

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS—NRS 233B.066**  
**Informational Statement**  
**LCB File No R035-15**

**1. A clear and concise explanation of the need for the adopted regulation:** AB 165 provided that the Department would establish the procedures and content for scholarship application and the law required some additional measures for accountability and reporting.

**2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

The Notice of Intent to Act Upon a Regulation for public hearing and adoption of Proposed Amendments was filed at the following locations on September 4, 2015 : The offices of the Nevada Department of Education in Carson City and Las Vegas, at the 17 Nevada School District Superintendent's Offices, the 17 county main public libraries, the Nevada State Library and Archives, the Department of Education website and the Legislative Council Bureau website.

A summary may be obtained by contacting Karen Johansen, Administrative Assistant, Nevada Department of Education, 775-687-9225 or by writing to the Nevada Department of Education, 700 East Fifth Street, Carson City, Nevada 89701-5096.

**3. The number of persons who:**

- (a) Attended each hearing: 26**
- (b) Testified at each hearing; 4**
- (c) Submitted written comments: 0**

**4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the Hearing: (SEE ATTACHED)**

- (a) Name;**
- (b) Telephone number;**
- (c) Business Address;**
- (d) Business telephone number;**
- (e) Electronic mail address;**
- (f) Name of entity or organization represented**

**5. A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

The Notice of Intent to Act Upon a Regulation for public hearing and adoption of Proposed Amendments was filed at the following locations on November 30, 2014: The offices of the Nevada Department of Education in Carson City and Las Vegas, at the 17 Nevada School District Superintendent's Offices, the 17 county main public libraries, the Nevada State Library and Archives, the Department of Education website and the Legislative Council Bureau website.

A summary may be obtained by contacting Karen Johansen, Administrative Assistant, Nevada Department of Education, 775-687-9225 or by writing to the Nevada Department of Education, 700 East Fifth Street, Carson City, Nevada 89701-5096.

- 6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.** Changes were made based on public comment given during the public hearing. Those changes include adding additional information to collect about pupils in Section 4, adding clarifying language to section 8(3) and Section 9(5), and adding a clarification about tests for grades k-12 in Section 11.
- 7. The estimated economic effect of the regulation on the business which it is to regulate and on the public:**
  - (a) Estimated economic effect on the businesses which they are to regulate**  
None.
  - (b) Estimated economic effect on the public which they are to regulate**  
None
- 8. The estimated cost to the agency for enforcement of the proposed regulation:** None
- 9. A description of any regulations of other State of governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.** None.
- 10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.** None.
- 11. Of the regulation provides a new fee or increases an existing fee, the total annual amount of the agency expects to collect and the manner in which the money will be used.** None.

### **R035-15 Public Comment**

- (a) Lesley Pittman
- (b) 702-524-5054
- (c) Reno, NV
- (d) Business telephone number;
- (e) Electronic mail address;
- (f) Sierra Strategies, American Federation for Children

Lesley Pittman, American Federation for Children, suggested slight improvements that could make the new proposed regulations clearer and evenly structured.

- Page 8 – subsection 3 (c) **insert ‘completed’ applications received so it is clear and consistent with other language stipulating completed applications.**
- Page 11 Section 9, subsection 5 – **it mentions participating entity but there is no definition of ‘participating entity’. That terminology is mentioned in the ESA but pertains to a different program and has different definitions. They should either define that or spell out what entity they are referring to.**
- Also on **page 11, subsection 5** states a parent shall ensure the grant the students receives does not exceed the \$7,755 limit and a participating entity shall not accept more than allowed. However, the grant can be used for a combination of educational services including tuitions and fees at a private school and for tuition-based programs offered by a public school with virtual and dual enrollment classes.

In the case of a student receiving a grant from more than one Scholarship Organization (SO) and who are using the funds to pay for private school tuition and fees and dual enrollment classes, how will the private school or the public school know if the child has exceeded the limit as they do not share their records with each other? The state should not hold the private school responsible for these situations. Instead, the Department will know because of the quarterly reports the SOs have to file. Ms. Pittman suggested including language in the section that specifies the **Department shall utilize the quarterly data submitted by the Scholarship Organization to verify that a pupils total grant does not exceed the maximum amount allowed.**

- Ms. Pittman stated it is necessary to clarify that for students who receive ESA and OSP, the entity or parent cannot be reimbursed twice in a school year for identical expense dollars so a school or tuition based public school program or parent cannot get paid twice. A school cannot submit an invoice for \$5,000 tuition under the ESEA if the SO has paid them \$5,000 for the same tuition. **The Department and Treasure’s office will need to develop a system to share data to verify that double payments do not occur with these 2 programs**

- The reports the SOs submit **should contain a family’s household income so the NDE can review that data for future adjustments of priority in granting awards as the rules state.**
- On page 12, Section 11, subsection 2 (d) concerning testing, Subsection 2 (d) states the Department will approve a nationally norm referenced test for administration for pupils, half of whom grants are awarded if the test serves as a measure of pupil achievement in core academic areas for pupils enrolled in K-12. Ms. Pittman said not all of the nationally norm referenced tests are available for K-2, with compulsory attendance at age 7, **she suggested the NDE require the nationally normed referenced tests for the same grades that Nevada administers the state assessment exam.** Ms. Pittman reiterated the assessment tests should be done at the same grade levels the state currently tests for public schools. Kids in kindergarten, 1<sup>st</sup> or 2<sup>nd</sup> grade would not be tested. State requires testing for English and math each year for grades 3-8 and science 5-8 and once in high school, 10th grade being the priority, and to be consistent with that. She added to include whatever changes occur in terms of the required assessments as a result of the Read by 3 legislation.

(g) Heather Brault

(h) Telephone number;

(i) Business Address;

(j) Business telephone number;

(k) Electronic mail address;

(l) AAA Scholarship Foundation

Heather Brault, AAA Scholarship Foundation, said section 3, paragraph 3, states that an SO must hold a valid state business license under chapter 76 of NRS. This NRS chapter specifically excludes non-profit organizations; instead non-profit organizations are covered under NRS 82. Ms. Brault asked that this is reviewed. In addition, page 8, last paragraph (c) specifies, the grant must be awarded in the order the application is received, and the second sentence refers to a completed application. She questioned the consistency in language with “the application” and “the completed application” being received, and awarding the grant in which the application is received or completed application is received. The order should be if an incomplete application is received and is then later completed, it is in that order. It becomes complicated if going back and forth between the two terms; it is not only the received date, but the completed date.

Robin Kincaid

(a) Telephone number;

(b) 7211 W, Charleston Blvd, NV

(c) 702-388-8899

(d) RKincaid@nvpep.org

(e) Nevada PEP

Robin Kincaid, Nevada PEP, stated they are a parent training information center which is a non-profit organization that helps parents of children with disabilities. Parents of students with disabilities have additional factors that need to be considered when making a school choice. She encouraged the regulations to incorporate a requirement that would indicate a copy of the questions and answers on serving children with disabilities placed by their parents in private schools be given to all parents of children with disabilities that might be going through this application process. This guidance was developed by the office of special education and rehabilitated services and is a question and answer format and provides clarifications for the parents, so they understand the decision they are making, what kinds of changes might occur and would provide a better understanding going forward in the school choice decision. In section 4a, there is demographic information that is being collected on students that might be in this program. **She requested when this data is collected for those various sub groups, that the data on the amount of students with disabilities be collected and reported.**

- (a) Seth Rau
- (b) 702-524-5054
- (c) Reno, Nevada
- (d) 702-524-5054
- (e) Electronic mail address;
- (f) Policy Director, Nevada Succeeds Charter,

Seth Rau, policy director, Nevada Succeeds, said currently the proposed regulation specifies testing in K-12, however, in Clark County School District and charter schools there is no standardized testing in kindergarten. Mr. Rau inquired if instead of testing every grade in K-12, to instead test in K3-8 and then once in high school to match the current summative testing in public schools.

Interim Superintendent Canavero asked for clarification about the problem he is trying to solve by aligning this nationally normed program evaluative with the state's accountability framework and the assessments required under the accountability framework. He reminded it is not just a single test in high school; rather it is the end of course assessments through high school. Currently K6-12 is covered and so it would also include a required assessment in 11<sup>th</sup> grade. It gets sideways when trying to cross walk one requirement that the state applies to its traditional and non-traditional public schools versus this program that is trying to be evaluated based upon a nationally normed reference test.

Seth Rau said the high school part is not the main concern. The issue is on the K-2 side and trying to determine if the standardized assessments do not have kindergarten levels, and trying to determine what is really standardized test appropriate in grades 1-2. The high school side is not a concern and it is not that testing in K-2 is bad idea. The battery of assessments that exists in the grades 3-12 space is much more extensive that what exists in the K-2 space when it comes to summative results. There are lots of formative assessments in the K-2. Seth said there is no problem doing formative assessments but currently there are no state summative assessments before 3rd grade.