

Joe Lombardo
Governor

Jhone M. Ebert
Superintendent of
Public Instruction



Southern Nevada Office
2080 East Flamingo Rd,
Suite 210
Las Vegas, Nevada 89119-0811
Phone: (702) 486-6458
Fax: (702) 486-6450

STATE OF NEVADA
DEPARTMENT OF EDUCATION
700 E. Fifth Street | Carson City, Nevada 89701-5096
Phone: (775) 687-9200 | www.doe.nv.gov | Fax: (775) 687-1116

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 **Friday, April 22nd, 2024**, via [YouTube](#) 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:

3:17 P.M. Workshop to Solicit Comments on Proposed Amendments to NAC Chapter 388.141 and NAC Chapter 388.395 – Visual Impairment Eligibility Criteria.

A copy of all materials relating to the proposal may be obtained at the workshop, on the [Meeting Materials page](#), by contacting the Nevada Department of Education, via email at NVBoardEd@doe.nv.gov, by telephone at 775-443-5519, or in person at the **Nevada Department of Education Offices, 700 East Fifth Street, Board Room, Carson City and 2080 East Flamingo Road, Room 114, Las Vegas, Nevada.** Persons wishing to comment upon the proposed action of the Department of Education 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 Offices, 700 East Fifth Street, Board Room, Carson City and 2080 East Flamingo Road, Room 114, Las Vegas, 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 Friday, April 19th, 2024.

This notice has been sent to all persons on the agencies mailing list for administrative regulations and the Department 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>, 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: April 5th, 2024

RE: Workshop to Solicit Comments on Proposed Amendments to NAC Chapter 388.141 ,
NAC Chapter 388.395 – Visual Impairment Eligibility Criteria

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 visual impairment eligibility criteria 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,

Jhone M. Ebert
Superintendent of Public Instruction

388.141 “Visual impairment” means an impairment in vision which, [despite] *even with* correction, adversely affects [or will adversely affect the ability of a pupil to benefit from or participate in an educational program without the assistance of special education.] *a pupil's educational performance. The term includes both partial sight and blindness.*

388.395 1. A pupil with a severe visual impairment is eligible for special education and related services if the eligibility team, comprised of the persons described in subsections [4 and] 5[,] *and 6,* concludes that the pupil has a severe visual impairment and, by reason thereof, needs special education and related services. *The pupil has a severe visual impairment if one or more of the following criteria are satisfied [and]:*

- (a) The visual acuity of the pupil does not exceed 20/200 in the better eye;
- (b) The vision of the pupil in the better eye is restricted to a field which subtends an arc of not more than 20 degrees; or
- (c) The pupil suffers from a progressive deterioration of the pupil's vision, the probable result of which will be one or both of the conditions described in paragraphs (a) and (b).

2. A pupil with a moderate visual impairment is eligible for special education and related services if the eligibility team concludes that the pupil can use vision as the main channel of learning, that the pupil has a moderate visual impairment and, by reason thereof, needs special education and related services. [and that] *The pupil has a moderate visual impairment if one or more of the following criteria are satisfied:*

- (a) The visual acuity of the pupil is 20/70 or less in the better eye with the best possible correction; or
- (b) The pupil suffers from a progressive deterioration of the pupil's vision, the probable result of which will be the condition described in paragraph (a).

3. Notwithstanding subsections 1 and 2, a pupil with a visual impairment is eligible for special education and related services if the eligibility team concludes that the pupil has any other impairment in vision that, even with correction, adversely affects the pupil's educational performance and, by reason of the visual impairment, the pupil needs special education and related services.

4. [3.] A pupil under the age of 6 years is not ineligible, because of the pupil's age, for the special education and related services referred to in this section.

5. [4.] The eligibility team may include a teacher or specialist in the field of vision impairment and must consist of a parent of the pupil and not fewer than three persons with expertise in one or more of the following areas:

- (a) Vision.
- (b) Vision impairment.
- (c) The interpretation of an assessment of health or academic achievement.

6. [5.] If the requirements of subsection 5 [4] are satisfied, one or more of the following persons may serve on the eligibility team:

- (a) A regular classroom teacher of the pupil or, if none, a person qualified to teach the pupil.
- (b) If not otherwise a member of the team, one or more persons qualified to interpret an assessment of the social or emotional condition of the pupil or of the cognitive abilities of

the pupil.

7. [6.] The conclusions of the eligibility team concerning the eligibility of the pupil for the special education and related services referred to in this section must be based upon an evaluation of the pupil. The evaluation must include:

- (a) A comprehensive examination of vision of the pupil, performed by an eye specialist; and
- (b) An assessment of the health and academic achievement of the pupil.

8. [7.] If the requirements of subsection 7 [6] are satisfied, the evaluation of the pupil may include an assessment of the pupil's cognitive abilities and social and emotional condition.

Deaf-blindness: this new section is not yet codified in the NAC: Sec. 10.

1. A pupil with deaf-blindness is eligible for special education and related services if the eligibility team, comprised of the persons described in subsections 4 and 5, concludes that:

(a) The pupil has a hearing impairment which satisfies any one or more of the following criteria:

(1) The pupil has an average hearing threshold level, at 500, 1,000 and 2,000 Hz, of 26 decibels or more; or

(2) The pupil suffers from a progressive deterioration of the pupil's hearing, the probable result of which will be the condition described in subparagraph (1);

(b) The pupil has a visual impairment which satisfies one or more of the following criteria:

(1) The visual acuity of the pupil does not exceed 20/70 in the better eye with the best possible correction;

(2) The vision of the pupil in the better eye is restricted to a field which subtends an arc of not more than 20 degrees; **[or]**

(3) The pupil suffers from a progressive deterioration of the pupil's vision, the probable result of which will be one or more of the conditions described in subparagraphs (1) and (2); *or*

(4) The pupil otherwise meets the criteria set forth in NAC 388.395; and

(c) By reason thereof, the pupil needs special education and related services.

2. A pupil under the age of 6 years is not ineligible, because of the pupil's age, for the special education and related services referred to in this section.

3. A pupil with deaf-blindness may have other disabling conditions in addition to deaf-blindness.

4. The eligibility team must consist of:

(a) A teacher of special education or a regular classroom teacher of the pupil or, if none, a person qualified to teach the pupil;

(b) A speech and language specialist;

(c) A person qualified to interpret an assessment of the health of the pupil;

(d) A parent of the pupil; and

(e) If not otherwise a member of the team, one or more persons qualified to interpret the comprehensive audiological and vision examinations required by subsection 6.

5. If the requirements of subsection 4 are satisfied, the eligibility team may include one or more persons qualified to interpret an assessment of the social or emotional condition of the pupil or of the cognitive abilities of the pupil.

6. The conclusions of the eligibility team concerning the eligibility of the pupil for the special education and related services referred to in this section must be based upon an evaluation of the pupil. The evaluation must include:

- (a) A comprehensive audiological examination, including pure tone and speech discrimination tests, performed by an audiologist;
 - (b) An assessment of the:
 - (1) Health of the pupil;
 - (2) Academic achievement of the pupil; and
 - (3) Speech and language of the pupil; and
 - (c) A comprehensive examination of vision of the pupil, performed by an eye specialist.
7. If the requirements of subsection 6 are satisfied, the evaluation of the pupil may include an assessment of the pupil's cognitive abilities and social and emotional condition.