

**PROPOSED REGULATION OF THE
DEPARTMENT OF EDUCATION**

LCB File No. R071-10

June 3, 2010

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

AUTHORITY: §§1 and 12, NRS 386.540; §2, 5, 6 and 9, NRS 386.527 and 386.540; §§3, 4 and 7, NRS 386.520 and 386.540; §8, NRS 386.530 and 386.540; §10, NRS 386.540 and 386.549; §11, NRS 386.540 and 386.560.

A REGULATION relating to education; authorizing charter schools to limit the enrollment of pupils in certain circumstances; requiring the governing body of a charter school to maintain a waiting list for the enrollment of pupils; prescribing the procedures by which the governing body of a charter school may amend its written charter to expand instruction or occupy a new or additional facility; revising the required submission of certain information relating to contracts with educational management organizations and other contractors; and providing other matters properly relating thereto.

Section 1. Chapter 386 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. 1. *The governing body of a charter school shall not limit the enrollment of pupils in the charter school to a specified number of pupils unless:*

(a) The written charter of the charter school identifies a limit on the number of pupils the charter school will enroll or identifies a ratio of pupils to teachers for the charter school;

(b) The charter school limits the enrollment of pupils to a number that corresponds with the maximum capacity of persons allowed to occupy the facility of the charter school as determined by the building, fire or health authority which inspected the facility; or

(c) The charter school has obtained written permission from the Superintendent of Public Instruction pursuant to subsection 5 to set a limit on the enrollment of pupils.

2. If more pupils who are eligible for enrollment apply for enrollment in a charter school than the number of spaces available, the governing body of the charter school shall establish a waiting list for enrollment in the charter school and place the pupils who were not enrolled in the charter school on the waiting list. The governing body of the charter school shall make available for inspection during the business hours of the charter school a list of the names of pupils on the waiting list.

3. Except as otherwise provided in subsections 5 and 6, if a space for a new pupil becomes available for enrollment, the governing body of the charter school shall fill the available space using the lottery system described in its written charter to determine to which pupil on the waiting list established pursuant to subsection 2 the governing body will offer the available space for enrollment in the charter school. The governing body of the charter school shall provide notice to the pupil selected pursuant to this subsection of the availability of a space for enrollment in the charter school.

4. Except as otherwise provided in subsection 5, a charter school must enroll the pupil notified by the governing body of the charter school pursuant to subsection 3 if that pupil seeks enrollment in the charter school. If the pupil notified by the governing body of the charter school does not wish to enroll in the charter school, the governing body shall, using the lottery system to select another pupil on the waiting list, provide notice of the available space for enrollment to another pupil until the available space is filled.

5. Not later than the first day of the school year, a charter school may submit an application, on a form prescribed by the Superintendent of Public Instruction, to the Superintendent of Public Instruction for:

(a) Written permission to limit the enrollment of pupils in the charter school pursuant to subsection 1; or

(b) A waiver from the requirement to enroll a pupil from the waiting list pursuant to subsection 4.

6. The Superintendent of Public Instruction may approve an application submitted pursuant to subsection 5 if the governing body of the charter school:

(a) Has entered into an agreement with a provider of software for a program of education used in the charter school; and

(b) Submits documentation which demonstrates that the enrollment of additional pupils in the charter school will be an undue financial burden on the charter school.

7. If the Superintendent of Public Instruction denies an application submitted pursuant to subsection 5, the governing body of the charter school may appeal the decision to the State Board.

8. A charter school that limits the enrollment of pupils pursuant to:

(a) Paragraph (a) of subsection 1 must submit a request to the sponsor of the charter school to amend the written charter before enrolling pupils in excess of the approved limit.

(b) Paragraph (b) of subsection 1 must obtain permission from the appropriate building, fire or health authority before enrolling pupils in excess of the maximum capacity allowed to occupy the facility.

Sec. 3. *For the purposes of paragraph (d) of subsection 2 of NRS 386.520, the proposed date of enrollment for the charter school for its first year of operation must not be more than 120 days before the date on which the charter school will open.*

Sec. 4. *Not later than 30 days before the first apportionment is made pursuant to NRS 387.124 to a charter school in its first year of operation, the governing body of the charter school shall submit to the Department:*

1. In an electronic format prescribed by the Department, the enrollment form for each pupil enrolled in the charter school which must include, without limitation:

- (a) The full name of the pupil;*
- (b) The address of the pupil and the county in which the pupil resides;*
- (c) The telephone number of the residence of the pupil;*
- (d) The date of birth of the pupil;*
- (e) The unique student identification number of the pupil, if available; and*
- (f) The grade level in which the pupil is enrolling; and*

2. The name and signature of the parent or legal guardian of each pupil enrolled in the charter school.

Sec. 5. *1. If the governing body of a charter school wishes to amend its written charter pursuant to NRS 386.527 to expand the instruction and other educational services provided by the charter school to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school and the expansion of grade levels does not change the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate, the governing body of the charter school must submit to the sponsor of the charter school a written request for such an amendment to the written charter not later than 90 days before the date on which the governing body proposes to operate the expanded grade levels.*

2. The written request must include, without limitation:

(a) Each grade level for which the charter school is requesting the amendment and the anticipated enrollment in each grade level for the first year during which the grade level is to be operated.

(b) The proposed curriculum for each grade level for which the charter school is requesting the amendment.

(c) A list of the courses that will be offered at the charter school, including, without limitation:

(1) 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

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

(d) A schedule of classes to be offered which must meet the requirements for prescribed courses and required courses of study as set forth in chapter 389 of NRS and chapter 389 of NAC.

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

(1) 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

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

(f) The qualifications of each person who will provide instruction in each grade level.

(g) A list of textbooks that will be used for the courses described in paragraph (c).

(h) A proposed budget that sets forth the estimated revenues and expenditures of the charter school for the first year in which the charter school enrolls pupils in the expanded grade levels.

3. The sponsor of the charter school shall review the written request submitted pursuant to subsection 1 to determine if the written request:

(a) Complies with NRS 386.500 to 386.610, inclusive, and the regulations applicable to charter schools; and

(b) Is complete in accordance with regulations of the Department.

4. Within 30 days after receipt of the written request submitted pursuant to subsection 1, the sponsor of the charter school shall provide written notice to the governing body of the charter school of its findings pursuant to subsection 3, including any items that are incomplete or noncompliant. Written notice informing the governing body of a charter school that the written request is incomplete or noncompliant shall be deemed denial of the written request.

5. If the sponsor of the charter school denies a written request submitted pursuant to subsection 1, the governing body of the charter school may correct any deficiencies and resubmit the written request within 30 days after receipt of the written notice of denial for review pursuant to subsection 4.

6. If the sponsor of the charter school finds pursuant to subsection 3 that the written request is compliant and complete, the sponsor may approve the request.

Sec. 6. 1. *If the governing body of a charter school wishes to amend its written charter pursuant to NRS 386.527 to occupy a new or additional facility, the governing body of the charter school must submit to the sponsor of the charter school a written request for such an*

amendment to the written charter not later than 15 days before the date on which the charter school proposes to occupy the facility.

2. The written request must include, without limitation:

(a) The address of the facility.

(b) The type of facility.

(c) A floor plan of the facility, including a notation of the size of the facility which is set forth in square feet.

(d) The name and address of the owner of the facility.

(e) If the facility will be leased or rented, a copy of the proposed lease or rental agreement.

(f) A copy of the certificate of occupancy for the facility.

(g) Documents which indicate that the facility has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation.

(h) Evidence which demonstrates that the governing body of the charter school has communicated with the Division of Industrial Relations of the Department of Business and Industry regarding compliance with the federal Occupational Safety and Health Act of 1970, as amended.

(i) Documentation which demonstrates that the governing body of the charter school has obtained the insurance required by NAC 386.215 for the proposed facility.

3. The sponsor of the charter school shall:

(a) Perform a physical inspection of the proposed facility or assign a designee to perform the inspection.

(b) Review the written request submitted pursuant to subsection 1 to determine if the written request:

(1) Complies with NRS 386.500 to 386.610, inclusive, and the regulations applicable to charter schools; and

(2) Is complete in accordance with the regulations of the Department.

4. Within 10 days after receipt of the written request submitted pursuant to subsection 1, the sponsor of the charter school shall provide written notice to the governing body of the charter school of its findings pursuant to subsection 3, including any items that are incomplete or noncompliant. Written notice informing the governing body of a charter school that the written request is incomplete or noncompliant shall be deemed denial of the written request.

5. If the sponsor of the charter school finds pursuant to subsection 3 that the written request is compliant and complete, the sponsor may approve the request.

6. The governing body of a charter school shall not occupy the proposed facility until the governing body has received written notice of approval of the written request from the sponsor of the charter school.

Sec. 7. NAC 386.180 is hereby amended to read as follows:

386.180 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 electronic 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 automated system of accountability information for Nevada 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, including, without limitation, the cost of insurance required by NAC 386.215. In addition, the proposed budget must be accompanied by a statement of cash flow and a budget for the period before the charter school commences operation.
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 Nevada System of Higher Education and any business, corporation, organization or other entity, whether or not conducted for profit, with whom~~ the committee to form the charter school or the proposed charter school intends to contract or is considering contracting with *an educational management organization* to provide ~~[any]~~ service to the charter school ~~[:]~~ :

(a) *The name of the educational management organization;*

(b) A copy of the ~~[format for the]~~ contract that will be used for ~~[each contractor identified in paragraph (a).]~~ *the educational management organization*, 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).]~~ *the educational management organization;*

(d) The telephone number and mailing address of ~~[each contractor identified in paragraph (a).]~~ *the educational management organization;* and

(e) A description of the service to be provided by the ~~[contractor.]~~ *educational management organization.*

7. *If the proposed charter school intends to limit the enrollment of pupils pursuant to section 2 of this regulation, the maximum number of pupils that the charter school will enroll.*

8. If the application was prepared by a person who is not a member of the committee to form the charter school or by another entity, including, without limitation, an educational management organization, or if such a person or entity assisted the committee in preparing the application:

(a) The name of the person or entity;

(b) The name and location of any public school, private school or charter school with which the person or entity has been or is presently affiliated, including, without limitation, the street address and mailing address of that school;

(c) The dates on which the person or entity was affiliated with a school described in paragraph (b), if any such affiliation occurred;

(d) A statement indicating whether the person or entity is presently affiliated with a school described in paragraph (b) or has ceased the affiliation;

(e) If the affiliation has ceased, a statement indicating the reason for the cessation; and

(f) A detailed resume listing the qualifications of the person or entity.

Sec. 8. NAC 386.320 is hereby amended to read as follows:

386.320 If the sponsor of a charter school receives an application pursuant to subsection 2 of NRS 386.530 for renewal of the initial written charter of the charter school, the sponsor shall:

1. Within 30 days after receipt of the application, designate one or more employees of the school district, the college or the university, as applicable, or, if the State Board of Education is the sponsor, one or more employees of the Department, to verify the contents of the application by:

(a) Performing a physical inspection of the location of the charter school; and

(b) Interviewing the members of the governing body of the charter school and, when appropriate, the administrators and staff members of the charter school.

2. Within ~~60~~ 90 days after receipt of the application, consider the application along with any reports generated by the employees of the school district, the college or the university or the Department, as applicable, pursuant to subsection 1 at a public meeting for which notice has been provided pursuant to chapter 241 of NRS.

Sec. 9. NAC 386.325 is hereby amended to read as follows:

386.325 ~~HH~~ *Except as otherwise provided in sections 5 and 6 of this regulation, if* the governing body of a charter school requests an amendment to its written charter pursuant to NRS 386.527, the sponsor of the charter school may authorize its staff to approve the amendment to the charter as the sponsor deems appropriate.

Sec. 10. NAC 386.345 is hereby amended to read as follows:

386.345 1. A majority of the members of the governing body of a charter school must reside in the county in which the charter school is located.

2. The membership of the governing body of a charter school shall not include:

(a) An employee of the governing body or charter school, including, without limitation, an administrator or teacher.

(b) Except as otherwise provided in this paragraph, any person who:

(1) Owns, operates, is employed by or receives compensation from a corporation, business, organization or other entity that enters into a contract with the governing body or charter school; or

(2) Is related by blood or marriage to a person described in subparagraph (1).

↪ Pursuant to the requirements of NRS 332.800, a person described in this paragraph may serve on the governing body if he has entered into a contract with the governing body to provide goods or services to the charter school without profit or at no cost to the charter school. The governing body shall maintain documentation of the terms of such a contract.

3. If a person serves on the governing body of a charter school as a representative of a nonprofit organization or business, not more than one other member of the governing body may also serve as a representative of that organization or business or otherwise represent the interests

of that organization or business. In no event may representatives of the same organization or business serving on the governing body constitute a majority of the members of the governing body.

4. Not later than 5 business days after the governing body of a charter school is selected, the governing body shall submit to the Department:

- (a) The name and address of each member;
- (b) The resume of each member;
- (c) The state of residence of each member;
- (d) If a member serves on the governing body as a teacher, as that term is defined in

subsection 5 of NRS 386.549, a photocopy of his license to teach; and

- (e) An affidavit of each member indicating that he:

- (1) Has not been convicted of a felony or any offense involving moral turpitude; and

- (2) Has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other material designed to assist the governing bodies of charter schools, if such material is provided to him by the Department, ↪ as required pursuant to NRS 386.549.

5. *For the purposes of chapter 281A of NRS, the members of the governing body of a charter school are public officers.*

6. The governing body of a charter school governs the charter school, maintains overall control of the charter school and is responsible for the operation of the charter school, including, without limitation, critically evaluating the performance of a contractor for the charter school and selecting another contractor if the contractor is not performing his duties or services in a satisfactory manner.

~~{6.}~~ 7. Not later than 30 business days after each public meeting held by the governing body of a charter school pursuant to subsection 4 of NRS 386.549, the governing body shall submit to the Department and to the sponsor of the charter school a copy of the minutes of the meeting. The minutes of each public meeting must be approved at the next meeting of the governing body and revised as necessary.

~~{7.}~~ 8. If the minutes of a meeting have not been approved by the governing body when it submits the minutes pursuant to subsection ~~{6.}~~ 7, the governing body shall:

(a) Submit a written statement, accompanying the minutes that are submitted pursuant to subsection ~~{6.}~~ 7, indicating that the minutes have not been approved and are subject to revision; and

(b) Submit to the Department and the sponsor of the charter school a copy of the approved minutes not later than 10 days after such approval.

9. As used in this section, “public officer” has the meaning ascribed to it in NRS 281A.160.

Sec. 11. NAC 386.400 is hereby amended to read as follows:

386.400 1. A contract between the governing body of a charter school and an educational management organization, the board of trustees of a school district, the Nevada System of Higher Education or any business, corporation, organization or other entity, whether or not conducted for profit, to provide any service to the charter school must include a provision that requires the contractor to inform each person whom the contractor employs or hires and who provides a direct service to the charter school that:

(a) The person is not employed by the governing body of the charter school; and

(b) The provisions of NRS 386.595 do not apply to an employee of the contractor or any person hired by the contractor to perform a service to the charter school, including, without limitation, the provisions governing the status of employees of a charter school and their collective bargaining rights and benefits.

2. If the governing body of a charter school enters into a contract with an educational management organization, the board of trustees of a school district, the Nevada System of Higher Education or any business, corporation, organization or other entity, whether or not conducted for profit, to provide any service to the charter school, the governing body shall, not later than 30 days after the contract is signed by both parties, submit to the sponsor of the charter school and the Department:

(a) The name of the contractor;

(b) A copy of the contract;

(c) The name of a contact person for the contractor;

(d) The telephone number and mailing address of the contractor;

(e) A description of the service to be provided by the contractor; ~~and~~

(f) A description of the manner in which each person who is employed or hired by the contractor to provide a direct service to the charter school has been notified of the information required by subsection 1 ~~(f)~~; *and*

(g) A list of the name and qualifications of each person who is employed or hired by the contractor to provide a direct service to the charter school.

↪ If any of the information set forth in paragraphs (a) to ~~(f)~~ (g), inclusive, was included with the application to form the charter school pursuant to subsection 6 of NAC 386.180, the

governing body is not required to resubmit the information if it is still accurate after the contract has been entered into.

Sec. 12. NAC 386.405 is hereby amended to read as follows:

386.405 1. The governing body of a charter school shall not enter into a contract with an educational management organization for ~~[a]~~ *an initial* term of more than 2 years. Such a contract ~~[must]~~ :

(a) *Must* allow the governing body to terminate the contract and must not prohibit the governing body from entering into a contract with another educational management organization.

~~[This]~~

(b) *Must not be contingent upon any other contract.*

(c) *Must not require the governing body to enter into any other contract with the educational management organization or to renew a contract with the educational management organization.*

2. *The provisions of* subsection ~~[does]~~ *I do* not preclude a charter school from ~~[entering into another]~~ *renewing a* contract with the ~~[same]~~ educational management organization after the expiration of a contract if the educational management organization has performed in a satisfactory manner.

~~[2.]~~ 3. *At the expiration of the initial term of the contract entered into pursuant to subsection 1, the governing body of a charter school may enter into a contract with the same educational management organization for a term not to exceed the remaining term of the written charter of the charter school.*

4. The governing body of a charter school shall approve the appointment, or any change to the appointment, of all key personnel for the charter school who are directly employed and

provided by an educational management organization. Such approval must occur at a regularly scheduled public meeting of the governing body. If the administrative head of a charter school is provided by an educational management organization, information regarding that person must be provided to the Department in accordance with NAC 386.100. For purposes of this subsection, “key personnel” includes administrators who are employed pursuant to subsection 6 of NRS 386.590 and the person designated to draw all orders for the payment of money belonging to the charter school required by NRS 386.573.

~~{3.}~~ 5. If the governing body of a charter school enters into a contract with an educational management organization, the governing body shall, ~~{at least annually,}~~ *not later than 60 days after the end of the school year*, review the performance of the educational management organization to determine whether the educational management organization is performing in a manner that satisfies the terms and conditions of the written charter, including, without limitation, the satisfaction of the goals of the charter school. If the educational management organization is not performing in a satisfactory manner, the governing body shall require the educational management organization to prepare, in consultation with the governing body, a plan of corrective action for the educational management organization. The plan must include the steps which will be taken by the educational management organization to ensure that it performs in a manner which satisfies the terms and conditions of the written charter, including, without limitation, the satisfaction of the goals of the charter school. *Not later than 120 days after the end of the school year, the governing body shall submit to the sponsor of the charter school and the Department a copy of the review conducted pursuant to this subsection and the plan of corrective action for the educational management organization, if applicable.*

~~[4.]~~ 6. If the governing body of a charter school enters into a contract with an educational management organization, the governing body shall require the educational management organization to provide a written report to the sponsor of the charter school, ~~[and]~~ to the governing body of the charter school *and to the Department* not later than 15 business days after the end of each fiscal year during which the contract was in effect. The written report must *be in a format approved by the Superintendent of Public Instruction and* include:

(a) The amount of money received by the educational management organization from public and private sources to carry out the terms of the contract;

(b) The expenditures of the educational management organization relating to carrying out the contract, including, without limitation, the payment of salaries, benefits and bonuses; and

(c) An identification of each contract, transaction and agreement entered into by the educational management organization related to carrying out the contract with the charter school, including, without limitation, contracts, transactions and agreements with parent organizations, subsidiaries and partnerships of the educational management organization.

~~[5.]~~ 7. If an educational management organization is identified in the written charter of a charter school, the inclusion of a reference to that particular educational management organization in the written charter does not preclude the governing body of the charter school from terminating or not renewing a contract entered into with that educational management organization. If the governing body terminates or does not renew such a contract, the governing body shall amend the written charter accordingly to remove any errant references to that educational management organization.