

Chapter 389 of NAC

LCB File No. T025-09

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

Filed with the Secretary of State on April 2, 2009

NAC 389.048 Eligibility for high school proficiency examinations. (NRS 385.080, 389.015)

1. Except as otherwise provided in subsection 2, to determine the eligibility of a pupil who has completed at least grade 9 ~~in the 2001-2002 school year or thereafter~~ to take the high school proficiency examinations, the pupil shall be deemed in:

- (a) Grade 10 if the pupil has completed at least 5 units of credit *or 2 semesters*.
- (b) Grade 11 if the pupil has completed at least 11 units of credit *or 4 semesters*.
- (c) Grade 12 if the pupil has completed at least 17 units of credit *or 6 semesters*.

2. If a pupil has an academic plan which projects that the pupil will graduate from high school before he is granted the number of opportunities to take the high school proficiency examinations that is otherwise granted to pupils in grades 11 and 12, the pupil may submit a written request to the superintendent of schools of the school district in which the pupil is enrolled or the governing body of the charter school in which the pupil is enrolled to take the high school proficiency examinations for the first time before he has earned the 5 units of credit *or 2 semesters* required for grade 10.

NAC 389.659 Units required for promotion to next higher grade level; waiver of certain requirements. (NRS 385.080)

1. If a pupil enrolls in the 9th grade during or after the 1999-2000 school year:

- (a) Except as otherwise provided in subsection 2, the pupil must earn a minimum of:
 - (1) Five units of credit *or 2 semesters* to be promoted to the 10th grade.
 - (2) Eleven units of credit *or 4 semesters* to be promoted to the 11th grade.
 - (3) Seventeen units of credit *or 6 semesters* to be promoted to the 12th grade.

(b) A school district shall evaluate the transcripts of the pupil if he transferred to a high school within the school district from another high school located outside the school district, whether located inside or outside this State, to determine the grade level for which the pupil qualifies pursuant to paragraph (a).

~~[(c) Except as otherwise provided in subsection 2, the pupil shall be deemed deficient in credit if, after completing a year of high school, he failed to earn at least the number of units of credit required pursuant to paragraph (a) to be promoted to the next higher grade level.]~~

2. The superintendent of a local school district may waive the requirement set forth in:

- (a) Subparagraph (1) of paragraph (a) of subsection 1 if:
 - (1) The local school district is a school district in which the 9th grade is taught in a junior high or middle school; and
 - (2) He determines that extenuating circumstances exist; and
- (b) Subparagraph (3) of paragraph (a) of subsection 1 if he determines that extenuating circumstances exist.

NOTICE OF ADOPTION OF TEMPORARY REGULATION
LCB File No. T025-09

The State Board of Education adopted temporary regulations assigned LCB File No. T025-09 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 public comment.

The Notice of Intent to Act Upon a Regulation for public hearing and adoption of the amendments to NAC 389.051 – Times for Administration; Special Administration 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: 28; First Hearing: 21; Second Hearing: N/A
- b) Testified at Each Hearing: First Workshop: 2; 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 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:

- (a) Dr. Bryn Lapenta, Washoe County School District, supported the regulations as proposed.
- (b) Ruth Johnson, Clark County School District, supported the regulations as proposed.

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 389.048 and 389.659 is that NRS 389.048 and 389.659 establish minimum credit requirements to be promoted to the next grade and to be eligible for particular administrations of the high school proficiency examination. The proposed changes would allow for matriculation based on credit sufficiency or length of attendance. These changes could reduce irregularities caused by testing ineligible students and simplify district tracking of individual students. This change would also make the graduation rate more relevant – artificially “holding” struggling students in 9th grade may be one of the reasons Nevada’s graduation rate is so low.

- 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.