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**STATE OF NEVADA**  
**DEPARTMENT OF EDUCATION**  
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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 #R092-24.

The State Board of Education will hold a public hearing at **9:08 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 389.488 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 allow high school students to receive an exemption of 1 credit of physical education for a competitive individual or group activity or sport.*

- 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](mailto: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](mailto: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. R092-24**

June 25, 2024

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

AUTHORITY: § 1, NRS 385.080 and 385.114.

A REGULATION relating to education; revising the exemptions from physical education for pupils in high school; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires: (1) the State Board of Education to prescribe courses of study for public schools; and (2) provides that high schools may, under certain circumstances, have modified courses of study. (NRS 385.114) Existing regulations set forth the circumstances in which a school district is required to exempt a pupil from physical education. (NAC 389.488) This regulation revises those circumstances.

Existing regulations require a school district to exempt a pupil from taking the course in physical education under certain circumstances, including if the pupil requests the exemption on the basis of his or her enrollment in the Reserve Officer Training Corps. (NAC 389.488) **Section 1** of this regulation also requires such an exemption if the pupil is enrolled in a course of study in military science. **Section 1** further eliminates provisions that required an exemption on the basis that the pupil intended enrollment in a program which is comparable to the course in physical education.

Existing regulations require a school district to exempt a pupil from not more than one credit in physical education if the pupil actively participates for at least 120 hours in a marching band that is sponsored by the school. (NAC 389.488) **Section 1** instead requires such an exemption if the pupil is enrolled in the marching band.

Existing regulations require a school district to exempt a pupil from not more than one credit in physical education if: (1) the pupil participates in interscholastic athletics, on a drill team, in a dance group or on a cheerleading squad; and (2) in relevant part, the pupil actively participates in such activity for at least 120 hours. (NAC 389.488) **Section 1** provides instead that such an exemption is for one credit and that the pupil must complete the activity in good standing.

**Section 1** also requires, under certain circumstances, an exemption from one credit in physical education if a pupil actively participates in certain club activities or sports or individual activities or sports. **Section 1** further authorizes a pupil to submit to a school district or charter school a request for any other club activity or sport or individual activity to be approved by the Department of Education for an exemption of one credit of physical education. The Department

is required to maintain on its Internet website a list of such approved club activities or sports or individual activities or sports.

Finally, **section 1** makes the exemptions from physical education apply to charter schools, not just school districts.

**Section 1.** NAC 389.488 is hereby amended to read as follows:

389.488 1. A school district *or charter school* shall exempt a pupil from taking the course in physical education if the pupil requests the exemption on the basis of his or her:

(a) Physical or mental condition, and the request is supported by a written statement from a physician;

(b) Religious belief, and the request is supported by a written statement from the pupil's parent or guardian;

(c) Enrollment in the Reserve Officer Training Corps ~~[;]~~ *or a course of study in military science;* or

(d) ~~Intended enrollment in a program which is comparable to the course in physical education.]~~ *Enrollment in the marching band.*

2. ~~If a pupil requests an exemption based on his or her intended enrollment in a program which is comparable to the course in physical education, the school district shall furnish the Superintendent of Public Instruction with a syllabus of that program. Upon the Superintendent's written approval, the school district shall grant the exemption.~~

~~—3.]~~ A school district *or charter school* shall exempt a pupil from ~~not more than~~ one credit in physical education if the pupil participates in interscholastic athletics, on a drill team, ~~in a marching band,]~~ in a dance group or on a cheerleading squad if:

(a) The activity is sponsored by the school ~~[;]~~ *district or charter school;* and

(b) The pupil ~~actively participates in the activity for at least 120 hours.~~ *completes the activity in good standing.*

*3. A school district or charter school shall exempt a pupil from one credit in physical education if the pupil actively participates for 120 hours outside of the regularly scheduled school day, as verified by the school district or charter school, in one of the following:*

*(a) Club activities or sports:*

*(1) Baseball.*

*(2) Basketball.*

*(3) Boxing.*

*(4) Competitive cheerleading.*

*(5) Football.*

*(6) Gymnastics.*

*(7) Ice hockey.*

*(8) Lacrosse.*

*(9) Rowing.*

*(10) Rugby.*

*(11) Soccer.*

*(12) Softball.*

*(13) Swimming.*

*(14) Tennis.*

*(15) Track.*

*(16) Volleyball.*

*(17) Water polo.*

*(18) Wrestling.*

*(b) Individual activities or sports:*

*(1) CrossFit training.*

*(2) Diving.*

*(3) Equestrian training.*

*(4) Fencing.*

*(5) Ice skating.*

*(6) Martial arts.*

*(7) Professional dance training.*

*(8) Rodeo training.*

*(9) Skiing.*

*(10) Snowboarding.*

*(11) Swimming.*

*(12) Tennis.*

*(13) Tour biking or mountain biking.*

*(14) Triathlon training.*

*4. A pupil may submit to a school district or charter school, as applicable, a request to have a club activity or sport or an individual activity or sport that is not described in subsection 3 approved for one credit in physical education. If the school district or charter school approves such a request, the school district or charter school must submit to the Department an application, in the form prescribed by the Department, for approval to have the club activity or sport or an individual activity or sport approved for one credit in physical education. If the Department approves any such application, the school district or charter*

*school shall exempt the pupil from one credit in physical education if the pupil actively participates for 120 hours outside of the regularly scheduled school day, as verified by the school district or charter school.*

*5. The Department shall maintain on its Internet website a list of club activities or sports and individual activities or sports that have been approved pursuant to subsection 4.*