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STATE OF NEVADA BOARD OF EDUCATION

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August 16, 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 #R063-22

The Nevada State Board of Education will hold a public hearing at 3:00 P.M. on Tuesday, August 16, 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 388G of the Nevada Administrative Code (NAC) pursuant to the Nevada Revised Statute 388G.590.

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:** This regulation is necessary to require a large school district to provide annual training on certain topics; require a large school district and a local school precinct to develop and follow certain procedures relating to the selection of teachers; revise provisions relating to the dispute resolution process of a large school district; and to provide other matters properly relating thereto. In accordance with NRS 388G.590, the Nevada State Board of Education is instructed to adopt regulations:
 - *“as it deems necessary and appropriate to carry out the provisions of NRS 388G.500 to 388G.810, inclusive.”*
- 2. Description of the proposed regulation, or the subjects and issues involved:** The purpose of these regulations is to ensure a large school district carries out the provisions of NRS 388G.500 to 388G.810, inclusive.
- 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, Nevada Department of Education, via email at 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 or submit their comments, data, views, or arguments in written form to the State Board of Education, 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 August 15, 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 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.

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.

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

LCB File No. R063-22

August 3, 2022

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

AUTHORITY: §§ 1-4, NRS 388G.590.

A REGULATION relating to education; requiring a large school district to provide annual training on certain topics; requiring a large school district and a local school precinct to develop and follow certain procedures relating to the selection of teachers; revising provisions relating to the dispute resolution process of a large school district; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the reorganization of any school district which has more than 100,000 pupils enrolled in its public schools. (NRS 388G.500-388G.810) Existing law requires the State Board of Education to adopt such regulations as it deems necessary and appropriate to carry out the provisions relating to the reorganization of large school districts. (NRS 388G.590)

Section 2 of this regulation requires a large school district to provide annual, mandatory training to certain parties on existing law and regulations relating to the reorganization of such a district. **Section 2** requires that such training be approved by the Superintendent of Public Instruction or his or her designee and that any training materials be made available on the Internet website of the large school district.

Existing law designates each school within a large school district as a local school precinct. (NRS 388G.600) Existing law requires the superintendent of schools of a large school district to transfer to each local school precinct the authority to carry out certain responsibilities, including the authority to select teachers for the precinct, to direct supervision of precinct staff and to take certain necessary disciplinary actions. (NRS 388G.610)

Section 3 of this regulation establishes when a teacher is considered to be “in good standing” for the purposes of selection for a local school precinct. A teacher is in good standing if he or she holds a valid license, has received a certain performance rating under the statewide performance evaluation system established by the Board, has no active discipline in his or her personnel file, has had fewer than 10 absences for reasons other than documented medical reasons during the last school year and is not prohibited by law from being so employed.

Section 3 requires a large school district to provide each principal of a local school precinct access to the electronic human resources system of the district which allows each principal seeking to fill a vacant position to create and view a list of all licensed teachers who are employed by the district and eligible to fill the vacant position. The list must include, without

limitation, the contact information of each teacher and a designation of whether each teacher is in good standing.

Section 3 establishes when a teacher is considered to be a “substitute teacher” for the purposes of that section. A teacher is considered a substitute teacher if he or she: (1) holds an endorsement as a substitute teacher in early childhood education through grade 12 on a special license or a provisional special license issued after he or she completes at least 60 semester hours of credit from an accredited college or university or possesses an associate’s degree or higher degree from an accredited college or university; and (2) does not hold any additional valid license to teach elementary or secondary education, pupils in a program of early childhood education, special education or middle school or junior high school education.

Section 3 requires the principal of a local school precinct to select teachers who meet the needs of the precinct according to its plan of operation and pursuant to existing law and authorizes a principal to select for the precinct: (1) teachers who are not in good standing if the principal determines the selection is necessary to carry out the plan of operation for the local school precinct; and (2) substitute teachers for the precinct only if the principal determines the selection is necessary to carry out the plan of operation for the local school precinct, complies with all provisions of the plan of operation relating to staffing, does not engage in discrimination when making the selection and complies with certain procedures established by the large school district.

Section 3 requires a large school district to establish procedures for the selection of a substitute teacher by the principal of a local school precinct. Such procedures must include, without limitation, requirements that each principal: (1) demonstrate and retain records documenting that the principal has selected teachers in good standing to the greatest extent possible; (2) demonstrate and retain records documenting all reasons, pursuant to the plan of operation for the local school precinct, that a teacher in good standing was not selected, if such a teacher was available, excluding financial savings as a reason; (3) actively monitor each substitute teacher who has been selected to fill a vacancy at the precinct; and (4) ensure that a person holding a special license as an emergency substitute teacher fills a vacancy only if a licensed teacher or substitute teacher is not available.

Section 3 permits a large school district to place a teacher in good standing at a local school precinct in a position which is vacant or for which a substitute teacher was selected only if the principal of the precinct fails to demonstrate that teachers in good standing have been selected at the precinct to the greatest extent possible.

Section 3 requires a large school district to provide a biannual report to the Board which includes, for each vacancy at a local precinct for which a substitute teacher was selected: (1) the number of teachers in good standing and not in good standing who were available to be selected; (2) the number of teachers in good standing and not in good standing who were interviewed; (3) all reasons that a teacher in good standing was not selected for the vacancy; and (4) all justifications used for selecting a substitute teacher for the vacancy.

Existing law requires the principal of each local school precinct to establish an organizational team which, among other duties, provides assistance and advice to the principal regarding the plan of operation for the precinct. (NRS 388G.700, 388G.720, 388G.740) Existing regulations require the board of trustees of a large school district to establish a dispute resolution process to address certain issues relating to a member of such an organizational team. (NAC 388G.100) **Section 4** of this regulation requires the board of trustees of a large school district to also establish a dispute resolution process for any other disputes arising out of existing law and

regulations governing reorganization. **Section 4** also requires a large school district to bear the actual cost of dispute resolution, including, without limitation, the expense of and compensation for hearing officers and any other financial burden related to consequences imposed for noncompliance with existing law and regulations.

Section 1. Chapter 388G of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *A large school district shall, at least annually, provide mandatory training on the provisions of NRS 388G.500 to 388G.810, inclusive, this section, NAC 388G.100 to 388G.140, inclusive and section 3 of this regulation to:*

(a) All voting members of the board of trustees of the large school district;

(b) The superintendent of schools of the large school district;

(c) All members of the cabinet of the superintendent of schools, if any;

(d) All supervisors of a principal;

(e) All principals employed by the large school district; and

(f) Any person who is a member of an organizational team of a local school precinct within the large school district.

2. The training provided pursuant to subsection 1 must be approved by the Superintendent of Public Instruction or his or her designee before delivery. Upon such approval, any training materials must be made available on the Internet website of the large school district.

Sec. 3. 1. *The principal of a local school precinct:*

(a) Shall select teachers for the local school precinct pursuant to subsection 2 of NRS 388G.610 who, as determined by the principal, meet the needs of the local school precinct pursuant to the plan of operation for the local school precinct.

(b) May select teachers for the local school precinct who are not in good standing if the principal determines that the selection of such a teacher is necessary to carry out the plan of operation for the local school precinct.

(c) May select substitute teachers for the local school precinct only if the principal:

(1) Determines that the selection of such a teacher is necessary to carry out the plan of operation for the local school precinct, including, without limitation, the staffing of the local school precinct as described in the plan of operation;

(2) Does not engage in discrimination on the basis of race, religion, color, national origin, disability, sexual orientation, gender identity or expression, ancestry, familial status, age or sex in making such a selection; and

(3) Complies with the procedures established by the large school district pursuant to subsection 3.

2. A large school district shall provide each principal of a local school precinct access to the current electronic human resources system of the district which, at a minimum, allows each principal seeking to fill a vacant position to create and view a list of all licensed teachers who are employed by the district and eligible to fill the vacant position. The list must include, without limitation, the contact information of each teacher and a designation of whether each teacher is in good standing.

3. A large school district shall establish procedures for the selection of a substitute teacher by the principal of a local school precinct. Such procedures must include, without limitation, requirements that each principal:

(a) Demonstrate and retain records documenting that the principal has selected teachers in good standing for the local school precinct to the greatest extent possible.

(b) Demonstrate and retain records documenting all reasons, pursuant to the plan of operation for the local school precinct, that a teacher in good standing was not selected, if such a teacher was available for selection. For the purposes of this paragraph, a principal may not use financial savings as a reason not to select a teacher in good standing.

(c) Actively monitor each substitute teacher who was selected to fill a vacancy at the local school precinct.

(d) Ensure that a person holding a special license as an emergency substitute teacher issued pursuant to NAC 391.0896 fills a vacancy in the local school precinct only if a licensed teacher, including a substitute teacher, is not available to fill the vacancy.

4. If the principal of the local school precinct fails to demonstrate that teachers in good standing have been selected to fill vacancies at the local school precinct to the greatest extent possible, a large school district may place a teacher in good standing in a position which is vacant or for which a substitute teacher was selected at the local school precinct.

5. A large school district shall provide a report to the Board on or before June 30 and December 30 of each year which includes, without limitation, for the time period since the previous report, for each vacancy at a local school precinct for which a substitute teacher was selected:

(a) The number of teachers in good standing and not in good standing who were available to be selected for the vacancy;

(b) The number of teachers in good standing and not in good standing who were interviewed for the vacancy;

(c) All reasons that a teacher in good standing was not selected for the vacancy; and

(d) All justifications used for selecting a substitute teacher for the vacancy.

6. *As used in this section:*

(a) *“Active discipline” means a written warning, admonition, suspension or dismissal, including any such action which is subject to a dispute regarding an interpretation, application or alleged violation of any provision of a collective bargaining agreement, which has been made within:*

(1) The 2 years and 1 day immediately preceding the date on which a determination is made as to whether a teacher is in good standing; or

(2) The 3 years and 1 day immediately preceding the date on which a determination is made as to whether a teacher is in good standing, if another action was made within the 2 years immediately preceding the date of the most recent action.

(b) *“In good standing” means a teacher who:*

(1) Holds a valid license issued pursuant to chapter 391 of NRS;

(2) Has received an overall performance rating of highly effective or effective under the statewide performance evaluation system established by the Board pursuant to NRS 391.465 for the most recent school year or, if the teacher is a probationary employee, as defined in NRS 391.650, on an initial term of probation, a rating of highly effective, effective or developing;

(3) Has no active discipline in his or her personnel file;

(4) Has had fewer than 10 absences for reasons other than documented medical reasons during the last school year; and

(5) Is not prohibited from employment pursuant to NRS 391.850 to 391.930, inclusive.

(c) *“Substitute teacher” means a person who holds an endorsement as a substitute teacher on a special license or a provisional special license issued pursuant to subsection 2 of NAC*

391.0897, and who does not hold any additional valid license described in paragraph (a) of subsection 1 of NAC 391.0897.

Sec. 4. NAC 388G.100 is hereby amended to read as follows:

388G.100 1. The board of trustees of a large school district shall establish a dispute resolution process for issues relating to retaliation and reprisal as a result of the performance of duties as a member of an organizational team for a local school precinct established pursuant to NRS 388G.700 ~~[.]~~ *and for any other disputes relating to the provisions of NRS 388G.500 to 388G.810, inclusive, and NAC 388G.100 to 388G.140, inclusive, and sections 2 and 3 of this regulation.*

2. A dispute resolution process established pursuant to subsection 1 must include a requirement that:

(a) A large school district must respond within 5 business days after the date on which a request for dispute resolution is received by the school district. Such a response must be made in writing on a form prescribed by the board of trustees of the school district.

(b) All disputes must be resolved within 15 business days after the date on which a request for dispute resolution is received by the school district.

(c) Within 30 business days after the date on which a request for dispute resolution is received by the school district, the school district shall:

(1) Prepare a report regarding the dispute resolution and provide the report to the parties involved in the dispute resolution.

(2) Post the report prepared pursuant to subparagraph (1) on the Internet website maintained by the school district. The school district shall redact from such a report any information that could be used to identify the parties involved in the dispute resolution.

3. A party involved in a dispute may, within 10 business days after the date on which the person receives a report pursuant to subparagraph (1) of paragraph (c) of subsection 2, file with the Department a request that the Department resolve the dispute. Such a request must include a:

(a) Letter that states the reason the party is dissatisfied with the outcome of the dispute resolution by the school district and requests the Department to resolve the dispute;

(b) Copy of the report provided pursuant to subparagraph (1) of paragraph (c) of subsection 2; and

(c) Signed declaration that waives any applicable right of the person to the confidentiality of information concerning the dispute.

4. Within 10 business days after the date on which the Department receives a request to resolve a dispute pursuant to subsection 3, the Department shall:

(a) Determine whether resolution by the Department is warranted. The Department shall determine that such resolution is warranted if it determines, based on the information provided in the request made pursuant to subsection 3, there is reason to believe that the decision of the school district was erroneous.

(b) Notify the school district and the person who made the request of its decision.

5. If the Department determines that resolution by the Department is warranted pursuant to paragraph (a) of subsection 4, the Department shall provide the names of approved hearing officers to the parties involved in the dispute and invite each party to indicate to the Department a preference regarding which hearing officer the party would like to be selected.

6. The Department shall, within 5 business days after the last day on which a party indicates its preference regarding a hearing officer pursuant to subsection 5, arrange for a 3-hour dispute resolution session before:

- (a) The hearing officer for whom the school district expressed a preference;
- (b) The hearing officer for whom the other person involved in the dispute expressed a preference, if such an officer is different from the person for whom the school district expressed a preference; and
- (c) A hearing officer selected by the Department.

7. The Department shall, within 10 business days after the date on which a dispute resolution session is held pursuant to subsection 6, compile a report regarding the dispute resolution and provide a copy of that report to the parties involved in the dispute.

8. If the Superintendent of Public Instruction finds that a school district has failed to comply with the requirements of this section, the Superintendent of Public Instruction may request the board of trustees of the school district to submit to the Superintendent of Public Instruction a plan of corrective action pursuant to NRS 385.175. Such a request and any response to such a request by the school district must be made available to members of the public upon request.

9. The actual cost of dispute resolution pursuant to this section is the sole responsibility of the large school district and includes, without limitation, the expense of and compensation for hearing officers selected pursuant to subsections 5 and 6, and any financial burden related to consequences imposed for noncompliance with the provisions of NRS 388G.500 to 388G.810, inclusive, and NAC 388G.100 to 388G.140, inclusive, and sections 2 and 3 of this regulation.