

Steve Sisolak
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Notice of Workshop to Solicit Comments on Proposed Regulation

The **Nevada Department of Education** is proposing regulation language pertaining to the Nevada Administrative Code (NAC). The Workshop has been scheduled for **Thursday, September 30, 2021** via [Lifesize](#) and 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 Workshop is to solicit comments from interested persons on the following general topics to be addressed in a proposed regulation:

9:55 A.M. Workshop to Solicit Comments on Proposed Amendments to NAC Chapters 388A.140, 388A.145, 388A.155, 388A.530, 388A.590, and NAC 388.850, which pertain to various charter school requirements, including the percentage of licensed teacher as required by Assembly Bill 109 (2021) and clarifying language related to operations.

A copy of all materials relating to the proposal may be obtained at the workshop, on the Nevada Department of Education Regulation Workshops and Public Hearings [Meeting Materials](#) page, by contacting Amelia Thibault, Interim Board Secretary, Nevada Department of Education via email at NVBoardEd@doe.nv.gov, by telephone at 775-687-9217 or in person at the Nevada Department of Education, 700 E. 5th St, Carson City, Nevada. Persons wishing to comment upon the proposed action of the Department may provide in-person testimony, submit written comment to the Department via email at NVBoardEd@doe.nv.gov, or submit their comments, data, views, or arguments in written form to the Nevada Department of Education, 700 E. 5th St, Carson City, Nevada. Comments may be submitted via email leading up to and for the duration of the workshop, and those submitted via mail must be received by the Department on or before September 29, 2021.

This notice has been sent to all persons on the agencies mailing list for administrative regulations 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>, and physically at the Nevada Department of Education Offices and with Nevada State Library and Archives. Copies of this notice will also be emailed and/or mailed to members of the public upon request.

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SMALL BUSINESS IMPACT STATEMENT
PURSUANT TO NRS 233B.0608

DATE: September 30, 2021

RE: Workshop to Solicit Comments on Proposed Amendments to NAC Chapters 388A.140, 388A.145, 388A.155, 388A.530, 388A.590, and NAC 388.850, which pertain to various charter school requirements, including the percentage of licensed teacher as required by Assembly Bill 109 (2021) and clarifying language related to operations.

I, Jhone M. Ebert, being the duly appointed Superintendent of Public Instruction of the Nevada Department of Education, do hereby certify, to the best of my knowledge or belief:

1. The proposed regulation regarding Charter Schools is not likely to (a) impose a direct or significant economic burden upon a small business, or (b) directly restrict the formation, operation or expansion of a small business.
2. A concerted effort was made to determine any economic burden.
3. All relevant materials were reviewed, and the Department considered its history with implementing similar regulations; the proposed changes are within the scope of the Department's activities and present no significant cost of enforcement.
4. Comment has not been solicited from small businesses, and no summary of their response is provided, because small businesses are not impacted by this regulation and thus no burden or adverse economic impact can be assessed.

I hereby further certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the regulation on small businesses and that the information contained in this statement was prepared properly and is accurate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jhone M. Ebert".

Jhone M. Ebert
Superintendent of Public Instruction

Nevada Department of Education Regulation Draft Request

NAC 388A.xxx - A Topic for Consideration Regarding Distance Learning Charter Schools

Submitted by Craig Statucki, Director

August 27, 2020

Background: With the passage of SB441, language was removed from NRS 388.854 regarding school districts needing to receive written permission from the board of trustees to enroll students from outside their district of residence in a full-time program of distance education. “Before a pupil may enroll full-time in a program of distance education that is provided by a school district other than the school district in which the pupil resides, the pupil must obtain the written permission of the board of trustees of the school district in which the pupil resides. Except as otherwise provided in NRS 388.850 or other specific statute, a board of trustees from whom permission is requested pursuant to this subsection shall grant the requested permission.”

Problem: NAC 388.850 has similar language to what was removed by SB441. If left in place, the NAC would conflict with the new language in NRS 388.854.

Solution: The proposed revision to NAC 388.850, removes Section Three and renumbers the rest of the sections accordingly.

NAC 388.850 Written agreement with board of trustees of school district. (NRS 388.874)
The written agreement required by subsection ~~32~~ of [NRS 388.854](#) authorizing a pupil to enroll in a program of distance education must, in addition to the information required by that subsection, include:

1. The name of the pupil and his or her school identification number;
 2. ~~The written permission of the board of trustees of the school district in which the pupil resides for the pupil to enroll full-time or part-time in a program of distance education provided by another school district or a charter school;~~
 - ~~32.~~ If the pupil is:
 - (a) Less than 18 years of age, the name and signature of the pupil’s parent or legal guardian;or
 - (b) At least 18 years of age, the signature of the pupil;
 - ~~43.~~ The name of the provider of the program of distance education;
 - ~~54.~~ A list indicating each course of distance education in which the pupil will be enrolled;
- and
- ~~65.~~ An identification of the category pursuant to which the pupil is eligible to enroll in a program of distance education, as set forth in [NRS 388.850](#).
- (Added to NAC by Bd. of Education by R007-02, eff. 4-5-2002)

Background: Senate Bill 441 and the corresponding NRS 388A.740 state the Nevada Department of Education (NDE) shall develop regulations regarding Distance Learning Charter Schools. The

State Public Charter School Authority (SPCSA) held a focus group to discuss the three sections in NRS 388A.740 and provided their findings to NDE.

Problem: These are new regulations. Sections 1 and 3 of NRS 388A.740 are addressed in the proposed NAC language below. Section 2 of NRS 388A.740 needs additional guidance from the Deputy Attorney General. NRS 388A.740 Section 2 and SB 441 state that NDE shall develop regulations but the SPCSA focus group did not determine items that would fall into a regulation for this section of the NRS. NRS 388A.470 utilizes the word “expel” for failing to actively participate in distance learning. This language is not in alignment with NRS 392.467, NRS 392.472, and NAC 387.200

Solution: The proposed regulations for NRS 388A.740 Section 1 and Section 3 meet the requirements of the NRS and SB 441. The language for NRS 388A.740 is updated to include the correct terminology for withdrawing a student and referencing the correct NRS regarding student expulsion.

Opinion from DAG Gardner: “The only requirement, when it comes to subcommittees, is that the Department needs to establish regulations regarding “delegation of oversight responsibilities to any subcommittee” of the SPCSA. This regulation needs to only cover the process for the SPCSA to delegate oversight responsibility if the SPCSA so desired. The SPCSA does not need to act on it or create a subcommittee unless it wants to.”

Regulation regarding NRS 388A.740 (1) (“...shall adopt any regulations necessary to carry out provisions;” specifics, such as defining a subcommittee, are unclear):

388A.xxx – Any subcommittee created by the State Public Charter School Authority for the purpose of providing oversight as it relates to distance learning charter schools has the following guidelines when making recommendations to the Charter Authority for consideration.

1. Any subcommittee formed by the Charter Authority to provide oversight as it relates to distance learning charter schools may make recommendations to the Charter Authority regarding:
 - a. May make recommendations regarding criteria related to approving or revoking a charter for a full-time distance learning school,
 - b. May make recommendations regarding procedures for supporting students who are approaching ten days of non-activity to avoid a withdrawal status, and
 - c. May make recommendations regarding best practices to increase student and educator success at distance learning charter schools.
 - d. May not make recommendations regarding the approval or revocation of an individual charter for a full-time distance learning school,
 - e. May not make recommendations regarding the academic standing or enrollment status of a student attending a distance learning charter schools,

- f. May not make recommendations regarding the hiring, firing, or disciplinary review process of an employee at a distance learning charter schools, and
 - g. May not make recommendations regarding the funding of a distance learning charter school or the academic standards or diploma requirements as that authority is under the Legislature and the Department of Education.
2. The Charter Authority is under no obligation to adopt any recommendation made by the subcommittee.

Regulation regarding NRS 388A.740 (2):

SPCSA focus group did not provide any unanimous recommendations regarding what should be included in this regulation. Since SB 441 states that the department SHALL establish any regulation necessary to carry out the provisions of this bill, guidance from the DAG should be sought to ensure we are following the intent of the law. At this time, CRALEO and Sarah could not identify any additional items worthy of being exercised in the “catch all” provision. This is the broadest of all provisions, and is stated so in the memo from the SPCSA. DAG Gardner was contacted to verify if any additional regulations should be included hereto carry out the provisions of SB441.

Opinion from DAG Gardner on 09/02: These types of sections are common in bills. The purpose is to allow the Department the flexibility to fix something it catches as long as the regulation complies with the bill. One potential regulation stated in Section 13(2) of the bill, is that the Department may adopt regulations to allow an online charter school to be a LEA.

Regulation regarding NRS 388A.740 (3): Regarding Students who Fail to “Actively Participate” in the Charter School For Distance Education (“shall” regulations):

388A.xxx – A pupil enrolled at a charter school for distance education may be withdrawn from such charter school for failing to actively participate in the charter school for distance education set forth in NAC 387.200 and NAC 387.193 and pursuant to NRS 392.467.