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April 29, 2023

GUIDANCE MEMORANDUM #23-01

TO: School District Superintendents
Charter School Sponsors

FROM: Jhone M. Ebert
Superintendent of Public Instruction

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

SUBJECT: Clarification Exemption from Physical Education and Health

Introduction

Nevada regulation, [NAC 389.488](#), specifies that a school district may exempt a student's physical education graduation requirement under certain conditions including the following:

- Physical or mental condition, and the request is supported by a written statement from a physician;
- Religious belief, and the request is supported by a written statement from the pupil's parent or guardian;
- Enrollment in the Reserve Officer Training Corps;
- Intended enrollment in a program which is comparable to the course in physical education;
- Participation in interscholastic athletics, on a drill team, in a marching band, in a dance group or on a cheerleading squad.

The exemption from a physical education course(s), does not exempt the student from completing the required number of credits necessary for obtaining one of Nevada's high school diplomas. The definition of "exempt" is not specified within NAC 389.488 which has led to the inconsistent implementation across Nevada's school districts.

Clarification of NAC 389.488

To provide greater clarity and ensure consistency in the implementation of the exemption from the physical education graduation requirement, the Nevada Department of Education (NDE) worked in consultation with its Deputy Attorney General. This consultation resulted in an analysis of the term "exempt". The term "exempt" shall be defined as releasing a pupil from a

course or credit requirement which others are subject. By the way of this definition, students **cannot** be given or earn units of credit in physical education under NAC 389.488. The removal of the requirement to take a physical education course(s) does **not** reduce the overall number of credits necessary to graduate. To further clarify, students shall **not** earn, receive, nor obtain physical education credits or waivers under this regulation. Students are to only receive an exemption(s) in physical education allowing students the ability to take another course in place of a physical education course.

As outlined in the [Nevada's Diploma Requirements](#), a student must earn 23 units of credit in order to graduate from high school, two of which must be in physical education. Again, the intent of NAC 389.488 is to “exempt” students from the course requirement(s) for physical education who have met the provisions set forth within the regulation and have taken the appropriate steps to request the exemption. A student who is granted a physical education exemption(s) must ensure that the units of credit that they have been exempted from are counterbalanced by taking coursework in another content area to meet the minimum credit requirements for graduation (23 units of credit).

Pupils who request a physical education exemption under section two of NAC 389.488, shall furnish the State Superintendent of Public Instruction or designee with the attached application and syllabus of that program that demonstrates it is comparable to that of a physical education course. Upon the State Superintendent's written approval, the school district can then grant the exemption.

Action Moving Forward

Through the 2023-24 school year, it is the expectation that school districts continue to implement NAC 389.488 just as they always have; to avoid any disruption in the graduation of students who participate in these programs.

In the interim, NDE will review this regulation and pursue changes that better align with Nevada's current educational landscape. NDE will begin this process soon and look forward to soliciting feedback from school districts and stakeholders prior to making any changes.

Clarification of Health Credit

There are no regulations that allow for an exemption from the graduation requirement of one-half credit in Health.

Additionally, The Offices of Standards and Instructional Support (SIS) and Career Readiness, Adult Learning, and Education Options (CRALEO) have reviewed the standards in the Military Science's entire program of study and have determined that the standards for that program of study do not address all the Nevada Academic Content Standards of Health in order for a student

to earn academic credit for Health. The Military Science program has also not been approved by the State Board of Education to receive academic credit or an exemption in accordance with Nevada Administrative Code [NAC 389.672](#), [NAC 389.673](#), or [NAC 389.488](#). In addition, the Military Science program standards do not meet the following Nevada Revised Statute (NRS) requirements of Health credit; Section 4 of [NRS 389.018](#), [NRS 389.031](#), [NRS 389.036](#), and Section 4 of [NRS 389.520](#).

Please contact Dave Brancamp, Director of the Office of Standards and Instructional Supports, at dbrancamp@doe.nv.gov if you have any questions.

Cc: Craig Statucki, Interim Deputy Superintendent, Nevada Department of Education
Christy McGill, Interim Deputy Superintendent, Nevada Department of Education
Dave Brancamp, Director, Nevada Department of Education
Cindi Chang, Interim Director, Nevada Department of Education