

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

LCB File No. R132-22

July 27, 2022

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

AUTHORITY: § 1, NRS 387.067, 387.123 and 388.419.

A REGULATION relating to education; establishing requirements governing the enrollment of certain children who are admitted to a mental health facility in public schools; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Board of Education to adopt regulations establishing minimum standards for the special education of pupils with disabilities, including emotional disturbance. (NRS 388.419) Existing law prescribes a procedure for the admission of a child with emotional disturbance who is in the custody of an agency which provides child welfare services to a mental health facility. (NRS 432B.607-432B.6085) This regulation prohibits a school district or charter school in which a child is enrolled upon such admission from terminating the enrollment of the child. If a child who is so admitted is not enrolled in a school district or charter school in this State, this regulation requires certain school districts, depending on the county in which the agency which provides child welfare services is located, to enroll the child upon the request of the agency which provides child welfare services. This regulation additionally deems the school district or charter school in which the child is enrolled to be the local educational agency for the purposes of federal and state law governing the education of pupils with disabilities. Finally, this regulation requires a child who is enrolled or remains enrolled in a charter or school district under the provisions of this regulation to be included in the count of pupils enrolled in that school district or charter school, as applicable, for apportionment purposes.

Section 1. Chapter 388 of NAC is hereby amended by adding thereto a new section to read as follows:

1. If a child who is in the custody of an agency which provides child welfare services is enrolled in a school district or charter school when he or she is admitted to a psychiatric

hospital or a facility which provides residential treatment for mental illness pursuant to NRS 432B.6076, the school district or charter school shall not terminate the enrollment of the child.

2. If a child who is in the custody of an agency which provides child welfare services located in a county whose population is 100,000 or more is not enrolled in a school district or charter school when he or she is admitted to a psychiatric hospital or a facility which provides residential treatment for mental illness pursuant to NRS 432B.6076, the school district of the county must enroll the child upon the request of the agency which provides child welfare services.

3. If a child who is in the custody of an agency which provides child welfare services located in a county whose population is less than 100,000 is not enrolled in a school district or charter school when he or she is admitted to a psychiatric hospital or a facility which provides residential treatment for mental illness pursuant to NRS 432B.6076, any school district in this State must enroll the child upon the request of the agency which provides child welfare services.

4. If a child who is a pupil with a disability and is in the custody of an agency which provides child welfare services is admitted to a psychiatric hospital or a facility which provides residential treatment for mental illness pursuant to NRS 432B.6076, the school district or charter school in which the child is enrolled pursuant to this section is deemed to be the local educational agency for the child for the purposes of:

(a) The Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and any regulations adopted thereto; and

(b) NRS 388.417 to 388.5243, inclusive, and any regulations adopted pursuant thereto.

5. A child who is enrolled or remains enrolled in a school district or charter school pursuant to this section must be included in the count of pupils enrolled in the school district or charter school, as applicable, for apportionment purposes pursuant to NRS 387.123.