

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

**LCB File No. R020-09**

(The provisions contained in R021-09 have been included in this regulation.)

June 19, 2009

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

AUTHORITY: §§1-12, NRS 385.080, 389.015 and 389.550.

A REGULATION relating to education; revising provisions governing the administration of examinations for the achievement and proficiency of pupils; and providing other matters properly relating thereto.

**Section 1.** NAC 389.051 is hereby amended to read as follows:

389.051 1. Except as otherwise provided in subsection 2, the board of trustees of each school district and the governing body of each charter school, respectively, shall administer the examinations required by NRS 389.015 and 389.550 in each public school in that district and each charter school which has the appropriate grades at the following times:

(a) For grades 3 through 8, criterion-referenced examinations in reading ~~[ ]~~ *and* mathematics ~~[and science]~~ as provided in NAC 389.061 must be administered in the spring semester on the dates specified by the Department of Education.

(b) ~~[For grades 4, 7 and 10, norm-referenced examinations in reading, language, mathematics and science must be administered in the spring semester on the dates specified by the Department of Education.]~~

~~(e)~~ For grades 5 and 8, the ~~[examination]~~ *critierion-referenced examinations* in writing *and science* must be administered in the spring semester on the ~~[date]~~ *dates* specified by the Department of Education.

~~[(d)]~~ (c) For grade 11, the high school proficiency examination in writing must be administered in ~~[November]~~ *the fall and spring semesters* on the ~~[date]~~ *dates* specified by the Department of Education.

~~[(e)]~~ (d) For grade 12 and for adults, the high school proficiency examination in writing must be administered in:

- (1) ~~[February;~~
- ~~(2) March or April;~~
- ~~(3)] The spring semester;~~
- (2) The summer months; and
- ~~[(4) November,]~~
- (3) *The fall semester,*

↪ on the respective dates specified by the Department of Education.

~~[(f)]~~ (e) For grade 12 and for adults, the high school proficiency examination in writing may be administered, upon the direction of the Department of Education, to those pupils who have not yet passed the examination, on a date specified by the Department which must be approximately ~~[2]~~ *4* weeks before the date of graduation.

~~[(g)]~~ (f) For grade 10, the high school proficiency examinations in reading, mathematics and science must be administered in ~~[April]~~ *the spring semester* on the dates specified by the Department of Education.

~~(h)~~ (g) For grade 11, the high school proficiency examinations in reading, mathematics and science must be administered in:

- (1) ~~April;~~ *The spring semester;* and
- (2) The ~~summer months;~~ *fall semester,*

↪ on the respective dates specified by the Department of Education.

~~(i)~~ (h) For grade 12 and for adults, the high school proficiency examinations in reading, mathematics and science must be administered in:

- (1) ~~February;~~
- ~~(2) March or April;~~
- ~~(3) The spring semester;~~

(2) The summer months; and

~~(4) November;~~

(3) *The fall semester,*

↪ on the respective dates specified by the Department of Education.

~~(j)~~ (i) For grade 12 and for adults, the high school proficiency examinations in reading, mathematics and science may be administered, upon the direction of the Department of Education, to those pupils who have not yet passed one or more of those examinations, on the dates specified by the Department, which must be approximately ~~2~~ 4 weeks before the date of graduation.

2. Not later than May 1 of each year, the board of trustees of a school district in which a school with a 12-month school program is located or the governing body of a charter school with a 12-month school program shall, if pupils who attend the school are not expected to be in session on one of the dates prescribed in subsection 1 for the administration of an examination,

consult with the ~~[standards, curricula and assessments team]~~ *Assessment, Program Accountability and Curriculum Office* of the Department of Education to establish another date for the administration of that examination. Not later than June 1 of that year, the ~~[standards, curricula and assessments team]~~ *Assessment, Program Accountability and Curriculum Office* shall provide the board of trustees or the governing body of a charter school with written confirmation of the date agreed upon pursuant to this subsection.

3. The Department of Education may schedule a special administration of any examination required to be passed for graduation if:

(a) The person taking the examination is a pupil enrolled in grade 12;

(b) ~~[That]~~ *The* person, through no fault *on the part* of ~~[his own,]~~ *the person*, was not able to take the examination at its most recent administration; and

(c) No regular administration of the examination is scheduled before the date on which the person is otherwise eligible to graduate.

**Sec. 2.** NAC 389.056 is hereby amended to read as follows:

389.056 Achievement and proficiency examinations must be administered as follows:

1. ~~[For grades 4, 7 and 10, the reading, mathematics, language and science norm-referenced examinations must be administered pursuant to the instructions in the current edition of the manual for administration and the test coordinator's manual prepared by the testing company and adopted by the Department of Education.~~

~~—2.]~~ For grades 5 and 8, the examination in writing must be administered pursuant to the instructions in the current edition of ~~[Administration Manual: Nevada Fifth & Eighth Grade Proficiency Examinations in Writing,]~~ *the manual for the administration of the proficiency examination in writing* adopted by the Department of Education.

~~[3.]~~ 2. For grades 3 ~~[and 5,]~~ *through 8*, the criterion-referenced examinations ~~[required by NRS 389.550]~~ must be administered pursuant to the instructions in the current edition of ~~[Nevada Criterion-Referenced Tests Administration Manual,]~~ *the manual for the administration of the criterion-referenced examinations* adopted by the Department of Education.

~~[4.]~~ 3. For grades 10 and above, the high school proficiency examinations must be administered pursuant to the instructions in the current edition of ~~[Nevada High School Proficiency Examination Administration Manual,]~~ *the manual for the administration of the high school proficiency examinations* adopted by the Department of Education.

**Sec. 3.** NAC 389.0565 is hereby amended to read as follows:

389.0565 1. Except as otherwise provided in this section, calculators may not be used by pupils taking any examination in mathematics described in NAC 389.061, including, without limitation, the Nevada High School Proficiency Examination in Mathematics.

2. ~~[Each school district shall provide the pupils enrolled in a 4th grade, 7th grade or 10th grade class within the district with the option of using calculators on subtests identified as appropriate for use of a calculator by the test publisher, if the pupils are routinely authorized to use calculators on other examinations administered to the class.]~~

~~—3.]~~ A pupil may use a calculator while taking the Nevada High School Proficiency Examination in Mathematics *or the Nevada Criterion-Referenced Examination in Mathematics* if ~~[he]~~ *the pupil* is enrolled in a program of special education pursuant to NRS 388.440 to 388.520, inclusive, and ~~[his individual]~~ the *pupil's individualized* education ~~[plan]~~ *program* specifies that ~~[he]~~ *the pupil* may use a calculator for assessment purposes.

~~[4.]~~ 3. A pupil may use a calculator while taking a portion of the Nevada High School Proficiency Examination in Mathematics *or the Nevada Criterion-Referenced Examination in*

*Mathematics* if the Department of Education has specified that a calculator may be used while taking that portion of the examination.

**Sec. 4.** NAC 389.057 is hereby amended to read as follows:

389.057 1. A pupil who fails a proficiency examination administered during grade *10 or* 11 is eligible to be reexamined only at the times that the examination is administered for the grade level of the pupil pursuant to NAC 389.051.

2. If the pupil does not pass a proficiency examination before the completion of grade 12, the pupil may be reexamined any time that the examination is administered to adults pursuant to NAC 389.051 after providing proof to the school district or, if the pupil attends a charter school, to the charter school that the pupil has completed appropriate remedial study.

**Sec. 5.** NAC 389.061 is hereby amended to read as follows:

389.061 The following ~~norm-referenced and~~ criterion-referenced examinations must be used as examinations of achievement and proficiency:

1. For grade 3, the criterion-referenced examinations that must be used are the Nevada ~~[Third Grade Examinations]~~ *Criterion-Referenced Examinations* in Mathematics and Reading prescribed by the Department of Education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.

2. For grade 4 ~~:~~

~~—(a) The norm-referenced examinations that must be used are the subtests comprising the reading, language, mathematics and science portions of the norm-referenced examination adopted by the Department of Education.~~

~~—(b) The]~~, *the* criterion-referenced examinations that must be used are the Nevada ~~[Fourth Grade Examinations]~~ *Criterion-Referenced Examinations* in Mathematics and Reading prescribed by the Department of Education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.

3. For grade 5, the criterion-referenced examinations that must be used are:

(a) The Nevada ~~[Proficiency Examination in Writing for the]~~ Fifth Grade *Proficiency Examination in Writing* prescribed by the Department of Education for each testing period; and

(b) The Nevada ~~[Fifth Grade Examinations]~~ *Criterion-Referenced Examinations* in Mathematics, Reading and Science prescribed by the Department of Education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.

4. For grade 6, the criterion-referenced examinations that must be used are the Nevada ~~[Sixth Grade Examinations]~~ *Criterion-Referenced Examinations* in Mathematics and Reading prescribed by the Department of Education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.

5. For grade 7 ~~]:~~

~~—(a) The norm-referenced examinations that must be used are the subtests comprising the reading, language, mathematics and science portions of the norm-referenced examination adopted by the Department of Education.~~

~~—(b) The]~~, *the* criterion-referenced examinations that must be used are the Nevada ~~[Seventh Grade Examinations]~~ *Criterion-Referenced Examinations* in Mathematics and Reading

prescribed by the Department of Education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.

6. For grade 8, the criterion-referenced examinations that must be used are:

(a) The Nevada ~~Proficiency Examination in Writing for the~~ Eighth Grade *Proficiency Examination in Writing* prescribed by the Department of Education for each testing period; and

(b) The Nevada ~~Eighth Grade Examinations~~ *Criterion-Referenced Examinations* in Mathematics, ~~and~~ Reading *and Science* prescribed by the Department of Education for each testing period. Each edition of those examinations must be based upon the standards of content and performance adopted pursuant to NRS 389.520.

7. For grade 10 ~~:~~

~~—(a) The norm-referenced examinations that must be used are the subtests comprising the reading, language, mathematics and science portions of the norm-referenced examination adopted by the Department of Education.~~

~~—(b) The~~, *the* criterion-referenced examinations that must be used are:

~~(1)~~ (a) The Nevada High School Proficiency Examination in Reading;

~~(2)~~ (b) The Nevada High School Proficiency Examination in Mathematics; and

~~(3)~~ (c) Commencing with the graduating class of the 2009-2010 school year, the Nevada High School Proficiency Examination in Science,

↪ prescribed by the Department of Education for each testing period.

8. For grades 11 and above, the criterion-referenced examinations that must be used are:

(a) The Nevada High School Proficiency Examination in Reading;

(b) The Nevada High School Proficiency Examination in Mathematics;



(c) Commencing with the graduating class of the 2009-2010 school year, the Nevada High School Proficiency Examination in Science; and

(d) The Nevada High School Proficiency Examination in Writing, ~~{for the Eleventh Grade and Above.}~~

↪ prescribed by the Department of Education for each testing period.

**Sec. 6.** NAC 389.071 is hereby amended to read as follows:

389.071 ~~{1.}~~ Each edition of the Nevada High School Proficiency Examination in Writing ~~{for the Eleventh Grade and Above to be used after the fall semester of 1988 must require pupils to write on two topics to be chosen from the following styles of writing:~~

~~—(a) Descriptive or narrative writing;~~

~~—(b) Expository writing; or~~

~~—(c) Persuasive writing.~~

~~—2. Each edition of}~~ *and* the Nevada ~~{Proficiency Examination in Writing for the}~~ Fifth and Eighth Grade *Proficiency Examinations in Writing* must ~~{require pupils to write on one topic to be chosen from the following styles of writing:~~

~~—(a) Descriptive writing;~~

~~—(b) Narrative writing;~~

~~—(c) Expository writing; or~~

~~—(d) Persuasive writing.}~~ *be based upon the standards of content and performance in*

*English language arts adopted pursuant to NRS 389.520.*

**Sec. 7.** NAC 389.076 is hereby amended to read as follows:

389.076 ~~{1.}~~ For grades 10, 11 and 12, and for adults, each edition of the Nevada High School Proficiency Examination in Reading must be based upon the standards of content and

performance in English language arts adopted pursuant to NRS 389.520 . ~~[and must assess pupils' abilities to:~~

~~—(a) Use word analysis skills and strategies to comprehend new words encountered in text;~~

~~—(b) Use reading process skills and strategies to build comprehension;~~

~~—(c) Comprehend, interpret and evaluate literature from a variety of authors, cultures and time periods; and~~

~~—(d) Comprehend, interpret and evaluate informational text for specific purposes.~~

~~—2. Pupils may be tested in the areas listed in subsection 1 for:~~

~~—(a) Their abilities to comprehend the meaning of the material they have read;~~

~~—(b) Their abilities to understand the intent of the author of the material they have read;~~

~~—(c) Their abilities to form an opinion regarding the material they have read; and~~

~~—(d) Their abilities to respond critically to the ideas expressed in the material they have read.~~

~~—3. Passages on the examination required by subsection 1 may include selections:~~

~~—(a) Relating to literature, social studies, science, mathematics, career and technical education, computer education and other areas of study included in the pupils' curriculum; and~~

~~—(b) From informational materials, including, without limitation, periodicals, manuals, handbooks and other publications.]~~

**Sec. 8.** NAC 389.079 is hereby amended to read as follows:

389.079 ~~[1.]~~ Each edition of the Nevada High School Proficiency Examination in Science must be based upon the standards of content and performance in science adopted pursuant to NRS 389.520 . ~~[and must assess pupils' skills in the following areas:~~

~~—(a) Physical science, which includes:~~

~~—(1) Forces and motion;~~

- ~~—— (2) Structure and properties of matter;~~
- ~~—— (3) Energy;~~
- ~~—— (4) Chemical reactions; and~~
- ~~—— (5) Nuclear and electromagnetic energy.~~
- ~~— (b) Life science, which includes:~~
  - ~~—— (1) Structure and function;~~
  - ~~—— (2) Anatomy, physiology and behavior;~~
  - ~~—— (3) Heredity and diversity; and~~
  - ~~—— (4) Evolution.~~
- ~~— (c) Earth science, which includes:~~
  - ~~—— (1) The structures and composition of the earth;~~
  - ~~—— (2) Models of the earth;~~
  - ~~—— (3) The history of the earth;~~
  - ~~—— (4) Cycles of matter and energy; and~~
  - ~~—— (5) The solar system and the universe.~~
- ~~— (d) Environmental science, which includes:~~
  - ~~—— (1) Ecosystems;~~
  - ~~—— (2) Natural resources; and~~
  - ~~—— (3) Conservation.~~
- ~~— (e) Historical and technological perspectives of science.~~
- ~~— (f) Scientific reasoning and critical thinking.~~
- ~~— (g) Systems, models and predictions.~~
- ~~— 2. Pupils may be tested in the areas listed in subsection 1 for:~~

- ~~—(a) Their understanding of the basic concepts, terms and historical basis of science;~~
  - ~~—(b) Their understanding of the general organizing principles of science; and~~
  - ~~—(c) Their abilities to understand and apply the skills and procedures necessary to design and perform scientific investigations.~~
- ~~—3.— For pupils who graduate from high school before the 2004-2005 school year, the Nevada High School Proficiency Examination in Science must be used solely to gather information and data concerning the examination and must not be used as a condition for receipt of a high school diploma.]~~

**Sec. 9.** NAC 389.081 is hereby amended to read as follows:

389.081 ~~[1.]~~ For grades 10, 11 and 12, and for adults, each edition of the Nevada High School Proficiency Examination in Mathematics must be based upon the standards of content and performance in mathematics adopted pursuant to NRS 389.520 . ~~[and must assess pupils' abilities to:~~

- ~~—(a) Calculate and estimate sums, differences, products, quotients, powers and roots by the use of mental math and apply formulas and algorithms;~~
- ~~—(b) Represent, analyze and solve problem situations using discrete structures including, without limitation, graphs and matrices;~~
- ~~—(c) Interpret and solve single and multistep word problems involving adding, subtracting, multiplying and dividing whole numbers, decimals, fractions and percentages;~~
- ~~—(d) Create and use different forms of a variety of equations, proportions or formulas, or any combination thereof, to solve mathematical problems;~~
- ~~—(e) Solve problems involving structure, language and uses of different systems of measurement;~~

- ~~—(f) Use principles of geometry to solve mathematical problems; and~~
- ~~—(g) Solve problems using various data analysis techniques, including, without limitation, single and multistep probability experiments, measures of central tendency and sampling.~~
- ~~—2. Pupils may be tested in the areas listed in subsection 1 for their:~~
  - ~~—(a) Understanding of mathematical concepts;~~
  - ~~—(b) Knowledge of the procedures to be used to solve a problem; and~~
  - ~~—(c) Abilities to reason and solve problems.~~
- ~~—3. The examination required by subsection 1 must emphasize the ability to solve problems and to perform calculations in the following areas of mathematics:~~
  - ~~—(a) Numbers and operations;~~
  - ~~—(b) Measurements;~~
  - ~~—(c) Geometry;~~
  - ~~—(d) Data analyses, probabilities and statistics; and~~
  - ~~—(e) Algebra and functions.]~~

**Sec. 10.** NAC 389.083 is hereby amended to read as follows:

389.083 1. A school district shall keep the results of all examinations **[administered]** :

**(a) Administered** pursuant to NRS 389.015 to pupils in grades 4, 7 and 10 for 4 years after the date of the administration of the **[examination.**

~~—2. A school district shall keep the results of all examinations administered] examinations.~~

**(b) Administered** pursuant to NRS 389.550 to pupils in grades 3 through 8 for 4 years after the date of the administration of the **[examination.**

~~—3.] examinations.~~

**2. The Department of Education shall keep the results of all examinations:**

*(a) Administered pursuant to NRS 389.015 to pupils in grades 4, 7 and 10 for 4 years after the date of the administration of the examinations.*

*(b) Administered pursuant to NRS 389.550 to pupils in grades 3 through 8 for 4 years after the date of the administration of the examinations.*

3. The Department of Education shall maintain a list of the name and scores of each pupil who takes the High School Proficiency Examinations for 10 years after the date of the administration of the ~~[examination.]~~ *examinations. A school district shall maintain a list of the name and scores of each pupil who takes the High School Proficiency Examinations for 10 years after the date of the administration of the examinations.*

**Sec. 11.** NAC 389.655 is hereby amended to read as follows:

389.655 1. Except as otherwise provided in subsection ~~[9.]~~ **2**, a pupil must not be given a standard high school diploma until the pupil has, after entering grade 11, passed:

(a) The Nevada High School Proficiency Examination in Reading;

(b) The Nevada High School Proficiency Examination in Mathematics; ~~[and]~~

(c) The Nevada High School Proficiency Examination in Writing ~~[for the Eleventh Grade and Above.~~

~~→ For pupils who graduate from high school before the 2004-2005 school year, the Nevada High School Proficiency Examination in Science must be used solely to gather information and data concerning the examination and must not be used as a condition for receipt of a high school diploma.] ; and~~

*(d) Commencing with the graduating class of the 2009-2010 school year, the Nevada High School Proficiency Examination in Science.*

2. ~~[After entering grade 10, if a pupil passes one of the high school proficiency examinations, the pupil is not required to take that examination again to graduate.~~
- ~~—3.— For pupils who enroll in grade 11 in the 1997–1998 school year, passing scores on the high school proficiency examinations are as follows:
  - ~~—(a) In reading, 70 percent of the questions on the examination answered correctly.~~
  - ~~—(b) In mathematics, 61 percent of the questions on the examination answered correctly.~~
  - ~~—(c) In writing, 7.~~~~
- ~~—4.— For pupils who enroll in grade 11 in the 1998–1999 school year, the 1999–2000 school year or the 2000–2001 school year, passing scores on the high school proficiency examinations are as follows:
  - ~~—(a) In reading, a scaled score of 71.~~
  - ~~—(b) In mathematics, a scaled score of 64.~~
  - ~~—(c) In writing, 7.~~~~
- ~~—5.— On or before January 1, 2002, the State Board of Education will set the passing scores on the high school proficiency examinations for pupils who enroll in grade 11 in the 2001–2002 school year or thereafter. In making its determination of the appropriate passing scores, the State Board of Education will consider the scores received by pupils in the October 2001 administration of the examinations. The Department of Education shall provide notice to each school district and charter school of the passing scores that are set at least until such time as the scores are codified in regulation.~~
- ~~—6.— A passing score that is in effect at the time that a pupil enrolls in grade 11 will remain in effect for 1 year after the pupil’s anticipated completion of grade 12.~~

~~—7.— For pupils who enroll in an adult high school program after July 1, 2000, but before July 1, 2003, passing scores on the high school proficiency examinations are as follows:~~

~~—(a) In reading, a scaled score of 71.~~

~~—(b) In mathematics, a scaled score of 64.~~

~~—(c) In writing, 7.~~

~~—8.— For pupils who enroll in an adult high school program after July 1, 2003, passing scores on the high school proficiency examinations are the scores that are set by the State Board of Education pursuant to subsection 5.~~

~~—9.] A pupil who fails to pass the Nevada High School Proficiency Examination in Writing [for the Eleventh Grade and Above] must receive a standard high school diploma if [he:] *the pupil:*~~

(a) Satisfies the requirements of paragraph (b) of subsection 1 of NRS 389.805;

(b) Satisfies the requirements of NAC 389.657; and

(c) Has not previously failed to satisfy the requirements of NAC 389.657.

**Sec. 12.** NAC 389.031 is hereby repealed.

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## TEXT OF REPEALED SECTION

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**389.031 “Norm-referenced examination” defined. (NRS 385.080)** “Norm-referenced examination” means an examination that:



1. Is administered to a national reference group; and
2. Allows for a comparison of the achievement and proficiency of pupils in this State to the achievement and proficiency of pupils in the national reference group who are tested at the same educational level and share the same general demographic characteristics.