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July 31, 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 #R050-24.

The State Board of Education will hold a public hearing at **9:02 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 390.320 of the Nevada Administrative Code (NAC) pursuant to the Nevada Revised Statute 389.160.

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:

To ensures pupils are identified for placement into more rigorous courses by requiring each public school to carry out a plan to identify pupils in grades 3 through 12 for placement in rigorous coursework in mathematics, English language arts, science, and social studies.

- 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.**
- 3. Description of the proposed regulation, or the subjects and issues involved:** 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.

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

LCB File No. R050-24

May 13, 2024

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

AUTHORITY: § 1, NRS 385.080, 389.0095 and 389.021.

A REGULATION relating to education; requiring the board of trustees of each school district and the governing bodies of certain charter schools to establish and carry out a plan to identify pupils for placement in more rigorous courses in certain academic subjects; requiring the board of trustees of a school district and the governing body of a charter school to submit an annual report concerning any academic subjects for which sufficient financial resources were not available to establish a more rigorous course; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law: (1) designates mathematics, English language arts, science and social studies as core academic subjects; and (2) requires the State Board of Education to adopt regulations requiring each public school to establish and carry out a plan to identify pupils in grades 3 to 12, inclusive, for placement in more rigorous courses in those subject areas. (NRS 389.0095, 389.018) This regulation requires the board of trustees of each school district and the governing bodies of certain charter schools to establish and carry out a plan to identify pupils enrolled in public schools located within the school district or enrolled in the charter school, as applicable, for placement in more rigorous courses. This regulation requires any such plan to: (1) provide for the identification of pupils using certain examinations and pupil performance data; (2) prescribe procedures to ensure compliance with certain statutory requirements; and (3) with certain exceptions, require that, to the extent practicable, a pupil who is identified for placement in a more rigorous course be placed in that course.

Under existing law, if a pupil is identified for placement in a more rigorous course and such a course is offered at the public school in which the pupil is enrolled, the pupil must be placed in the more rigorous course unless the parent or guardian submits to the principal of the public school in which the pupil is enrolled a written notice of his or her objection to such placement. (NRS 389.0095) This regulation provides that, if the parent or guardian of a pupil who is identified for placement in a more rigorous course submits such an objection, the

principal must arrange a meeting between the parent or guardian, a school counselor and, to the extent practicable, the principal. If, after such a meeting, the attendees mutually agree that placing the pupil in the more rigorous course is not in the best interests of the pupil, this regulation prohibits placing the pupil in the more rigorous course.

Existing law requires the board of trustees of a school district and the governing body of a charter school to establish a more rigorous course in a core academic subject if: (1) there are a sufficient number of pupils identified for placement in the more rigorous course to warrant the establishment of the course; and (2) the school district or charter school has sufficient financial resources to establish the course. (NRS 389.0095) This regulation requires the board of trustees of a school district or the governing body of a charter school to prepare and submit to the Superintendent of Public Instruction an annual report that includes, for each subject area for which the board of trustees or governing body determined sufficient financial resources were not available to establish a more rigorous course, an explanation of the reasons for that determination.

Section 1. Chapter 389 of NAC is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district and the governing body of each charter school that enrolls pupils in grades 3 to 12, inclusive, shall establish and carry out a plan to identify pupils enrolled in public schools located within the school district or enrolled in the charter school, as applicable, for placement in more rigorous courses, including, without limitation, advanced placement courses, international baccalaureate courses, honors courses, dual credit courses and other college preparatory courses in mathematics, English language arts, science and social studies.

2. Each plan established pursuant to subsection 1 must:

(a) Provide for the identification of pupils for placement in more rigorous courses using:

(1) Criterion-referenced examinations administered pursuant to NRS 390.105 or norm-referenced, nationally recognized examinations; and

(2) Pupil performance data, including, without limitation, observations of the performance of pupils, the work product of pupils and any other tangible demonstrations of the performance of pupils;

(b) Prescribe procedures to ensure compliance with subsections 2 and 3 of NRS 389.0095; and

(c) Except as otherwise provided in subsection 3, require that, to the extent practicable, a pupil who is identified for placement in a more rigorous course be placed in the more rigorous course if such a course is available.

3. If the parent or guardian of a pupil who is identified for placement in a more rigorous course submits to the principal of the school in which the pupil is enrolled written notice of his or her objection to such placement pursuant to paragraph (b) of subsection 2 of NRS 389.0095, the principal shall arrange a meeting between the parent or guardian, a school counselor and, to the extent practicable, the principal. If, after such a meeting, the attendees mutually agree that placing the pupil in the more rigorous course is not in the best interests of the pupil, the pupil must not be placed in the more rigorous course.

4. On or before June 1 of each year, the board of trustees of a school district or the governing body of a charter school shall prepare and submit to the Superintendent of Public Instruction a report concerning compliance with the requirements prescribed by subsection 3 of NRS 389.0095 for the immediately preceding school year. The report must include, for each academic subject for which the board of trustees or governing body, as applicable, determined sufficient financial resources were not available to establish a more rigorous course, an explanation of the reasons for that determination.