

Chapter 389 of NAC

LCB File No. T023-09

ADOPTED TEMPORARY REGULATION OF THE
STATE BOARD OF EDUCATION

Filed with the Secretary of State on April 2, 2009

NAC 389.056 Procedures for administration. (NRS 385.080, 389.015, 389.550)
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 administration manual for that specific assessment*, 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]~~ *the administration manual for that specific assessment*, 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 administration manual for that specific assessment*, adopted by the Department of Education.

NAC 389.0565 Use of calculators on examinations. (NRS 385.080, 389.015, 389.550)

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 Test in Mathematics* if he is enrolled in a program of special education pursuant to NRS 388.440 to 388.520, inclusive, and his ~~individual]~~ *individualized* education ~~plan]~~ *program* specifies that he 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 Test in*

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

NAC 389.057 Eligibility for reexamination. (NRS 385.080, 389.015, 389.550)

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.

NAC 389.061 Specific ~~norm-referenced and~~ criterion-referenced examinations required. (NRS 385.080, 389.015, 389.550) 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 Tests* 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 criterion-referenced examinations that must be used are the Nevada ~~Fourth Grade Examinations~~ *Criterion-referenced Tests* 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 Tests* 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 Tests* 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 criterion-referenced examinations that must be used are the Nevada ~~Seventh Grade Examinations~~ *Criterion-referenced Tests* 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 Tests* 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 criterion-referenced examinations that must be used are:

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

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

(3) 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.

NAC 389.071 Proficiency examinations in writing: ~~[Eleventh grade and above]~~ High school; fifth and eighth grade. (NRS 385.080, 389.015, 389.550)

~~[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.*

NAC 389.076 Nevada High School Proficiency Examination in Reading. (NRS 385.080, 388.360, 389.015)

~~[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.]~~

NAC 389.079 Nevada High School Proficiency Examination in Science. (NRS 385.080, 389.015)

~~[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.]~~

NAC 389.081 Nevada High School Proficiency Examination in Mathematics. (NRS 385.080, 389.015)

~~[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.]~~

NAC 389.083 Maintenance of results of examinations and list of names and scores. (NRS 385.080, 389.015, 389.550)

1. A school district shall keep the results of all examinations 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 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. *A school district shall keep the results 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.*

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

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

6. 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.

NAC 389.655 Passage of proficiency examinations. (NRS 385.080, 389.015)

~~1.~~ A pupil must not be given a standard diploma until the pupil has, after entering grade 11, passed:

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

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

~~(c)~~ 3. The Nevada High School Proficiency Examination in Writing ~~for the Eleventh Grade and Above.~~ ; and

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

~~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.~~

~~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 diploma 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 diploma 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.]~~

**NOTICE OF ADOPTION OF TEMPORARY REGULATION
LCB File No. T023-09**

The State Board of Education adopted temporary regulations assigned LCB File No. T023-09 which pertain to chapter 389 of the Nevada Administrative Code.

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.

Notice of Workshop to Solicit Comments on Proposed Regulations was sent to approximately 200 individuals and educational organizations. A workshop was held on March 19, 2009. There was no public comment.

The Notice of Intent to Act Upon a Regulation for public hearing and adoption of the amendments to NAC 389.056, 389.0565, 389.057, 389.061, 389.071, 389.076, 389.079, 389.081, 389.083; and 389.655 – High School Proficiency Examinations was sent to approximately 200 individuals and educational organizations. The public hearing was conducted on March 20, 2009 to provide the opportunity for comments by affected parties and the public. There was no public comment. The State Board of Education adopted the proposed amendments to the regulations.

2. The Number of Persons Who:
 - a) Attended Each Hearing: First Workshop: 31; First Hearing: 16; Second Hearing: N/A
 - b) Testified at Each Hearing: First Workshop: 0; First Hearing: 0; Second Hearing: N/A
 - c) Submitted Written Statements: First Workshop: 0; First Hearing: 0; Second Hearing: N/A

A copy of any written comments may be obtained by contacting Doris Arnold, Executive Assistant, Nevada Department of Education, 775-687-9217, or by writing to the Nevada Department of Education, 700 East Fifth Street, Carson City, Nevada 89701-5096.

3. A description of how comments were solicited from affected businesses, a summary of the response and an explanation how other interested parties may obtain a copy of the summary.

Comments were solicited through the workshop notice of February 12, 2009; and a public hearing notice of February 12, 2009. At the March 19, 2009 Workshop to Solicit Comments, there was no public comment to the proposed amendments to the regulation language. At the March 20, 2009 public hearing there were no public comments to the proposed amendments to the regulation language.

Summary of Comments:

Workshop comments:

There were no workshop public comments.

Public Hearing comments:

There were no public hearing comments.

A copy of the summary and/or minutes of the public hearing may be obtained by contacting Doris Arnold, Executive Assistant, Nevada Department of Education, 775-687-9217, or by writing to the Nevada 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 Nevada State Board of Education adopted the proposed amendments to the regulation language at the public hearing held March 20, 2009. The need the purpose of the proposed change to NAC 389 is that NRS 389.015 and 389.550 require the administration of proficiency examinations to pupils enrolled in Nevada public schools. The proposed changes reflect the temporary elimination of norm-referenced testing, the elimination of the examinations based on the 1994 content standards, the addition of a requirement for districts to retain the names and scores of each pupil who takes the High School Proficiency Examinations, revisions to reflect the addition of grade 10 testing, and other miscellaneous corrections

5. The estimated economic effect of the adopted regulation on the business that 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 Department of Education. There is no economic effect on the public or the business it regulates.

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 governmental 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 governmental agency regulations will be overlapped or duplicated by the above noted regulation. 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 for a new fee or increase an existing fee.