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June 21, 2024

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 #R131-22.

The Nevada Department of Education will hold a public hearing at **9:00 A.M. on Wednesday, July 31, 2024**, 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 388 of the Nevada Administrative Code (NAC) pursuant to the Nevada Revised Statutes 388.419.

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: In accordance with NRS 432B.60847:

“3. Before admission of a child who is in the custody of an agency which provides child welfare services to a facility which provides residential treatment for mental illness, the public or private school or any school district in which the child was enrolled or which was providing services to the child when he or she was admitted to the facility must:

“(a) For a child who is a pupil with a disability, convene an individualized education program meeting to consider the appropriateness of a residential placement under federal law as it relates to the child’s education needs;

“(b) Convene a meeting of representatives of the public or private school in which the child was enrolled, the school district in which the child was enrolled, the agency which provides child welfare services, any person responsible for the education of the child and any other organization that provides support to the child, as appropriate, to consider, pursuant to the statewide framework for integrated student supports established pursuant to [NRS 388.885](#), the appropriateness of a residential placement;

“(c) Monitor the child’s progress while the child is admitted to the facility; and

“(d) Participate in discharge planning for transitioning the child into a school or any other educational setting in which the child will receive instruction after discharge. The Department of Education shall adopt regulations necessary to carry out the provisions of this paragraph.”

2. **Description of the proposed regulation, or the subjects and issues involved:** The purpose of these regulations is to prescribe requirements relating to planning for and monitoring the education of certain children who are admitted to a facility which provides residential treatment for mental illness; and provide other matters properly relating thereto.
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 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 Department of Education may provide in-person testimony, submit written comment to the Department of Education 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. 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 July 30, 2024. A record of all submitted comments will be retained, and the Department 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. 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.

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

LCB File No. R131-22

December 5, 2022

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

AUTHORITY: §§ 1-10, NRS 385.080 and 388.419; § 11, NRS 385.080.

A REGULATION relating to education; prescribing requirements relating to planning for and monitoring the education of certain children who are admitted to a facility which provides residential treatment for mental illness; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Before a child who is in the custody of an agency which provides child welfare services is admitted by a court to a facility which provides residential treatment for mental illness, existing law requires the public or private school or school district in which the child was enrolled or which was providing services to the child when the child was admitted to convene a meeting to consider the appropriateness of the placement. (NRS 432B.60847) **Sections 2-9** of this regulation define certain terms relevant to such meetings. **Section 10** of this regulation authorizes the inclusion of certain persons at such a meeting regarding a child who is a pupil with a disability. **Section 10** requires the persons who attend such a meeting to provide guidance to the court and the agency which provides child welfare services concerning the placement of the child. When providing such guidance, **section 10** requires those persons to consider: (1) certain factors relating to the ability of the facility to provide an appropriate education for the child; and (2) any measures necessary to facilitate the return of the child to that school following discharge from the facility. **Section 11** of this regulation recommends the inclusion of similar persons, the provision of similar guidance and the consideration of similar factors and measures at such a meeting regarding a child who is not a pupil with a disability.

While a child who is in the custody of an agency which provides child welfare services is admitted to a facility which provides residential treatment for mental illness, existing law requires the public or private school or school district in which the child was enrolled or which was providing services to the child when he or she was admitted to monitor the child’s progress. (NRS 432B.60847) To facilitate such monitoring, **section 10** requires such a school or school district to be invited to participate in any meetings to review the individualized education plan or services plan established for a child who is a pupil with a disability.

Section 1. Chapter 388 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 11, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Agency which provides child welfare services” has the meaning ascribed to it in NRS 432B.030.*

Sec. 4. *“Fictive kin” has the meaning ascribed to it in NRS 432B.0657.*

Sec. 5. *“Foster home” has the meaning ascribed to it in NRS 424.014.*

Sec. 6. *“Integrated student support” has the meaning ascribed to it in NRS 388.885.*

Sec. 7. *“Parent” has the meaning ascribed to it in NRS 432B.080.*

Sec. 8. *“Relative” has the meaning ascribed to it in NRS 432B.6213.*

Sec. 9. *“School with special enrollment procedures” includes, without limitation:*

1. A charter school whose enrollment is determined using a lottery pursuant to NRS 388A.453;

2. A magnet school, as defined in NAC 385B.030, or a magnet program; and

3. A private school with selective or competitive enrollment.

Sec. 10. *1. An individualized education program meeting convened pursuant to paragraph (a) of subsection 3 of NRS 432B.60847:*

(a) May include, without limitation, any persons required to attend a meeting convened pursuant to paragraph (b) of subsection 3 of NRS 432B.60847; and

(b) May additionally include, to the extent allowed under the policy of the agency which provides child welfare services:

- (1) The child, if developmentally appropriate;*
- (2) A parent of the child;*
- (3) A person who conducts a foster home in which the child has been placed;*
- (4) A fictive kin of the child; or*
- (5) A relative of the child.*

2. The persons described in subsection 1 shall provide guidance to the agency which provides child welfare services and the court concerning the appropriateness of a residential placement under federal law as it relates to the education needs of the child. Any such guidance is not an authoritative determination concerning placement under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and any regulations adopted pursuant thereto.

3. When providing guidance pursuant to subsection 2, the persons described in subsection 1 shall consider the ability of the facility which provides residential treatment for mental illness to:

(a) Comply with the individualized education program or services plan established for the child;

(b) Comply with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and any regulations adopted pursuant thereto;

(c) Comply with NRS 388.417 to 388.5243, inclusive, and any regulations adopted pursuant thereto; and

(d) Provide or ensure access to any integrated student supports that the child needs.

4. When performing the duties required by subsection 3 of NRS 432B.60847 with respect to a child who is a pupil with a disability and who is enrolled in a school with special

enrollment procedures, a public or private school and any other persons involved in the performance of those duties shall consider any measures necessary to facilitate the return of the child to that school following discharge from the facility which provides residential treatment for mental illness.

5. A public or private school or school district described in subsection 3 of NRS 432B.60847 must be invited to participate in any meetings to review the individualized education plan or services plan established for a child described in that subsection who is a pupil with a disability to:

(a) Facilitate the monitoring required by paragraph (c) of subsection 3 of NRS 432B.60847; and

(b) Discuss compliance with all applicable federal and state laws prescribing the educational rights of the child.

Sec. 11. 1. In addition to the persons described in paragraph (b) of subsection 3 of NRS 432B.60847, a meeting to consider the appropriateness of the residential placement of a child who is not a pupil with a disability may include, to the extent allowed under the policy of the agency which provides child welfare services:

(a) The child, if developmentally appropriate;

(b) A parent of the child;

(c) A person who conducts a foster home in which the child has been placed;

(d) A fictive kin of the child; and

(e) A relative of the child.

2. The persons described in subsection 1 may provide guidance to the agency which provides child welfare services and the court concerning the appropriateness of a residential

placement pursuant to the statewide framework for integrated student supports established pursuant to NRS 388.885.

3. When developing guidance for the purpose of subsection 2, the persons described in subsection 1 and any additional persons included in the meeting may consider the ability of the facility which provides residential treatment for mental illness to:

(a) Provide for the educational needs of the child, including, without limitation, access to any integrated student supports that the child needs; and

(b) Prevent any violation of the educational rights of the child under federal and state law.

4. When performing the duties required by subsection 3 of NRS 432B.60847 with respect to a child who is not a pupil with a disability and is enrolled in a school with special enrollment procedures, a public or private school and any other persons involved in the performance of those duties may consider any measures necessary to facilitate the return of the child to that school following discharge from the facility which provides residential treatment for mental illness.