

**PROPOSED REGULATION OF THE
DEPARTMENT OF EDUCATION**

LCB File No. R052-20

September 30, 2021

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

AUTHORITY: § 1, NRS 387.1225.

A REGULATION relating to education; establishing requirements for a hospital or other facility that requests reimbursement for the cost of providing educational services to a child to receive such reimbursement; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes a hospital or other facility which is licensed by the Division of Public and Behavioral Health of the Department of Health and Human Services that provides residential treatment to a child to request reimbursement from the Department of Education for the cost of providing educational services to the child. Existing law establishes requirements a hospital or other facility must meet to receive such a reimbursement. Existing law also requires the Department of Education to adopt regulations to ensure those requirements are met. (NRS 387.1225) This regulation requires a hospital or other facility submitting a request for reimbursement for the cost of providing educational services to a child do so in the form and manner prescribed by the Department. This regulation also requires certain hospitals or other facilities that provide residential treatment to children to include certain information in the application for reimbursement. This regulation further requires a hospital or other facility licensed in the District of Columbia or any state or territory of the United States that provides residential treatment to children and which operates an educational program to: (1) notify the school district or charter school in which a child is enrolled of the child’s admission to the educational program; (2) transfer and request the transfer of certain records at various stages of the child’s time in the educational program; (3) meet with the school district or charter school to develop a plan for the child’s reentry to school; and (4) maintain daily attendance records. This regulation requires the Department to prescribe areas to be audited to ensure the hospital or other facility complies with applicable federal and state laws and regulations. This regulation designates the State Public Charter School Authority and the charter school in which a child with a disability is enrolled to be jointly responsible as the designated local educational agency for the purposes of the Individuals with Disabilities Education Act. This regulation requires the Department to review and approve or deny an application for reimbursement for the cost of providing educational services to a child and give notice of its decision to the hospital or other facility. Finally, this regulation provides that a decision of the Department to approve or deny an application for reimbursement is not subject to judicial or administrative review.

Section 1. Chapter 387 of NAC is hereby amended by adding thereto a new section to read as follows:

1. A hospital or other facility that submits a request for reimbursement for the cost of providing educational services to a child pursuant to NRS 387.1225 must submit an application in the form and manner prescribed by the Department.

2. A hospital or other facility that provides residential treatment to children and which operates a private school licensed pursuant to chapter 394 of NRS must include in its application for reimbursement:

(a) Documentation verifying that the child is a patient or resident of the hospital or other facility;

(b) Documentation verifying that the child has attended the private school for more than 7 school days;

(c) Documentation that the hospital or other facility has complied with the requirements of paragraphs (a) and (b) of subsection 4, as applicable; and

(d) Written assurance that the hospital or other facility:

(1) Is in compliance with applicable provisions of federal and state law, including, without limitation, Part B of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto, NRS 388.417 to 388.5243, inclusive, and NAC 388.001 to 388.450, inclusive;

(2) Will collect data and use forms in its provision of educational services in the form and manner prescribed by the Department;

(3) Agrees to an audit of the hospital or other facility by the Department pursuant to subsection 5; and

(4) Acknowledges that the school district or charter school in which the child is enrolled before his or her admission at the hospital or other facility is the local educational agency for the purposes of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.417 to 388.5243, inclusive, and any regulations adopted pursuant thereto.

3. A hospital or other facility licensed in the District of Columbia or any state or territory of the United States that provides residential treatment to children and which operates an educational program accredited by a national organization and approved by the Department must include in its application for reimbursement:

(a) Documentation verifying that:

(1) The child is a patient or resident of the hospital or other facility;

(2) The child is a resident of this State;

(3) The child is admitted to the hospital or other facility on an order from a physician because the necessary treatment required for the child is not available in this State;

(4) The child has attended the accredited educational program for more than 7 school days;

(5) The child is not currently homeschooled or enrolled in a private school and was not homeschooled or enrolled in a private school before being admitted to the hospital or other facility;

(6) The child has been admitted to the hospital or other facility under the order of a physician to receive medically necessary treatment for a medical or mental health condition with which the child has been diagnosed; and

(7) The hospital or other facility has complied with the requirements of paragraphs (a) and (b) of subsection 4, as applicable; and

(b) Written assurance that the hospital or other facility:

(1) Is in compliance with applicable provisions of federal and state law, including, without limitation, Part B of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto, NRS 388.417 to 388.5243, inclusive, and NAC 388.001 to 388.450, inclusive;

(2) Will collect data and use forms in its provision of educational services in the form and manner prescribed by the Department;

(3) Agrees to an audit of the hospital or other facility by the Department pursuant to subsection 5; and

(4) Acknowledges that the school district or charter school in which the child is enrolled before his or her admission at the hospital or other facility is the local educational agency for the purposes of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.417 to 388.5243, inclusive, and any regulations adopted pursuant thereto.

4. A hospital or other facility licensed in the District of Columbia or any state or territory of the United States that provides residential treatment to children and which operates an educational program accredited by a national organization and approved by the Department that wishes to receive reimbursement for the cost of providing educational services to a child must:

(a) Notify the school district or charter school in which the child is enrolled upon admitting the child to the educational program;

(b) Request the transfer of the education records of the child which are collected, maintained or used by the school district or charter school in which the child is enrolled to the hospital or other facility upon admitting the child to the hospital or other facility;

(c) Transfer the education records of the child which are collected, maintained or used by the hospital or other facility to the school district or charter school in which the child is enrolled upon admitting the child to the educational program;

(d) Notify the school district or charter school in which the child is enrolled upon the discharge of the child from the hospital or other facility and the educational program;

(e) Transfer the education records of the child which are collected, maintained or used by the hospital or other facility to the school district or charter school in which the child is enrolled upon the discharge of the child from the hospital or other facility and the educational program;

(f) When the child is ready for reentry into a school district or charter school, meet with the school district or charter school to develop a plan for reentry of the child upon the discharge of the child from the hospital or other facility and the educational program; and

(g) Maintain daily attendance records documenting the attendance of the child and receipt of educational services as prescribed by the Department and submit to the Department the attendance records of the child upon the request of the Department.

5. The Department will prescribe the areas to be audited pursuant to an agreement entered into pursuant to subsection 2 or 3 to ensure compliance with applicable federal and state law and regulations, including, without limitation, this section and NRS 387.1225.

6. If a hospital or other facility requests reimbursement for the cost of providing educational services to a child with a disability and that child is enrolled in a charter school sponsored by the State Public Charter School Authority, the State Public Charter School Authority and the charter school are jointly responsible as the designated local educational agency for the purposes of this section and the Individuals with Disabilities Education Act, 20

U.S.C. §§ 1400 et seq., and NRS 388.417 to 388.5243, inclusive, and any regulations adopted pursuant thereto.

7. The Department will review and approve or deny a completed application for reimbursement for the cost of providing educational services to a child submitted pursuant to subsection 2 or 3 and give notice of its decision to the applicant.

8. A decision of the Department approving or disapproving an application for reimbursement for the cost of providing educational services to a child submitted pursuant to subsection 2 or 3 is not subject to administrative or judicial review.