

LCB File No. R026-09

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

(This regulation was previously adopted as T037-09)

Amend NAC Chapter 386 by adding the following sections:

Section 1 Short title. NAC 386.370 to NAC 386.390 and Sections 1 to 36, inclusive, may be cited as the Charter School Budget and Finance regulations.

Section 2 Purpose of Charter School Budget and Finance regulations.

1. The purpose of NAC 386.370 to NAC 386.390 and Sections 1 to 36, inclusive, are:

(a) To establish standard methods and procedures for the preparation, presentation, adoption and administration of budgets of all charter schools and university schools for profoundly gifted pupils.

(b) To enable charter schools and university schools for profoundly gifted pupils to make financial plans for programs of both current and capital expenditures and to formulate fiscal policies to accomplish these programs.

(c) To provide for estimation and determination of revenues and expenditures.

(d) To provide for the control of revenues, expenditures and expenses in order to promote prudence and efficiency in the expenditure of public money.

(e) To provide specific methods enabling the public, taxpayers and investors to be apprised of the financial preparations, plans, policies and administration of all charter schools and university schools for profoundly gifted pupils.

2. For the accomplishment of these purposes, the provisions of NAC 386.370 to NAC 386.390 and Sections 1 to 36, inclusive, must be broadly and liberally construed.

Section 3 Definitions. As used in NAC 386.370 to NAC 386.390 and Sections 1 to 36, inclusive, unless the context otherwise requires, the words and terms defined in Sections 4 to 24, inclusive, have the meanings ascribed to them in those sections.

Section 4 “Accrual basis” defined. “Accrual basis” means the basis of accounting under which expenditures or expenses are recorded as soon as they result in liabilities for benefits received and revenues are recorded when earned, despite the possibility that the receipt of the revenue or the payment for the expense may take place, in whole or in part, in another accounting period.

Section 5 “Anticipated revenue” defined. “Anticipated revenue” means the amount of revenue anticipated to be collected or accrued during a given period.

Section 6 “Appropriation” defined. “Appropriation” means an authorization by a governing body to make expenditures and to incur obligations for specified purposes.

Section 7 “Assets” defined. “Assets” means property which:

- 1. Is owned by a charter school or university school for profoundly gifted pupils; and*
- 2. Has a monetary value.*

Section 8 “Audit” defined. “Audit” means the examination and analysis of financial statements, accounting procedures and other evidence made in conformity with generally accepted auditing standards in the United States for one or more of the following purposes:

- 1. Determining the propriety and mathematical accuracy of material financial transactions;*
- 2. Ascertaining whether financial transactions have been properly recorded;*
- 3. Ascertaining whether the financial statements prepared from the accounting records fairly present in all material respects the financial position and the results of financial operations and cash flows of the charter schools and university schools for profoundly gifted pupils in accordance with generally accepted accounting principles in the United States and on a basis which is consistent with that of the preceding year;*
- 4. Evaluating internal accounting controls over financial reporting of the handling of the public money and public property;*
- 5. Determining whether the fiscal controls established by law and administrative regulations are being properly applied;*
- 6. Determining whether there is any evidence that fraud or dishonesty has occurred in the handling of funds or property;*
- 7. Determining whether the acquisition, depreciation and disposition of property and equipment are accounted for in accordance with generally accepted accounting principles in the United States; and*
- 8. Determining whether the removal of the uncollectible accounts receivable from the records of a governmental unit is done in accordance with the procedure established by law and administrative regulations.*

Section 9 “Budget” defined. “Budget” means a plan of financial operation embodying an estimate of proposed expenditures and expenses for a given period and the proposed means of financing them.

Section 10 “Budget augmentation” defined. “Budget augmentation” is a procedure for increasing appropriations of a fund with the express intent of employing previously unbudgeted resources of the fund for carrying out the increased appropriations.

Section 11 “Budget year” defined. “Budget year” means the fiscal year for which a budget is being prepared.

Section 12 “Capital assets” defined. “Capital assets” means assets of a long-term character which are intended to continue to be held or used such as land, buildings, machinery, furniture and other equipment.

Section 13 “Contingency account” defined. “Contingency account” means an account showing money that has been appropriated to provide for unforeseen expenditures or anticipated expenditures of an uncertain amount.

Section 14 “Encumbrances” defined. “Encumbrances” means commitments related to unperformed contracts for goods or services, the accounting for which is used to ensure effective budgetary control and accountability and to promote effective cash planning and control. For reporting purposes, encumbrances outstanding at a year’s end represent the estimated amount of the expenditure ultimately to result if the unperformed contracts existing at the year’s end are performed. Encumbrances outstanding at a year’s end do not constitute expenditures or liabilities.

Section 15 “Expenditure” defined.

1. “Expenditure” means:

(a) If the accounting records are kept on the modified accrual basis, the cost of goods delivered or services rendered, whether paid or unpaid. Expenditures are recognized in the accounting period in which the fund liability is incurred, if measurable, except for unmatured interest on general long-term liabilities which should be recognized when due.

(b) If accounts are kept on the cash basis, only cash disbursements for the purposes listed in paragraph (a).

2. Encumbrances are not considered expenditures.

Section 16 “Expense” defined. “Expense” means any charge incurred, under the accrual basis, whether paid or unpaid, for operation, maintenance or interest or any other charge which is presumed to provide benefit in the current fiscal period.

Section 17 “Final budget” defined. “Final budget” means the budget which has been adopted by a charter school or university schools for profoundly gifted pupils and which has been determined by the Department to be in compliance with applicable statutes and regulations.

Section 18 “Fiscal year” defined. “Fiscal year” means the 12-month period beginning on the first day of July and ending on the last day of June.

Section 19 “Governing body” defined. “Governing body” means the body outlined in NRS 386.549.

Section 20 “Liabilities” defined. “Liabilities” means, for the purpose of financial reporting, debts or other legal obligations arising out of transactions in the past which must be liquidated or refunded at some future date.

Section 21 “Modified accrual basis” defined. “Modified accrual basis” means the basis of accounting under which expenditures other than accrued interest on general long-term debt are recorded at the time liabilities are incurred and revenues are recorded when they become measurable and available to finance expenditures of the fiscal period.

Section 22 “Reserve” defined. “Reserve” means, in accounting and reporting of government funds, a portion of the fund equity which is not appropriable for expenditures or is segregated by law or contract for a specific future use.

Section 23 “Revenue” defined. “Revenue” means the gross receipts and receivables of a charter school and university school for profoundly gifted pupils derived from all sources.

Section 24 “Tentative budget” defined. “Tentative budget” means the budget that is prepared initially, published and recorded by each charter school and university school for profoundly gifted pupils for an ensuing fiscal year prior to its subsequent adoption.

Section 25 Capital improvement plan: Preparation and submission; filing for public inspection; limitation on amount of expenditures; required contents; reconciliation of capital outlay; exemption.

1. Each charter school and university school for profoundly gifted pupils shall annually prepare, on a form prescribed by the Department of Taxation for use by local governments, a capital improvement plan for the fiscal year ending on June 30 of that year and the ensuing 5 fiscal years.

2. On or before August 1 of each year, each local government shall submit a copy of the capital improvement plan of the charter schools and university schools for profoundly gifted pupils to the:

(a) Department;

(b) Sponsor of the charter school, if different than the Department; and

(c) Director of the Legislative Counsel Bureau.

3. The total amount of the expenditures contained in the capital improvement plan of the charter school or university school for profoundly gifted pupils for the next ensuing fiscal year must equal the total amount of expenditures for capital outlay set forth in the final budget of the charter school or university school for profoundly gifted pupils for each fund listed in that budget.

5. The capital improvement plan must include the estimated or actual revenues and expenditures for each capital project and the estimated or actual date for completion of each capital project.

6. The capital improvement plan must reconcile the capital outlay in each fund in the final budget for the first year of the capital improvement plan to the final budget in the next ensuing fiscal year. The reconciliation must identify the minimum level of expenditure for items classified as capital assets in the final budget and the minimum level of expenditure for items classified as capital projects in the capital improvement plan. The reconciliation of capital outlay items in the capital improvement plan must be presented on forms created and distributed by the Department of Taxation for use by local governments.

Section 26 Annual report concerning capital improvements owned, leased or operated by local government: Compilation; requirements; submission.

1. In addition to the records and inventory controls established and maintained pursuant to Section 34, the governing body of each charter school and university school for profoundly gifted pupils shall, for each fiscal year, compile a report concerning the capital improvements owned, leased or operated by the charter school or university school for profoundly gifted pupils.

2. The report of the capital improvements required pursuant to subsection 1 must be prepared in such detail as is required by generally accepted accounting principles.

3. *The governing body shall submit, in any format including an electronic format, a copy of the report compiled pursuant to subsection 1 on or before February 1 of the year next succeeding the period to which the report pertains to the Department.*

Section 27 Final budget: Appropriation; limitations.

1. *Upon the adoption of the final budget or the amendment of the budget in accordance with Section 28, the several amounts stated in it as proposed expenditures are appropriated for the purposes indicated in the budget.*

2. *No governing body may adopt any budget which appropriates for any fund any amount in excess of the budget resources of that fund.*

Section 28 Procedures and requirements for augmenting or amending budget.

1. *If anticipated resources actually available during a budget period exceed those estimated, a charter school or university school for profoundly gifted pupils may augment the appropriations of a fund. If it is desired to augment the appropriations of a fund, the governing body shall, by majority vote of all members of the governing body, adopt a resolution reciting the appropriations to be augmented, and the nature of the unanticipated resources intended to be used for the augmentation at a regular meeting of the body.*

2. *A budget augmentation becomes effective upon delivery to the Department of an executed copy of the resolution providing therefore.*

3. *Nothing in NAC 386.370 to NAC 386.390 and Sections 1 to 36, inclusive, precludes the amendment of a budget by increasing the total appropriation for any fiscal year to include a grant-in-aid, gift or bequest to a charter school or university school for profoundly gifted pupils which is required to be used for a specific purpose as a condition of the grant. Acceptance of such a grant and agreement to the terms imposed by the granting agency or person constitutes an appropriation to the purpose specified.*

4. *Budget appropriations may be transferred between functions, funds or contingency accounts in the following manner, if such a transfer does not increase the total appropriation for any fiscal year and is not in conflict with other statutory provisions:*

(a) *The person designated to administer the budget for a charter school or university school for profoundly gifted pupils may transfer appropriations within any function.*

(b) *The person designated to administer the budget may transfer appropriations between functions or programs within a fund, if:*

(1) *The governing body is advised of the action at the next regular meeting; and*

(2) *The action is recorded in the official minutes of the meeting.*

(c) *Upon recommendation of the person designated to administer the budget, the governing body may authorize the transfer of appropriations between funds or from the contingency account, if:*

(1) *The governing body announces the transfer of appropriations at a regularly scheduled meeting and sets forth the exact amounts to be transferred and the accounts, functions, programs and funds affected;*

(2) *The governing body sets forth its reasons for the transfer; and*

(3) *The action is recorded in the official minutes of the meeting.*

5. *In any year in which the Legislature by law increases or decreases the revenues of a charter school or university school for profoundly gifted pupils, and that increase or decrease was not included or anticipated in the final budget of the charter school or university school*

for profoundly gifted pupils as adopted pursuant to NAC 386.370, the governing body of any such charter school or university school for profoundly gifted pupils may, within 60 days of adjournment of the legislative session, file an amended budget with the Department increasing or decreasing its anticipated revenues and expenditures from that contained in its final budget to the extent of the actual increase or decrease of revenues resulting from the legislative action.

6. In any year in which the Legislature enacts a law requiring an increase or decrease in expenditures of a charter school or university school for profoundly gifted pupils, which was not anticipated or included in its final budget as adopted pursuant to NAC 386.370, the governing body of any such charter school or university school for profoundly gifted pupils may, within 60 days of adjournment of the legislative session, file an amended budget with the Department providing for an increase or decrease in expenditures from that contained in its final budget to the extent of the actual amount made necessary by the legislative action.

7. For each school year, within 60 days of the receipt of the final enrollment and attendance audit performed pursuant to NRS 387.126, each charter school or university school for profoundly gifted pupils shall adopt an amendment to its final budget after the count of pupils is completed pursuant to subsection 1 of NRS 387.1233. The amendment must reflect any adjustments necessary as a result of the completed count of pupils.

Section 29 Contents of budget. Each budget must include:

1. Detailed estimates of revenues, balances in other funds and other sources of financing for the budget year classified by funds and sources in a manner and on forms prescribed by the Department of Taxation for use by local governments.

2. Detailed estimates of expenditures and other uses of money for the budget year classified in a manner and on forms prescribed by the Department of Taxation for use by local governments.

3. A separate statement of the anticipated expenses relating to activities designed to influence the passage or defeat of any legislation, setting forth each separate category of expenditure that is required to be included in a supplemental report pursuant to subsection 1 of Section 30.

Section 30 Reporting of expenditures of local government for lobbying activities: Requirements; filing with Department.

1. In each year in which the Legislature convenes, a charter school or university school for profoundly gifted pupils which expends more than \$6,000 on activities designed to influence the passage or defeat of any legislation shall file with the Department within 60 days after the close of the legislative session a report supplemental to its final budget which includes separate items for expenses relating to that activity, including, without limitation:

(a) Transportation.

(b) The amount of money spent on:

(1) The lodging and meals of its officers, lobbyists and employees;

(2) The salary or wages paid to its officers and employees; and

(3) Compensation paid to any lobbyists, to the extent that such information does not duplicate the information required pursuant to subparagraphs (1) and (2).

(c) The amount of money spent on entertainment, gifts or other expenses which are required to be reported pursuant to NRS 218.900 to 218.944, inclusive.

(d) The amount of money spent in Carson City on supplies, equipment and facilities and other personnel and services needed to support the activity.

(e) An identification of the fund, account or other source against which the expenses were charged.

2. The amounts reported pursuant to subsection 1 shall include any funds spent by an educational management organization with whom the charter school or university school for profoundly gifted pupils has a contract.

3. The charter school or university school for profoundly gifted pupils shall make a copy of the supplemental report available for inspection within 60 days after the close of the legislative session.

Section 31 Construction of capital improvement without funding for operation and maintenance included in approved budget prohibited. A charter school or university school for profoundly gifted pupils shall not begin the construction of a capital improvement unless the funding for the operation and maintenance of the improvement during the current fiscal year, including personnel, is included in an approved budget.

Section 32 Contingency account: Establishment; limit on appropriations; expenditures. A contingency account may be established in any governmental fund. The maximum amount which may be appropriated for such a contingency account is 3 percent of the money otherwise appropriated to the fund, exclusive of any amounts to be transferred to other funds. No expenditure may be made directly from such a contingency account, except as a transfer to the appropriate account, and then only in accordance with the procedure established in Section 28.

Section 33 Petty cash, imprest or revolving account.

1. The governing body of any charter school or university school for profoundly gifted pupils may, by resolution, establish one or more petty cash accounts, imprest accounts or revolving accounts in a bank or credit union to assist in the administration of any activities in which the charter school or university school for profoundly gifted pupils is authorized by law to engage.

2. A resolution establishing any petty cash account, imprest account or revolving account in a bank or credit union shall, in detail, set forth the following:

(a) The object and purpose of the account.

(b) The source of money to be used to establish and maintain the account.

(c) The method of controlling expenditures from the account.

(d) The maximum dollar amount of any single expenditure.

3. Payments made out of any such accounts in accordance with the establishing resolution may be made directly without approval of the governing body of any charter school or university school for profoundly gifted pupils.

4. Reimbursement of any such petty cash, imprest or revolving accounts must be made no less often than monthly. The reimbursement must be supported by proper evidences of expenditures made from the account and must be approved by the governing body in the same manner as other claims against the fund to which the reimbursement is to be charged.

Section 34 Records relating to property and equipment; control of inventory. The governing body of every charter school or university school for profoundly gifted pupils shall:

1. Cause to be established and maintained adequate property and equipment records and, where appropriate, adequate inventory controls. Any charter school or university school for profoundly gifted pupils shall establish such records and controls within 1 year after its creation unless the Department grants an extension of time.

2. Require that all such property, equipment and inventory records clearly indicate specific ownership.

3. Designate, by entry in the minutes of the governing body, the officer, employee or officers or employees responsible for the maintenance of property and equipment records and, where appropriate, inventory records, and notify the Department of such designation.

Section 35 Unlawful expenditure of money in excess of amount appropriated; exceptions.

1. No charter school or university school for profoundly gifted pupils governing body or member thereof, may, during any fiscal year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, in excess of the amounts appropriated for that function, other than medium-term obligation repayments and any other long-term contract expressly authorized by law.

2. Without limiting the generality of the exceptions contained in subsection 1, the provisions of this section specifically do not apply to:

(a) Contracts between a charter school or university school for profoundly gifted pupils and any person for the construction or completion of public works, money for which has been or will be provided by the proceeds of medium-term obligations or an installment-purchase agreement and that are entered into by the charter school or university school for profoundly gifted pupils after:

(1) Any approvals by any other governmental entity required to be obtained before the medium-term obligations or installment-purchase agreement can be issued have been obtained; and

(2) The ordinance or resolution that specifies each of the terms of the medium-term obligations or installment-purchase agreement has been adopted.

(b) Contracts which are entered into by a charter school or university school for profoundly gifted pupils and delivered to any person solely for the purpose of acquiring supplies, services and equipment necessarily ordered in the current fiscal year for use in an ensuing fiscal year and which, under the method of accounting adopted by the charter school or university school for profoundly gifted pupils, will be charged against an appropriation of a subsequent fiscal year. Purchase orders evidencing such contracts are public records available for inspection by any person on demand.

(c) the receipt and proper expenditure of money received pursuant to a grant awarded by an agency of the Federal Government.

(d) The incurrence of obligations beyond the current fiscal year under a lease or contract for installment purchase which contains a provision that the obligation incurred thereby is extinguished by the failure of the governing body to appropriate money for the ensuing fiscal year for the payment of the amounts then due.

(e) The receipt by a charter school or university school for profoundly gifted pupils of increased revenue that:

(1) Was not anticipated in the preparation of the final budget of the charter school or university school for profoundly gifted pupils; and

(2) Is required by statute to be remitted to another governmental entity.

3. The fund balance of a governmental fund may not be used unless appropriated in a manner provided by law.

Section 36 Review of annual audits by Department; plan of correction of violations.

1. The Department shall review each annual audit to determine whether it complies with regulations adopted pursuant to NRS 386.540. Any independent auditor's report, whether upon financial position and results of operations or upon internal financial controls, which the Department believes may not comply with those regulations must be referred by the Department to the State Board of Accountancy for investigation and such action in respect to the issuing accountant as the board may find appropriate in the circumstances.

2. In its review of the annual audits submitted, the Department shall identify all violations of statute and regulation reported therein. Within 60 days after the delivery of the annual audit to the charter school or university school for profoundly gifted pupils, the governing body shall advise the Department what action has been taken to prevent recurrence of each violation of law or regulation or to correct each continuing violation. The Department shall evaluate the plan of correction proposed by the charter school or university school for profoundly gifted pupils and, if the plan is satisfactory, shall so advise the governing body. If the plan is not satisfactory, the Department shall advise the governing body that it deems the plan inadequate and propose an alternative plan. Within 30 days thereafter the governing body shall report its assent to the Department's plan or request a hearing before the State Board of Education. This hearing must be held at the next meeting of the board, but the hearing must not be held more than 90 days after such a request is received. The determination of the State Board of Education is final.

3. If the governing body fails to submit a proposed plan of correction pursuant to subsection 2, or the Superintendent of Public Instruction determines that the plan established is not being complied with, he must, through the office of the Attorney General, seek a writ from a court of competent jurisdiction to compel compliance.

Section 37 Revise NAC 386.380:

NAC 386.380 Annual audit. (NRS 386.540)

1. The governing body of a charter school *or university school for profoundly gifted pupils* shall cause the charter school *or university school for profoundly gifted pupils* to be audited on an annual basis.

2. All audits must be performed by:

(a) A public accountant certified or registered; or

(b) A partnership or professional corporation registered,

↵ pursuant to the provisions of chapter 628 of NRS.

3. Each annual audit must:

(a) Cover the business of the charter school *or university school for profoundly gifted pupils* during the full fiscal year;

(b) Be a financial audit conducted in accordance with generally accepted auditing standards *in the United States*; and

(c) Include:

- (1) An analysis of *and findings on* ~~[the charter school's]~~ compliance with applicable *statutes* ~~[laws]~~ and regulations;
- (2) *A management letter outlining any* recommendations for improvement ~~[by the charter school; and]~~
- (3) An *expression of opinion on the financial statements; and*
- (4) *Any* other comments deemed pertinent by the auditor ~~[, including the auditor's opinion regarding the financial statements].~~

↪ The form of the financial statements must be prescribed by the Department, and the chart of accounts must be *as nearly as possible*, ~~[insofar as practicable,]~~ the same as that used in the preparation and publication of the annual budget.

4. The annual audit of the charter school *or university school for profoundly gifted pupils* must be *concluded* ~~[completed]~~ and *the report* submitted to the governing body ~~[for review at a public meeting]~~ not later than *4 months* ~~[120 days]~~ after the close of the fiscal year for which the audit is conducted.

5. *The opinion and findings of the auditor contained in the report of the audit must be presented at a meeting of the governing body held not more than 30 days after the report is submitted to it.*

6~~[4]~~. *Immediately thereafter, the entire report, together with the management letter required by generally accepted auditing standards in the United States must be filed as a public record with* ~~[The governing body shall submit copies of the annual audit to]:~~

- (a) The Department;
- (b) The Legislative Counsel Bureau; and
- (c) The sponsor of the charter school *if different than the Department.*

7. *After the report of the audit is filed by the charter school or university school for profoundly gifted pupils, the report of the audit, including, without limitation, the opinion and findings of the auditor contained in the report of the audit, may be disseminated by or on behalf of the charter school or university school for profoundly gifted pupils for which the report was prepared by inclusion, without limitation, in or on:*

- (a) *A filing made pursuant to the laws or regulations of this State;*
- (b) *A filing made pursuant to a rule or regulation of the Securities and Exchange Commission of the United States; or*

(c) *A website maintained by a charter school or university school for profoundly gifted pupils on the Internet or its successor,*

↪ *without the consent of the auditor who prepared the report of the audit. A provision of a contract entered into between an auditor and a charter school or university school for profoundly gifted pupils that is contrary to the provisions of this subsection is against the public policy of this State and is void and unenforceable.*

8. *If an auditor finds evidence of fraud or dishonesty in the financial statements of a charter school or university school for profoundly gifted pupils, the auditor shall report such evidence to the appropriate level of management in the charter school or university school for profoundly gifted pupils or to the governing body or sponsor of the charter school or university school for profoundly gifted pupils if the evidence of fraud or dishonesty involved the highest levels of management or the governing body.*

9. *The governing body shall act upon the recommendations of the report of the audit within 3 months after receipt of the report, unless prompter action is required concerning violations of law or regulation, by setting forth in its minutes its intention to adopt the*

recommendations, to adopt them with modifications or to reject them for reasons shown in the minutes.

Section 38 Revise NAC 386.390

NAC 386.390 Compliance with accounting principles; utilization of chart of accounts; maintenance of money. (NRS 386.540, 386.570) A charter school or university school for profoundly gifted pupils shall:

1. Comply with generally accepted accounting principles.
2. Use the chart of accounts prescribed by the Department.
3. Maintain all money received by the charter school from this State and from the board of trustees of a school district in:

(a) A bank in this state whose deposits are insured by the Federal Deposit Insurance Corporation;

(b) A credit union in this state whose deposits are insured by the National Credit Union Share Insurance Fund or by a private insurer approved pursuant to NRS 678.755; or

(c) A savings and loan association in this state whose deposits if made by the State, a charter school or an university school for profoundly gifted pupils or an agency of either, are insured by the Federal Deposit Insurance Corporation, or the legal successor of the Federal Deposit Insurance Corporation.

~~[a bank, credit union or other financial institution in this State that is insured by an agency of the Federal Government or by a private insurer approved pursuant to NRS 678.755.]~~

4. No expenditures from an account may be made in excess of the balance of the account.