

**REVISED PROPOSED REGULATION OF
THE DEPARTMENT OF EDUCATION**

LCB File No. R060-02

August 8, 2002

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

AUTHORITY: §§1-12, NRS 386.540.

Section 1. Chapter 386 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. *To comply with subsection 1 of NRS 386.590, the total number of licensed teachers employed by a charter school other than a vocational school to provide instruction must be equal to or more than the product of 70 percent multiplied by the total number of persons employed full time and part time by the charter school to provide instruction.*

Sec. 3. *The department will interpret “parents,” as used in subsection 1 of NRS 386.549, to mean parents and legal guardians of children enrolled in and attending the charter school for which the governing body is formed.*

Sec. 4. *A charter school shall report the data required pursuant to NRS 386.650 to the school district in which the charter school is located not later than the first day of instruction of the second year of operation of the charter school.*

Sec. 5. *If the governing body of a charter school establishes an advisory committee, the advisory committee shall comply with the provisions of chapter 241 of NRS.*

Sec. 6. *Neither the governing body of a charter school nor a charter school may be incorporated.*

Sec. 7. 1. *Except as otherwise provided in subsection 2, a charter school that is sponsored by the board of trustees of a school district may provide instruction only in facilities located within the county in which that school district is located.*

2. *A charter school that:*

(a) Is sponsored by the board of trustees of a school district;

(b) Provides a program of distance education pursuant to NRS 388.820 to 388.874, inclusive; and

(c) Uses facilities other than a pupil's home in which to provide instruction,

FLUSH *may provide instruction only in facilities located within the county in which that school district is located.*

3. *Except as otherwise provided in subsection 4, a charter school that is sponsored by the state board of education may provide instruction only in facilities located in one county.*

4. *A charter school that:*

(a) Is sponsored by the state board of education;

(b) Provides a program of distance education pursuant to NRS 388.820 to 388.874, inclusive; and

(c) Uses facilities other than the pupil's home in which to provide instruction,

FLUSH *may provide instruction only in facilities located in one county.*

Sec. 8. 1. *If the governing body of a charter school contracts with an educational management organization for the provision of any of the administrators, teachers or other educational personnel or educational support personnel for the charter school, the contract must include a provision which requires that:*

(a) The administrators, teachers or other educational personnel or educational support personnel provided by the educational management organization be employees of the charter school and on the payroll of the charter school; and

(b) The charter school pay any compensation for such personnel, including, without limitation, wages, salaries, paid vacation leave, paid sick leave, contributions to the public employees' retirement system, dental insurance, medical insurance, Medicare contributions, social security payments, state and federal unemployment compensation contributions or payments, and workers' compensation insurance.

2. The educational management organization which provides employees to a charter school pursuant to this section shall reimburse the charter school for the total costs incurred pursuant to subsection 1 on a schedule determined by the governing body of the charter school and the educational management organization.

Sec. 9. NAC 386.130 is hereby amended to read as follows:

386.130 1. The department will prescribe forms for the use of a committee to form a charter school in applying to:

(a) The department, pursuant to subsection 2 of NRS 386.520;

(b) The board of trustees of the school district in which the proposed charter school will be located, pursuant to NRS 386.525; and

(c) The state board of education, pursuant to NRS 386.525,

to form a charter school.

2. An application to form a charter school *must not propose to form a charter school in more than one county. The department will accept only one application per year from each committee to form a charter school. The state board of education and the board of trustees of a*

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school district shall accept only one application per year from each committee to form a charter school. An application that is submitted to:

(a) The department, pursuant to subsection 2 of NRS 386.520;

(b) The board of trustees of the school district in which the proposed charter school will be located, pursuant to NRS 386.525; and

(c) The state board of education, pursuant to NRS 386.525,

FLUSH must be submitted on forms prescribed pursuant to subsection 1 and must be submitted to the department not later than 5 p.m. on September 1 of the fiscal year immediately preceding the fiscal year in which the proposed charter school will begin operation and to the board of trustees or the state board of education not later than 5 p.m. on January 15 of the fiscal year immediately preceding the fiscal year in which the proposed charter school will begin operation.

3. An application to form a charter school may not be submitted earlier than 2 fiscal years immediately preceding the fiscal year in which the proposed charter school will begin operation.

4. Pursuant to NRS 386.520 and 386.525, only a committee to form a charter school may submit an application to form a charter school. The department will not accept an application from a potential contractor or employee of the proposed charter school. Neither the state board of education nor the board of trustees of a school district shall accept an application from a potential contractor or employee of the proposed charter school.

5. An application may be submitted only for the kind of school, as defined in NRS 388.020, that will be operated during the first year of operation. If the applicant intends to expand the kind of school for which the charter school is authorized to operate after the first year of operation, the written charter must be amended pursuant to subsection 3 of NRS 386.527.

6. Except as otherwise provided in this subsection, if an application to form a charter school is approved and the charter school fails to become an operational charter school, the committee that submitted the application may not submit another application for a charter school within the same school district until after the completion of 2 fiscal years immediately succeeding the fiscal year in which the originally proposed charter school would have become an operational charter school. The restriction set forth in this subsection does not apply to an application submitted for a charter school that is dedicated to providing educational programs and opportunities for pupils who are at risk.

Sec. 10. NAC 386.345 is hereby amended to read as follows:

386.345 1. *A majority of the members of the governing body of a charter school must reside in the county in which the charter school is located.*

2. The membership of the governing body of a charter school shall not include:

(a) An employee of the governing body or charter school, including, without limitation, an administrator or teacher; or

(b) A contractor of the governing body or charter school.

~~[2.]~~ 3. *If a person serves on the governing body as a representative of a nonprofit organization or business, no other member of the governing body may also serve as a representative of that organization or business or otherwise represent the interests of that organization or business.*

4. Not later than 5 business days after the governing body of a charter school is selected, the governing body shall submit to the department:

(a) The name and address of each member;

(b) The résumé of each member;

(c) The state of residence of each member;

(d) If a member serves on the governing body as a teacher, as that term is defined in subsection 4 of NRS 386.549, a photocopy of his license to teach; and

(e) An affidavit of each member indicating that he has not been convicted of a felony or any offense involving moral turpitude.

~~[3.]~~ **5.** The governing body of a charter school governs the charter school, maintains overall control of the charter school and is responsible for the operation of the charter school, including, without limitation, critically evaluating the performance of a contractor for the charter school and selecting another contractor if the contractor is not performing his duties or services in a satisfactory manner.

~~[4.]~~ **6.** Not later than 30 business days after each public meeting held by the governing body of a charter school pursuant to subsection 3 of NRS 386.549, the governing body shall submit to the department and to the sponsor of the charter school, a copy of the minutes of the meeting.

Sec. 11. NAC 386.400 is hereby amended to read as follows:

386.400 1. A contract between the governing body of a charter school and an educational management organization, the board of trustees of a school district, the University and Community College System of Nevada or any business, corporation, organization or other entity, whether or not conducted for profit, to provide any service to the charter school must include a provision that requires the contractor to inform each person whom the contractor employs or hires and who provides a direct service to the charter school ~~[that:]~~ *whether:*

(a) The person is ~~[not]~~ employed by the governing body of the charter school ~~[:]~~ *pursuant to section 8 of this regulation;* and

(b) The provisions of NRS 386.595 ~~[do not]~~ apply to ~~[an employee of the contractor or any]~~ *that* person hired by the contractor to perform a service to the charter school, including, without limitation, the provisions governing the status of employees of a charter school and their collective bargaining rights and benefits.

2. If the governing body of a charter school enters into a contract with an educational management organization, the board of trustees of a school district, the University and Community College System of Nevada or any business, corporation, organization or other entity, whether or not conducted for profit, to provide any service to the charter school, the governing body shall, not later than 30 days after the contract is signed by both parties, submit to the sponsor of the charter school and the department:

- (a) The name of the contractor;
- (b) A copy of the contract;
- (c) The name of a contact person for the contractor;
- (d) The telephone number and mailing address of the contractor;
- (e) A description of the service to be provided by the contractor; and
- (f) A description of the manner in which each person who is employed or hired by the

contractor to provide a direct service to the charter school has been notified of the information required by subsection 1.

FLUSH If any of the information set forth in paragraphs (a) to (f), inclusive, was included with the application to form the charter school pursuant to subsection 6 of NAC 386.180, the governing body is not required to resubmit the information if it is still accurate after the contract has been entered into.

Sec. 12. NAC 386.410 is hereby amended to read as follows:

386.410 The sponsor of a charter school shall submit to the department an annual report of compliance for the charter school. If the board of trustees of a school district is the sponsor of a charter school, the annual report of compliance must be included in the report that is required pursuant to NRS 386.610. The annual report of compliance must include:

1. A determination whether the charter school and its governing body comply with the terms and conditions of operation set forth in the written charter.

2. A determination whether the membership of the governing body of the charter school complies with NRS 386.549 and NAC 386.345, including, without limitation, whether:

(a) The governing body consists of at least three teachers, as defined in subsection 4 of NRS 386.549;

(b) A majority of the members of the governing body reside in ~~{this state;}~~ *the county in which the charter school is located;* and

(c) Each member of the governing body has filed an affidavit with the department indicating that he has not been convicted of a felony or offense involving moral turpitude.

3. A determination whether the governing body has held at least one regularly scheduled public meeting in the county in which the charter school is located during each calendar quarter and each meeting complied with chapter 241 of NRS.

4. *A determination whether the governing body and the charter school comply with the provisions of NRS 332.155.*

5. Upon examination of the agenda and minutes of each meeting of the governing body and the reports submitted to the governing body during each meeting, a determination whether the governing body is fulfilling its duty to evaluate the performance of each entity with whom the

governing body has entered into a contract, including, without limitation, the performance of an educational management organization.

~~{5}~~ **6.** If the charter school is dedicated to providing educational programs and opportunities for pupils who are at risk, a determination whether the:

(a) Percentage of pupils who are at risk complies with NAC 386.080; and

(b) Educational program and services provided to those pupils is appropriate and carried out in an effective manner.

~~{6}~~ **7.** A determination whether the charter school has complied with generally accepted standards of accounting and fiscal management.

~~{7}~~ **8.** A determination whether all money received by the charter school from this state and from the board of trustees of a school district is deposited and maintained in a bank, credit union or other financial institution in this state.

~~{8}~~ **9.** A determination whether the charter school has adopted a final budget, as required by NRS 386.550 and NAC 386.370.

~~{9}~~ **10.** A determination whether the charter school complies with NRS 386.573 regarding orders for payment of money.

~~{10}~~ **11.** A determination whether the charter school administers achievement and proficiency examinations in accordance with chapter 389 of NRS and chapter 389 of NAC.

~~{11}~~ **12.** A summary of the manner in which the charter school ensures the health and safety of the pupils enrolled in the charter school, including, without limitation, a determination whether the charter school:

(a) Complies with the requirements for reporting the abuse or neglect of a child;

(b) Complies with Title V of the Rehabilitation Act of 1973, 29 U.S.C. §§ 791 et seq.;

(c) Provides adequate health services;

(d) Maintains records of the immunizations required of pupils in accordance with NRS 392.435;

(e) Complies with NRS 392.450 by providing drills for pupils in the appropriate procedures to be followed in the event of an emergency and by posting escape routes; and

(f) Complies with the requirements for crisis response in public schools in accordance with NRS 392.600 to 392.656, inclusive.

~~12.~~ **13.** A determination whether each facility that the charter school occupies complies with applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation.

~~13.~~ **14.** A determination whether the charter school complies with NRS 386.585, including, without limitation, whether the charter school:

(a) Provides a copy of the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments to each pupil;

(b) Maintains, for public inspection at the charter school, a copy of the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments; and

(c) Complies with the policies and procedures for the suspension and expulsion of pupils.

~~14.~~ **15.** A description of the attendance policy of the charter school and a determination whether the policy is:

(a) Distributed to each pupil in accordance with NAC 386.350; and

(b) Available for public inspection during the school's regular business hours.

~~15.~~ **16.** If pupils with disabilities are enrolled in the charter school, a determination whether the provision of special educational services and programs to those pupils complies with

the requirements set forth in chapters 388 and 395 of NRS and NAC 388.150 to 388.450, inclusive.

~~{16.}~~ 17. A determination whether the charter school provides instruction in the core academic subjects set forth in subsection 1 of NRS 389.018, as applicable for the grade levels of pupils who are enrolled in the charter school.

~~{17.}~~ 18. A determination whether the charter school provides at least the courses of study that are required of pupils by statute or regulation for promotion to the next grade or graduation from a public high school and requires the pupils who are enrolled in the charter school to take those courses of study.

~~{18.}~~ 19. A determination whether the charter school complies with NRS 386.590 regarding the employment of teachers and other educational personnel.

~~{19.}~~ 20. A determination whether the status of the employees of the charter school and the rights and benefits provided to those employees comply with NRS 386.595.

~~{20.}~~ 21. A description of the manner in which the charter school maintains personnel records for its employees.

~~{21.}~~ 22. A description of the procedure for the enrollment of pupils in the charter school, including, without limitation, whether the charter school enrolls pupils on the basis of a lottery system if more pupils who are eligible for enrollment apply for enrollment than the number of spaces that are available.

~~{22.}~~ 23. If the charter school provides instruction to pupils enrolled in kindergarten, first grade or second grade, a determination whether the charter school complies with NRS 392.040 regarding the ages for enrollment in those grades.

~~[23.]~~ 24. A determination whether the charter school refrains from charging tuition or fees, except for those fees that are authorized by specific statute or by the written charter of the charter school.

~~[24.]~~ 25. A determination whether the charter school provides written notice to the parents and legal guardians of pupils enrolled in grades 9 to 12, inclusive, whether the charter school is accredited by the Commission on Schools of the Northwest Association of Schools and Colleges.

~~[25.]~~ 26. A determination whether the charter school complies with NRS 386.583 regarding the adoption of rules for academic retention.