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**STATE OF NEVADA**  
**BOARD OF EDUCATION**  
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**October 6, 2022**

**Notice of Intent to Act Upon a Regulation**

Notice of Hearing for the Adoption of Regulations of the Nevada State Board of Education as proposed in LCB File #R132-22

The Nevada State Board of Education will hold a public hearing **at 10:00 A.M. on Thursday, October 6, 2022** at the following locations: **Nevada Department of Education Offices, 700 East Fifth Street, Board Room, Carson City and 2080 East Flamingo Road, Room 114, Las Vegas, Nevada.** The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations pertaining to Chapter 388 of the Nevada Administrative Code (NAC) pursuant to the Nevada Revised Statutes 387.067, 387.123 and 388.419.

The following information is provided pursuant to the requirements of Nevada Revised Statute (NRS) 233B.0603:

- 1. The need and the purpose of the proposed regulations and/or amendments:** In accordance with NRS 387.067, the Nevada State Board of Education shall:
  - *“...accept and adopt regulations or establish polices for the disbursement of money appropriated and apportioned to the State of Nevada, the school districts or the charters schools of the State of Nevada by the Congress of the United State for purposes of elementary and secondary education.*NRS 387.123 notes that the State Board shall:
  - *“...establish uniform regulations for counting enrollment and calculating the average daily attendance of pupils...”*NRS 388.419 notes that the State Board shall:
  - *“...adopt regulations establishing minimum standards for the special education of pupils with disabilities...”*
- 2. Description of the proposed regulation, or the subjects and issues involved:** The purpose of these regulations is to establish requirements governing the enrollment of certain children who are admitted to a mental health facility in public schools; and providing other matters properly relating thereto.
- 3.** The revised text of the proposed regulation is attached to this notice.
- 4. Estimated economic effect of the regulation on the business which it is to regulate and on the public:** There is no economic effect of the regulation on the business that it regulates and no impact on the public.

5. **Methods used by the agency in determining the impact on a small business:** Small business are not impacted by this regulation.
6. **The estimated cost to the agency for enforcement of the proposed regulation:** No costs.
7. **Description and citation of duplicative or overlapping regulations of other state or local governmental agencies:** There is no duplication or overlap of regulations of state or local government agencies.
8. **Is the regulation required by federal law?** This regulation is not required pursuant to federal law.
9. **Does the regulation include provisions more stringent than a federal regulation regarding the same activity?** There is no federal law affecting or overlapping the proposed regulations.
10. **Does the proposed regulation establish a new fee or increase an existing fee?** The proposed regulations do not establish a new fee nor increase an existing fee of the regulating agency.

A copy of all materials relating to the proposed regulation may be obtained at the hearing, on the [Nevada Department of Education webpage](#), by contacting the State Board of Education, via email at [NVBoardED@doe.nv.gov](mailto:NVBoardED@doe.nv.gov) by telephone at (775)687-9224 or in person at the Nevada Department of Education, 700 E. Fifth Street Carson City, Nevada 89701. Persons wishing to comment upon the proposed action of the State Board of Education may provide in-person testimony, submit written comment to the State Board of Education via email at [NVBoardED@doe.nv.gov](mailto:NVBoardED@doe.nv.gov) or submit their comments, data, views, or arguments in written form to the Nevada Department of Education, 700 E. Fifth Street Carson City, Nevada 89701. Comments may be submitted via email leading up to and for the duration of the hearing, and those submitted via mail must be received by the Department on or before October 5, 2022. A record of all submitted comments will be retained, and the State Board of Education will proceed to consider any public comment received.

This notice and the text of the proposed regulation has been sent to all persons on the agencies mailing list for administrative regulations and the State Board of Education, and posted on the Nevada Department of Education's website at <https://doe.nv.gov>, Nevada's Public Notice site at <https://notice.nv.gov>, the Nevada State Legislature's webpage at <https://leg.state.nv.us>, available in the State of Nevada Register of Administrative Regulations pursuant to NRS 233B.0653, and physically posted at the Nevada Department of Education Offices. Copies of this notice will also be emailed and/or mailed to members of the public upon request.

**Notice required by NRS 233B.064:** Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

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

**LCB File No. R132-22**

July 27, 2022

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

AUTHORITY: § 1, NRS 387.067, 387.123 and 388.419.

A REGULATION relating to education; establishing requirements governing the enrollment of certain children who are admitted to a mental health facility in public schools; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires the State Board of Education to adopt regulations establishing minimum standards for the special education of pupils with disabilities, including emotional disturbance. (NRS 388.419) Existing law prescribes a procedure for the admission of a child with emotional disturbance who is in the custody of an agency which provides child welfare services to a mental health facility. (NRS 432B.607-432B.6085) This regulation prohibits a school district or charter school in which a child is enrolled upon such admission from terminating the enrollment of the child. If a child who is so admitted is not enrolled in a school district or charter school in this State, this regulation requires certain school districts, depending on the county in which the agency which provides child welfare services is located, to enroll the child upon the request of the agency which provides child welfare services. This regulation additionally deems the school district or charter school in which the child is enrolled to be the local educational agency for the purposes of federal and state law governing the education of pupils with disabilities. Finally, this regulation requires a child who is enrolled or remains enrolled in a charter or school district under the provisions of this regulation to be included in the count of pupils enrolled in that school district or charter school, as applicable, for apportionment purposes.

**Section 1.** Chapter 388 of NAC is hereby amended by adding thereto a new section to read as follows:

*1. If a child who is in the custody of an agency which provides child welfare services is enrolled in a school district or charter school when he or she is admitted to a psychiatric*

*hospital or a facility which provides residential treatment for mental illness pursuant to NRS 432B.6076, the school district or charter school shall not terminate the enrollment of the child.*

*2. If a child who is in the custody of an agency which provides child welfare services located in a county whose population is 100,000 or more is not enrolled in a school district or charter school when he or she is admitted to a psychiatric hospital or a facility which provides residential treatment for mental illness pursuant to NRS 432B.6076, the school district of the county must enroll the child upon the request of the agency which provides child welfare services.*

*3. If a child who is in the custody of an agency which provides child welfare services located in a county whose population is less than 100,000 is not enrolled in a school district or charter school when he or she is admitted to a psychiatric hospital or a facility which provides residential treatment for mental illness pursuant to NRS 432B.6076, any school district in this State must enroll the child upon the request of the agency which provides child welfare services.*

*4. If a child who is a pupil with a disability and is in the custody of an agency which provides child welfare services is admitted to a psychiatric hospital or a facility which provides residential treatment for mental illness pursuant to NRS 432B.6076, the school district or charter school in which the child is enrolled pursuant to this section is deemed to be the local educational agency for the child for the purposes of:*

*(a) The Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and any regulations adopted thereto; and*

*(b) NRS 388.417 to 388.5243, inclusive, and any regulations adopted pursuant thereto.*

*5. A child who is enrolled or remains enrolled in a school district or charter school pursuant to this section must be included in the count of pupils enrolled in the school district or charter school, as applicable, for apportionment purposes pursuant to NRS 387.123.*