

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

LCB File No. R074-23

October 19, 2023

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

AUTHORITY: §§ 1-7, NRS 385.080, 390.105 and 390.600.

A REGULATION relating to education; removing provisions relating to end-of-course finals; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Board of Education to adopt regulations relating to education. (NRS 385.080) Existing law requires the State Board, in consultation with the Council to Establish Academic Standards for Public Schools, to prescribe examinations that comply with federal law and measure the achievement and proficiency of pupils. (NRS 390.105)

Senate Bill No. 9 of the 2023 Legislative Session repealed NRS 390.700, removing the requirement that the State Board of Education adopt regulations that prescribe: (1) the courses of study for which an end-of-course final must be administered; and (2) the percentage of the pupil’s overall grade in the course that the end-of-course final must comprise when determining the overall grade of a pupil in the course for which the end-of-course final is administered. (Section 5 of Senate Bill No. 9, chapter 518, Statutes of Nevada 2023, at page 3373) **Sections 1, 2, 5 and 6** of this regulation remove obsolete references to the repealed NRS 390.700.

Existing regulations prescribe: (1) the courses for which an end-of-course final must be administered; and (2) the subject matters of the end-of-course finals. (NAC 390.031, 390.213) Existing regulations provide that the Department of Education will publish the standards for each such end-of-course final on or before June 1 of each year. (NAC 390.218) Existing regulations further prescribe: (1) the procedure by which the board of trustees of a school district or the governing body of a charter school is required to submit to the Department of Education and the State Board a list of courses for approval that the school district or governing body has determined to be aligned to the subject matter of each course; and (2) the percentage of which the overall grade of a pupil that an end-of-course final must be comprised. (NAC 390.215) **Section 7** of this regulation repeals these provisions.

Sections 3 and 4 of this regulation make conforming changes to eliminate other references to end-of-course finals in the Nevada Administrative Code.

Section 1. NAC 388.830 is hereby amended to read as follows:

388.830 1. The Department shall engage in the process of reviewing applications for programs of distance education not less than once per year. An application must be received by the Department from the board of trustees of a school district or a governing body of a charter school on or before January 15 for consideration of a program that will begin operation in the immediately succeeding school year. An application must be received by the Department from a committee to form a new charter school on or before September 1 for a program that will begin operation in the immediately succeeding school year.

2. The Department shall prescribe the form for the application. An application must include:

(a) The name of the school district or charter school submitting the application;

(b) The date on which the board of trustees of the school district, the governing body of the charter school or the committee to form a charter school, as applicable, reviewed and approved the application;

(c) The original signature of the president of the board of trustees, or his or her designee, a member of the governing body of the charter school or a member of the committee to form a charter school, as applicable, indicating approval of the application;

(d) The name, address and telephone number of the person who will administer the program of distance education;

(e) A list designating each course of distance education that will be offered through the program;

(f) If a course of distance education that will be offered through the program is included on the list of approved distance education courses prepared by the Department, an identification of each course, including, without limitation, the title of the course and the name of the provider of the course of distance education;

(g) If a course of distance education that will be offered through the program is not included on the list of approved distance education courses prepared by the Department, the information required by subparagraphs (1) to (10), inclusive, of paragraph (e) of subsection 1 of NAC 388.825;

(h) A description of the manner by which the school district or charter school will document the attendance and participation of each pupil who is enrolled in a course offered through the program, consistent with the provisions of NAC 387.193 and 387.294;

(i) A description of the criteria that will be used to enroll pupils in the program, including, without limitation, the manner by which the eligibility of each pupil for enrollment will be determined and documented in compliance with NRS 388.850;

(j) A description of the plan for assessing the academic achievement of pupils who are enrolled in the program, which must include, without limitation, the administration of the examinations required by NRS 390.105 ; ~~and 390.700;~~

(k) A description of the manner by which the school district or charter school will document the completion of a course by a pupil enrolled in the program and award credit to each pupil who completes a course; and

(l) A description of the manner by which the school district or charter school will monitor the progress of each pupil enrolled in the program, including, without limitation:

(1) A method for identifying pupils who are experiencing difficulty with completing assignments or who are otherwise not demonstrating satisfactory progress; and

(2) The assistance or support that will be provided to pupils identified pursuant to subparagraph (1) in addition to any assistance or support offered by the provider of the course of distance education.

3. If a school district or charter school submits an application pursuant to this section to provide a program of distance education and the application is approved, the school district or charter school is not required to submit a separate application pursuant to NRS 388.834 and NAC 388.825 for approval of a course that is included in the approved program.

4. Not more than 45 calendar days after receipt of an application pursuant to this section, the Department shall provide written notice to the applicant of its approval or denial of the program. If an application is denied, the applicant may, not later than 30 calendar days after receipt of the notice of denial, correct the deficiencies identified in the notice of denial and resubmit the application to the Department. If the application is denied by the Department, the applicant may appeal the decision of the Department to the State Board of Education. The State Board may approve or deny the application upon appeal.

5. Except as otherwise provided in this subsection and NAC 388.860, if a program of distance education is approved pursuant to this section, the approval is valid for 3 years after the date of approval.

6. The Department shall prescribe the form for the renewal of an application. To continue providing a program of distance education, the provider of the program must submit an application for renewal to the Department at least 60 days before the expiration of the approval. If the Department approves a program of distance education submitted by a committee to form a new charter school and the committee's application to form a charter school is denied by the Department, the board of trustees of a school district or the State Public Charter School Authority, as applicable, the approval of the program of distance education is automatically revoked and the procedure for revocation set forth in NAC 388.860 does not apply.

7. If a provider of a program of distance education intends to change or modify the program with regard to the items set forth in the application, the provider shall obtain the written approval of the Department before making such a change or modification. If the provider changes or modifies the program without the approval of the Department pursuant to this subsection, the Department may revoke its approval of the program.

8. A school district or charter school shall not enroll pupils in a program of distance education unless the Department has provided documentation indicating that the program has been approved pursuant to this section for operation in this State.

Sec. 2. NAC 390.220 is hereby amended to read as follows:

390.220 1. Except as otherwise provided in subsection 2, the board of trustees of each school district and the governing body of each charter school, respectively, shall administer the examinations and assessment required by NRS 390.105 ~~and~~ and 390.610 ~~and 390.700~~ in each public school in that district and each charter school which has the appropriate grades.

2. The examinations and assessment required by NRS 390.105 and 390.610 must be administered in the spring semester on the dates specified by the Department, as follows:

(a) For grades 3 through 8, the criterion-referenced examinations in English language arts and mathematics as provided in NAC 390.320.

(b) For grades 5 and 8, the criterion-referenced examination in science.

(c) For pupils in grade 11, the college and career readiness assessment.

(d) For pupils in high school, the criterion-referenced examination in science.

3. Not later than May 1 of each year, the board of trustees of a school district in which a school with a 12-month school program is located or the governing body of a charter school with a 12-month school program shall, if pupils who attend the school are not expected to be in

session on one of the dates prescribed pursuant to subsection 2 for the administration of an examination, consult with the Assessment, Data and Accountability Management Office of the Department to establish another date for the administration of that examination. Not later than June 1 of that year, the Assessment, Data and Accountability Management Office shall provide the board of trustees or the governing body of a charter school with written confirmation of the date agreed upon pursuant to this subsection.

Sec. 3. NAC 390.240 is hereby amended to read as follows:

390.240 1. The questions contained in any ~~end-of-course-final~~ *examination* and the approved answers used for grading the ~~end-of-course-final~~ *examination* are confidential, and disclosure is unlawful except:

(a) To the extent necessary to prepare for, administer and evaluate the ~~end-of-course-final~~ *examination*.

(b) To the extent necessary for the performance of the duties of a person described in this paragraph, disclosure may be made to a:

(1) State officer who is a member of the Executive or Legislative Branch of State Government; or

(2) Superintendent of schools, director of curriculum or director of testing of a school district.

(c) Specific questions and answers may be disclosed if the Superintendent of Public Instruction determines that the questions and answers are not being used in a current ~~end-of-course-final~~ *examination* and that making the questions and answers available to the public poses no threat to the security of the examination process.

(d) As required pursuant to NRS 239.0115.

2. The board of trustees of each school district and the governing body of each charter school shall ensure that the employees of the school district or charter school, respectively, who have access to the materials necessary to administer the examinations required by NRS 390.105 ~~and 390.700~~ are familiar with:

(a) The provisions of this section and NRS 390.250 to 390.305, inclusive; and

(b) Any instructions that are issued by the Department relating to the confidentiality of those materials.

3. Except as otherwise provided in this section, a person shall not make or distribute copies of the questions contained in the examinations required by NRS 390.105 ~~and 390.700~~ or the approved answers used for grading them unless that person has received written authorization to do so from the publisher of the examination and the Department.

4. Before the examinations required by NRS 390.105 ~~and 390.700~~ are distributed to the schools in which the examinations will be administered, the board of trustees or the governing body shall ensure that the materials used to administer the examinations and the approved answers used for grading them are stored in such a manner that only those persons to whom the materials and answers may be disclosed pursuant to this section have access to them.

5. The secure examination materials that are used to administer the examinations required by NRS 390.105 ~~and 390.700~~ must not be distributed to the schools in which the examinations will be administered until such time as is necessary to allow the schools adequate time to prepare to administer the examinations.

6. The principal of each school to which an examination is delivered ~~+~~ *shall ensure that:*

(a) ~~Shall ensure that the~~ *The* questions contained in the examination are stored in a secure location and are not distributed to pupils until the examination is administered; *and*

(b) ~~{Shall ensure that the}~~ *The* materials used to administer the examination are stored in a secure manner before the end of the day on which the examination is administered. ~~}; and~~

~~—(c) May allow the teacher of a course approved by the State Board pursuant to NAC 390.215 as being aligned to the subject matter of the end-of-course final to inspect the questions contained in the examination in a secure location.}~~

7. On or before September 15 of each year, the principal of each public school and charter school, respectively, shall submit to the Department a statement that the principal will ensure that the school complies with the provisions of this section, the provisions of NRS 390.250 to 390.305, inclusive, and any instructions issued by the Department relating to the confidentiality of testing materials. The statement required pursuant to this subsection must be on a form prescribed by the Department.

8. The examinations required by NRS 390.105 ~~{and 390.700}~~ must be administered:

(a) In a facility that is approved by the board of trustees of the school district or the governing body of the charter school; and

(b) By employees of the school district or charter school who are designated to administer the examinations by the board of trustees of the school district or the governing body of the charter school, respectively.

Sec. 4. NAC 390.250 is hereby amended to read as follows:

390.250 1. For grades 3 through 8 and high school science, the criterion-referenced examinations must be administered pursuant to the instructions in the current edition of the manual for the administration of the criterion-referenced examinations adopted by the Department.

2. The college and career readiness assessment required by NRS 390.610 ~~and end-of-course finals required by NRS 390.700~~ must be administered pursuant to the instructions in the current edition of the manual for the administration of the criterion-referenced examinations adopted by the Department.

Sec. 5. NAC 390.300 is hereby amended to read as follows:

390.300 A private entity that has contracted with the State Board to score an examination administered pursuant to NRS 390.105 ~~or 390.700~~ shall report the results of the examination in writing to the Department.

Sec. 6. NAC 390.310 is hereby amended to read as follows:

390.310 1. Except as otherwise provided by a specific statute or regulation, the Department shall not report the scores achieved by an individual pupil on an examination required by NRS 390.105 ~~or 390.700~~ to a person or governmental agency.

2. The Department may report the aggregated scores of 10 or more pupils.

Sec. 7. NAC 390.031, 390.213, 390.215 and 390.218 are hereby repealed.

TEXT OF REPEALED SECTIONS

390.031 “End-of-course final” defined. “End-of-course final” means an examination required by NRS 390.700.

390.213 Courses for which end-of-course final must be administered.

1. The Mathematics I end-of-course final must be administered for Algebra I or any other course for which the subject matter of the course is approved by the State Board pursuant to NAC 390.215 as being aligned to the subject matter of the end-of-course final.

2. The Mathematics II end-of-course final must be administered for Geometry or any other course for which the subject matter of the course is approved by the State Board pursuant to NAC 390.215 as being aligned to the subject matter of the end-of-course final.

3. The Integrated Mathematics I end-of-course final must be administered for Integrated Mathematics I or any other course for which the subject matter of the course is approved by the State Board pursuant to NAC 390.215 as being aligned to the subject matter of the end-of-course final.

4. The Integrated Mathematics II end-of-course final must be administered for Integrated Mathematics II or any other course for which the subject matter of the course is approved by the State Board pursuant to NAC 390.215 as being aligned to the subject matter of the end-of-course final.

5. The English I end-of-course final must be administered for English I or any other course for which the subject matter of the course is approved by the State Board pursuant to NAC 390.215 as being aligned to the subject matter of the end-of-course final.

390.215 Submission of list of courses aligned to end-of-course final; approval by Department and State Board; administration of end-of-course final for approved courses; percentage of overall grade of pupil that end-of-course final must comprise.

1. On or before March 1 of each year, the board of trustees of each school district and the governing body of each charter school shall submit to the Department a list of courses offered in the school district or charter school that the board or governing body, as applicable, has

determined to be aligned to the subject matter of each end-of-course final prescribed in NAC 390.213.

2. On or before May 1 of each year, the Department shall:

(a) Determine whether each course on the list of courses submitted by a board of trustees or governing body pursuant to subsection 1 is aligned to the subject matter of each end-of-course final prescribed in NAC 390.213;

(b) Submit the determinations made pursuant to paragraph (a) to the State Board for approval; and

(c) Notify the board of trustees of each school district and the governing body of each charter school of the courses approved by the State Board pursuant to paragraph (b) as being aligned to the subject matter of each end-of-course final prescribed in NAC 390.213.

3. The board of trustees of a school district or the governing body of a charter school shall administer an end-of-course final prescribed in NAC 390.213 for each course approved by the State Board pursuant to paragraph (b) of subsection 2 as being aligned to the subject matter of the end-of-course final.

4. An end-of-course final must comprise:

(a) During the 2017-2018 school year, 0 to 100 percent of the overall grade of a pupil in the course for which the end-of-course final is administered, as prescribed by the board of trustees of the school district in which the pupil is enrolled;

(b) During the 2018-2019 school year, 10 percent of the overall grade of a pupil in the course for which the end-of-course final is administered;

(c) During the 2019-2020 school year, 15 percent of the overall grade of a pupil in the course for which the end-of-course final is administered; and

(d) During the 2020-2021 school year and each school year thereafter, 20 percent of the overall grade of a pupil in the course for which the end-of-course final is administered.

390.218 Publication of standards for end-of-course finals.

On or before June 1 of each year, the Department will publish the standards for each end-of-course final prescribed in NAC 390.213.