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STATE OF NEVADA
STATE BOARD OF EDUCATION

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June 14, 2025

Notice of Intent to Act Upon a Regulation R#009-25

Notice of Hearing for the Repeal of Regulations of the Nevada State Board of Education.

The STATE BOARD will hold a public hearing at **9:44 AM** on Wednesday, July 30th, 2025 via [Livestream Link](#) and at the following locations: **Nevada Department of Education Offices, 700 East Fifth Street, Silver Ore Conference 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 repeal of regulations pertaining to NAC 388.460 – 388.488 of the Nevada Administrative Code (NAC).

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

1. The need for and the purpose of the proposed regulation or amendment:

- To Remove Language Tied to Program for Persons With Disabilities With Unique Needs Already Removed in Statute.

2. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

The revised text of the proposed regulation is attached to this notice.

3. Description of the proposed regulation, or the subjects and issues involved: The proposed regulation would remove language already removed in statute to create alignment.

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. Method used by the agency in determining the impact on a small business: Small business is not impacted by this regulation.

6. 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 governmental 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 regulation.
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 [Event – July 30, 2025 Nevada Department of Education Regulation Hearing | Nevada Department of Education \(nv.gov\)](#) 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, Silver Ore Conference Room, Carson City and 2080 East Flamingo Road, Room 114, Las Vegas, Nevada**. Persons wishing to comment upon the proposed action of the Department may provide in-person testimony, submit written comment to 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, **Nevada Department of Education Offices, 700 East Fifth Street, Silver Ore Conference 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 Tuesday, May 13th. A record of all submitted comments will be retained, and the Department or Board 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 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>, 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.

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 Commission on Professional Standards, 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.

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

LCB FILE NO. R009-25I

**The following document is the initial draft regulation proposed
by the agency submitted on 06/02/2025**

Program for Persons With Disabilities With Unique Needs - NAC sections 388.460 - 388.488

NAC sections 388.460 through 388.488 must be repealed because they explicitly reference and were designed to implement NRS sections 395.30, 395.40, 395.50, and 395.60, which have since been repealed. Maintaining regulations that are directly tied to non-existent statutory authority creates confusion and lacks a legal basis for their continued enforcement. The outdated application process for out-of-district placement described in these NAC sections has also been replaced by the CASE process, as outlined in NRS 388.5223 - 388-5243 and its implementing regulations, NAC 388.319 and NAC 388.323. Therefore, to ensure regulatory accuracy, consistency with current law, and to avoid confusion, NAC sections 388.460 through 388.488 should be repealed.

~~[Program for Persons With Disabilities With Unique Needs~~

~~—NAC 388.460—Definitions. (NRS 385.080, 388.419)—As used in this chapter, unless the context otherwise requires:~~

~~—1.—“Person with a disability” means a person who has:~~

~~—(a)—A hearing impairment;~~

~~—(b)—A visual impairment;~~

~~—(c)—An orthopedic impairment;~~

~~—(d)—A health impairment;~~

~~—(e)—A speech and language impairment;~~

~~—(f)—An intellectual disability;~~

~~—(g)—An emotional disturbance;~~

~~—(h)—Multiple impairments;~~

~~—(i)—Learning disabilities;~~

~~—(j)—Traumatic brain injury;~~

~~—(k)—An autism spectrum disorder; or~~

~~—(l)—Developmental delays.~~

~~—2.—“Residential school” means an institution, a foster home or other facility which is located in or outside the county school district of a person with a disability and in which he or she receives room and board and special education for his or her particular disability.~~

~~—3.—“Special education program” has the meaning ascribed to it in NRS 388.5219.~~

~~—[Bd. of Education, Handicapped Persons § 2, eff. 2-12-81]— (NAC A 3-14-96; A by Bd. of Education by R017-18, 1-30-2019)— (Substituted in revision for NAC 395.010)~~

~~—**NAC 388.462—Psychological and educational evaluation of persons with disabilities.** (NRS 385.080)~~

~~—1.—A county school district shall conduct a comprehensive psychological and educational evaluation of each person with a disability whom it considers for placement outside the district pursuant to NRS 388.5211 to 388.5243, inclusive:~~

~~—2.—Such an evaluation must be conducted every 3 years or more frequently if conditions warrant or if requested by the person with a disability, his or her parents, parent, guardian or residential school:~~

~~—[Bd. of Education, Handicapped Persons § 3, eff. 2-12-81]— (NAC A 3-14-96)— (Substituted in revision for NAC 395.020)~~

~~—**NAC 388.464—Individualized educational programs: Preparation; purpose; review or revision.** (NRS 385.080)~~

~~—1.—The county school district shall prepare an individualized educational program for each person with a disability whom it considers for placement outside the district.~~

~~—2.—The individualized program aids in determining the person’s eligibility for benefits under NRS 388.5211 to 388.5243, inclusive, and in identifying an appropriate educational program for the person:~~

~~—3.—In any meeting for review or revision of the individualized program, the county school district shall provide for representation from the residential school concerning its special program of education:~~

~~—[Bd. of Education, Handicapped Persons § 4, eff. 2-12-81]— (NAC A 3-14-96)— (Substituted in revision for NAC 395.030)~~

~~—**NAC 388.466—Determination by administrative staff; application to board of trustees.** (NRS 385.080)—The administrative staff of a county school district shall determine whether an appropriate educational program is available within the district. If it is determined that there is not a program available, the staff shall verify that all~~

requirements for eligibility set forth in ~~NRS 388.5223~~ have been met and submit the application to the board of trustees of the district:

~~—[Bd. of Education, Handicapped Persons § 6, eff. 2-12-81]— (NAC A 2-1-85)—
(Substituted in revision for NAC 395.040)~~

~~—NAC 388.468—Submission of documents by board of trustees to Superintendent of Public Instruction. (NRS 385.080)—The board of trustees of the county school district shall send the following documents to the Superintendent of Public Instruction:~~

~~—1.—The individualized educational program for the person with a disability:~~

~~—2.—Parental agreement to accept responsibility for the medical, dental and personal expenses of the person with a disability:~~

~~—3.—A signed authorization from the person with a disability, his or her parents, parent or guardian allowing the Department of Education to obtain and release confidential information about the person to other residential schools:~~

~~—4.—The comprehensive evaluation of the person with a disability provided by the school district:~~

~~—5.—A summary of the previous actions taken by the school district to provide an appropriate education for the person with a disability:~~

~~—[Bd. of Education, Handicapped Persons § 9, eff. 2-12-81]— (NAC A 3-14-96)—
(Substituted in revision for NAC 395.060)~~

~~—NAC 388.470—Receipt of application; Superintendent of Public Instruction authorized to request further evaluation. (NRS 385.080)—After receiving the application and supporting documents, the Superintendent of Public Instruction may request that a further evaluation of the person with a disability be conducted at state expense:~~

~~—[Bd. of Education, Handicapped Persons § 10, eff. 2-12-81]— (NAC A 3-14-96)—
(Substituted in revision for NAC 395.080)~~

~~—NAC 388.472—Confidentiality of records by Department of Education. (NRS 385.080)—The Department of Education will keep confidential all records of transactions pertaining to the person with a disability. All information which can be identified as related to the person with a disability will be treated in a secure and confidential manner:~~

~~—[Bd. of Education, Handicapped Persons § 16, eff. 2-12-81]— (NAC A 3-14-96)—
(Substituted in revision for NAC 395.090)~~

~~—NAC 388.474—Rejection of application. (NRS 385.080)—If the Superintendent of Public Instruction does not approve an application, he or she shall return it to the board of trustees of the county school district for reevaluation.~~

~~—[Bd. of Education, Handicapped Persons § 11, eff. 2-12-81]—(Substituted in revision for NAC 395.100)~~

~~—NAC 388.476—Approval of application; selection of educational program. (NRS 385.080)—Upon approval of an application by the Superintendent of Public Instruction, the Department of Education will select an educational program based on the following criteria:~~

~~—1.—The person must be educated in the least restrictive environment which is appropriate for him or her.~~

~~—2.—The placement must be the least expensive to the State of those possible placements which are equally appropriate.~~

~~—[Bd. of Education, Handicapped Persons § 12, eff. 2-12-81]—(Substituted in revision for NAC 395.110)~~

~~—NAC 388.478—Procedure when appropriate educational program not readily available. (NRS 385.080)—If an appropriate educational program is not readily available for the person with a disability, the Superintendent of Public Instruction shall so notify the person, his or her parents, parent or guardian and the county school district. The Department of Education will search for an appropriate educational placement for the person until:~~

~~—1.—The person's placement is accomplished in an appropriate program;~~

~~—2.—The person's application is withdrawn by his or her parents, parent or guardian; or~~

~~—3.—The person is no longer eligible to receive benefits under NRS 388.5223 to 388.5243, inclusive.~~

~~—[Bd. of Education, Handicapped Persons § 13, eff. 2-12-81]—(NAC A 3-14-96)—(Substituted in revision for NAC 395.120)~~

~~—NAC 388.480—Transportation expenses. (NRS 385.080)—The Department of Education will provide, by reimbursement, for the expenses of transportation:~~

~~—1.—Of the person with a disability and his or her parents, parent or guardian for the initial trip to a residential school and their return trip home; and~~

~~—2.—Of the person with a disability and one parent or an escort for subsequent trips to and from the residential school at the beginning and ending of each school year and during holidays and recesses scheduled by the school which are of 2 days duration or longer.~~

~~—[Bd. of Education, Handicapped Persons § 14, eff. 2-12-81]—(NAC A 3-14-96)—
(Substituted in revision for NAC 395.130)~~

~~—NAC 388.482—Annual assessment and report of progress; visit by staff member; license of residence or school required. (NRS 385.080)~~

~~—1.—Each county school district shall, at least annually, determine the progress of each person with a disability from the school district who has received placement pursuant to NRS 388.5223 to 388.5243, inclusive. The school district shall:~~

~~—(a)—Review, at least annually and in accordance with subsection 3 of NAC 388.464, the individualized educational program for the person;~~

~~—(b)—Examine the person's report cards and other reports of his or her progress; and~~

~~—(c)—Submit an annual report concerning the person's progress to the Department of Education.~~

~~—2.—Staff members of the Department or county school district shall, to review the educational program and placement of such persons with disabilities, conduct a visit at least annually to each place of residence or education in which a person with a disability from the district has been assigned for special education and shall submit to the Superintendent of Public Instruction a report of the visit. The Superintendent shall send a copy of the report to the school district of the person with a disability and to the person's parents, parent or guardian.~~

~~—3.—No person with a disability will be placed in a residence or school which does not maintain appropriate licenses from the state in which it is located.~~

~~—[Bd. of Education, Handicapped Persons § 17, eff. 2-12-81]—(NAC A 3-14-96)—
(Substituted in revision for NAC 395.140)~~

~~—NAC 388.484—Proposal of school district to return person with disability to school district; federal money for proposal; restriction on use of money in subsequent years. (NRS 385.080)~~

~~—1.—Each school district shall submit a proposal to the Department of Education describing special education and related services designed to return a person with a disability to the school district and the cost of such services.~~

~~—2.—If federal money is sufficient to pay the cost of the proposal, the Superintendent of Public Instruction shall make the necessary arrangements for the school district to provide the services described in its proposal:~~

~~—3.—Unless authorized by law, federal money provided pursuant to subsection 2 must not be used to pay for special education and related services offered by the school district in subsequent years:~~

~~—(Added to NAC by Bd. of Education, eff. 3-14-96) — (Substituted in revision for NAC 395.145)~~

~~—NAC 388.486—Change of address, telephone number or marital status. (NRS 385.080)—Each such parent or guardian shall immediately notify the county school district and the Department of Education of any change in his or her address, telephone number or marital status:~~

~~—[Bd. of Education, Handicapped Persons § 15, eff. 2-12-81] — (Substituted in revision for NAC 395.150)~~

~~—NAC 388.488—Continuation of benefits: Annual certification and notification by superintendent of school district; determination by Superintendent of Public Instruction; notice of ineligibility. (NRS 385.080)~~

~~—1.—The superintendent of each school district shall annually certify, and notify the board of trustees of the district, with regard to each person with a disability from the school district who is receiving benefits pursuant to NRS 388.5223 to 388.5243, inclusive, that:~~

~~—(a)—The person has an individualized educational program developed in accordance with chapter 388 of NAC; and~~

~~—(b)—After a review of the educational needs of the person and a review of the available resources of the local school district, it has been determined that an appropriate educational program is not available locally and, therefore, the person requires the continuation of benefits:~~

~~—2.—A determination concerning the continued eligibility of a person with a disability for benefits must be made by the Superintendent of Public Instruction based upon the following considerations:~~

~~—(a)—A current individualized educational program that is submitted to the Department of Education by a school district; and~~

~~—(b)—Information provided by the residential school or program attended by the person:~~

~~—3.—Written notification must be provided to the school district if the Superintendent of Public Instruction determines that the person with a disability is no longer eligible for benefits.~~

~~—[Bd. of Education, Handicapped Persons § 5, eff. 2-12-81]—(NAC A 3-14-96)—
(Substituted in revision for NAC 395.160)]~~