

LCB File No. T015-03

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

Filed with the Secretary of State on 2/19/2003

Explanation: Matter in *italics* is new; matter ~~stricken~~ is material to be omitted.

AUTHORITY: NRS 385.080 & NRS 386.540

SECTION 1. NAC 386 is hereby amended as follows:

NAC 386.130 Application to form charter school: Required forms; dates for submission; restrictions.

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 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,
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.]~~ *a committee that includes a potential lessor of a facility the school may lease, a potential contractor with the school, or a representative of an educational management organization with which the school may contract.* 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.]~~ *a committee that includes a potential lessor of a facility the school may lease, a potential contractor with the school, or a representative of an educational management organization with which the school may contract.*

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.

SECTION 2. NAC 386.150 Application to form charter school: Inclusion of information regarding educational program. (NRS 386.540) In addition to the items required pursuant to subsection 2 of NRS 386.520, an application submitted to the department pursuant to that subsection by a committee to form a charter school must also include certain information regarding the educational program of the proposed charter school, including, without limitation:

1. The grade level or levels proposed to be taught at the charter school and the anticipated enrollment in each such grade level for the first year of operation.

2. A calendar delineating the school year of the charter school. The calendar must set forth:

(a) The number of days of instruction in each school year, which must be in accordance with the requirements set forth in NRS 388.090;

(b) The number of legal holidays that will be observed by the charter school and the dates on which those holidays fall;

(c) The beginning and ending date of each term; and

(d) Other important dates in the school year of the charter school, including, without limitation, school days in which less than a full day of instruction will be administered.

3. A list of any fees, charges and deposits, including, without limitation, fees, charges and deposits for course materials or equipment, that:

(a) Are typically imposed upon pupils or the parents or guardians of pupils attending public schools which are not charter schools; and

(b) Are anticipated by the committee to be imposed upon the pupils or the parents or guardians of the pupils of the charter school.

4. A description of how progress towards the mission and goals of the charter school, as described in the written description pursuant to paragraph (b) of subsection 2 of NRS 386.520, will be measured.

5. A list of courses that will be offered at the charter school, including, without limitation:

(a) For each course, the name and a description of the course, including, without limitation, the grade level at which the course will be offered; and

(b) A designation of the courses that a pupil must complete for graduation and for promotion to each grade level.

6. A schedule of classes which must meet the requirements for prescribed courses and required courses of study that are set forth in chapter 389 of NRS and chapter 389 of NAC.

7. A schedule of examinations of achievement and proficiency that will be administered to pupils at the charter school. The schedule must:

(a) Be aligned with any schedules of examinations of achievement and proficiency which are published by the department and the school district in which the charter school is located, *if available*; and

(b) Meet the requirements of chapter 389 of NRS and other applicable federal, state and local laws and regulations.

8. Information regarding credit for courses completed successfully, including:

(a) Copies of transcripts and diplomas that the charter school will use to indicate that a pupil has completed course work successfully; and

(b) The written policy of the charter school concerning the transfer of credit to another comparable school.

9. If the charter school will be dedicated to providing educational programs and opportunities for pupils who are at risk, a description of how the charter school will:

(a) Recruit pupils who are at risk;

(b) Serve the specific needs of pupils who are at risk; and

(c) Measure the success of the charter school in providing an education to pupils who are at risk.

10. A description of the manner in which the charter school will provide services and programs to pupils with disabilities in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive.

SECTION 3. NAC 386.180 Application to form charter school: Inclusion of certain miscellaneous information. (NRS 386.540) In addition to the items required pursuant to subsection 2 of NRS 386.520, an application submitted to the department pursuant to that subsection by a committee to form a charter school must also include certain miscellaneous information concerning the proposed charter school, including, without limitation:

1. A description of the lottery system that the proposed charter school will use pursuant to NRS 386.580 if more eligible pupils apply for enrollment in the charter school than the number of spaces for pupils which are available.

2. The name, address, telephone number and, if applicable, the e-mail address of the person selected to act as liaison pursuant to NAC 386.110.

3. Information concerning records of pupils that will be maintained by the proposed charter school in accordance with NAC 386.360, including, without limitation:

(a) The name and title of the person who will be responsible for:

(1) Maintaining records of pupils; and

(2) Providing records of pupils to the school district in which the charter school is located for inclusion in the statewide automated system of information concerning pupils that is established and maintained by the department pursuant to NRS 386.650.

(b) An example of the manner in which the cumulative record of a pupil is proposed to be stored.

(c) The proposed location within the charter school in which records of pupils will be stored.

(d) The name of the person who will be responsible for the records of pupils if the charter school is dissolved or the written charter of the charter school is not renewed.

(e) The policy of the charter school regarding the retention of the records of pupils.

4. A proposed budget that sets forth the estimated revenues and expenditures of the charter school for the first 2 years of operation. *A cash flow statement and a pre-opening budget must accompany the budget.*

5. A list of rules setting forth the policies of the charter school regarding truancy and other situations in which a pupil is absent from school.

6. If known at the time of application:

(a) The name of each contractor, including, without limitation, an educational management organization, the board of trustees of a school district, the University and Community College System of Nevada and any business, corporation, organization or other entity, whether or not conducted for profit, with whom the charter school intends to contract to provide any service to the charter school;

(b) A copy of the format for the contract that will be used for each contractor identified in paragraph (a), if a particular format is anticipated at the time the application is submitted;

(c) The name of a contact person for each contractor identified in paragraph (a);

(d) The telephone number and mailing address of each contractor identified in paragraph (a);
and

(e) A description of the service to be provided by the contractor.

SECTION 4. NAC 386.240 Issuance of written charter to applicant not prepared to commence operation on date of issuance; expiration, effect and contents of charter; supplemental application. (NRS 386.527, 386.540)

1. The board of trustees of a school district or the state board of education may issue a written charter pursuant to subsection 4 of NRS 386.527 if the board of trustees or state board, as applicable, determines that the applicant is not prepared to commence operation on the date of issuance of the written charter. A written charter issued pursuant to subsection 4 of NRS 386.527

for a non at-risk charter school expires 1 year after the date of issuance and is nonrenewable. *A written charter issued pursuant to subsection 4 of NRS 386.527 for an at-risk charter school expires 2 years after the date of issuance and is nonrenewable* . If a written charter is issued pursuant to subsection 4 of NRS 386.527, a governing body must be selected and the provisions of NRS 386.549 and NAC 386.345 apply to the governing body.

2. A written charter issued pursuant to subsection 4 of NRS 386.527 must include:

(a) A notation indicating ~~[that]~~ *when* it expires ~~[1-year after the date of issuance]~~ and *that it* is nonrenewable;

(b) Each reason why the charter school is not prepared to commence operation on the date of issuance of the charter;

(c) The conditions that the governing body of the charter school must satisfy to convert the written charter issued pursuant to subsection 4 of NRS 386.527 to a written charter issued pursuant to subsection 2 of NRS 386.527;

(d) The tasks that must be accomplished by the governing body of the charter school before it may submit a supplemental application to convert the written charter issued pursuant to subsection 4 of NRS 386.527 to a written charter issued pursuant to subsection 2 of NRS 386.527, including, without limitation, the timeline by which those tasks must be accomplished; and

(e) A statement by the governing body of the charter school indicating that it understands that:

(1) To receive apportionments from the state distributive school account, the charter school must have pupils enrolled and attending school at least 1 school day before the count day for the school district in which the charter school is located; and

(2) The count day for the charter school is the last day of the first school month, and is the same as the count day for the school district in which the charter school is located. The charter school must account for twenty days in the first school month; this may include days on which class is not in session, such as holidays, inservice days, and teacher conference days; and

~~[(2)]~~ (3) The governing body shall not authorize the attendance of pupils at the charter school unless the charter school has obtained a written charter issued pursuant to subsection 2 of NRS 386.527.

3. Before the expiration of a written charter issued pursuant to subsection 4 of NRS 386.527, the holder of the charter may submit a supplemental application to the sponsor requesting that the sponsor determine whether the charter school is eligible for a written charter issued pursuant to subsection 2 of NRS 386.527. The supplemental application must be submitted not less than 30 days before the expiration of the written charter issued pursuant to subsection 4 of NRS 386.527.

SECTION 5. NAC 386.410 Annual report of compliance. (NRS 386.540) 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; 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. 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. 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. A determination whether the charter school has complied with generally accepted standards of accounting and fiscal management.

7. 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. A determination whether the charter school has adopted a final budget, as required by NRS 386.550 and NAC 386.370.

9. A determination whether the charter school complies with NRS 386.573 regarding orders for payment of money.

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

11. 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. 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. 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. 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. 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. 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. 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. A determination whether the charter school complies with NRS 386.590 regarding the employment of teachers and other educational personnel.

19. 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. A description of the manner in which the charter school maintains personnel records for its employees.

21. 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. 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. 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. 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. A determination whether the charter school complies with NRS 386.583 regarding the adoption of rules for academic retention.

26. A determination whether the charter school is maintaining the type and amount of insurance, including workman's compensation insurance, or other means that will be used to indemnify the sponsor against financial loss pursuant to paragraph (l) of subsection 1 of NRS 386.550.

SECTION 6. *The governing body of a charter school shall ensure that the notification required pursuant to NRS 386.550(1)(m) is provided to parents or legal guardians no later than 10 days after the first day of school each school year.*

**ADOPTED TEMPORARY REGULATION OF THE
STATE BOARD OF EDUCATION
LCB File No. T015-03**

INFORMATIONAL STATEMENT

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 revisions to NAC 386, Charter Schools, was sent to approximately one-hundred fifty individuals and educational organizations. One workshop was conducted by the Nevada State Board of Education on December 14, 2002, to provide the opportunity for comments by affected parties and the public. There were no comments from the public.

The Notice of Intent to Act Upon a Regulation for public hearing and Board adoption of proposed revisions to NAC 386, Charter Schools, was sent to approximately one-hundred fifty individuals and educational organizations. One public hearing was conducted by the Nevada State Board of Education on December 14, 2002, to provide the opportunity for comments by affected parties and the public. There was comment from the public. The Board adopted the proposed temporary language with amendments.

2. The Number of Persons Who:

a) **Attended Each Hearing:** Workshop: 16 Hearing: 18

b) **Testified at Each Hearing;** Workshop: 0 Hearing: 1

and,

c) **Submitted Written Statements:** Workshop: 2 Hearing: *2

*Written comments submitted as follows: Letter of November 22, 2002, from Dr. James Hager, Superintendent, Washoe County school District and, 2) letter of November 25, 2002, from Craig Kadlub, Director of Public Affairs, Clark County School District. The written comments were presented at both the workshop and public hearing.

A copy of written comments can be requested by calling LaDonna Byrd, Assistant tot he State Board at 775-687-9225 or in writing to the Department of Education, State Board Office, Suite 100, 700 East Fifth Street, Carson City, NV 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 8, 2002. No comments were received.

Comment was solicited through a public hearing notice of November 8, 2002. One individual gave comments: Linda Warburton, Teacher of Deaf and Board member of the proposed Las Vegas Charter School of Deaf, spoke in support of the proposed language. In response to her question about the term "at risk" in relationship to deaf pupils, she was informed that the definition of at risk pupil is found in NRS 386.500, "...the term does not include a pupil with a disability."

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 (775) 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 language was adopted by the Nevada State Board of Education at the public hearing held December 14, 2002, with revision to remove proposed new language for a security plan for state mandated testing.

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.