2001. One person, Leslie Fritz, Learning and Public Policy Specialist, Nevada State Education Association, spoke in support of the proposed language and the willingness to work with the Department on the draft language.

Comment was solicited through the public hearing notice of January 31, 2002. Two individuals from the public came forward to speak at the March 2, 2002, public hearing: Craig Butz, Odyssey Secondary Charter School, Las Vegas, expressed a concern for the January 15th submission date for applications in Section 15. It was explained that for the first year of implementation the submission date for applications is August 15, 2002 (Section 22); and, Leslie Fritz, Learning and Public Policy Specialist, Nevada State Education Association, expressed the interest of the association that the language be as tight as possible.

A copy of the summary and/or minutes of the public hearing may be obtained by calling LaDonna Byrd, Executive Assistant to the Board at the Department of Education (775) 687-9225, or by writing to the Department of Education, Suite 100, 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 permanent regulation language LCB File R 007-02 was adopted by the Nevada State Board of Education at the public hearing held March 2, 2002, with revision: Section 15, new language Section 15.1(a) "A committee to form a new charter school shall submit the application to the Department following the timelines prescribed in NAC 386.130 for the submittal of an application to form a charter school;" Section 15.2(b), insert "or the committee to form the charter school;" and, Section 23.2 to delete September 30, 2002, and add "the last day of the first school month of the school district."

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 business which is regulated. There is no estimated economic effect on the public, either adversely or beneficially, nor immediate or long term.

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.