

**ADOPTED REGULATION OF THE
STATE BOARD OF EDUCATION**

LCB File No. R206-01

Effective April 1, 2002

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

AUTHORITY: §§1-8, NRS 385.080 and 386.578.

Section 1. Chapter 386 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 7, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Fund” means the fund for charter schools created pursuant to NRS 386.576.*

Sec. 4. *“Operational charter school” means a charter school in which pupils are enrolled who are receiving instruction from the charter school.*

Sec. 5. 1. *An application for a loan from the fund must be submitted by the governing body of a charter school to the department on or before September 30 of the calendar year immediately preceding the calendar year in which the loan will be made. The department shall not accept an application for a loan from the fund unless the department has determined pursuant to subsection 2 that the balance of money in the fund is \$5,000 or more. An application must include:*

(a) The name of the charter school.

(b) The name, address and telephone number of the person whom the department may contact regarding the application.

(c) The proposal of the charter school to repay the loan, consistent with section 7 of this regulation.

(d) A description of:

(1) The financial needs of the charter school;

(2) The business plan for the charter school;

(3) The effect that receipt of the loan will have on the operation of the charter school;

(4) The effect, if any, that receipt of the loan will have on the ability of the governing body or the charter school to obtain other financial assistance from public and private sources; and

(5) The plan, if any, for the use of the money obtained from the loan, including, without limitation, methods to enhance the credit of the charter school.

(e) A list of the anticipated expenses for which the money obtained from the loan will be used.

(f) A budget for the charter school for the fiscal year in which the loan is received and for each fiscal year of the proposed period for repayment of the loan. The budget must:

(1) Include an identification of all sources of revenue and expenses;

(2) Include the cost for repayment of the loan; and

(3) Be accompanied by a written narrative explaining each of the assumptions made in developing the budget.

(g) If the charter school is an operational charter school, a statement of the financial history of the applicant.

(h) If a member of the governing body has or had an association or affiliation with another charter school in this state or another state, a statement of the financial history of the charter school with which he has or had such an association or affiliation. The provisions of this paragraph apply regardless of whether the member has terminated his association or affiliation.

(i) Three credit references for the applicant.

(j) A statement of the monthly cash flow for the operation of the charter school, including, without limitation, an identification of the amount and timing of receipt of revenue relating to the amount and timing of expenditures.

(k) A resolution of the governing body authorizing submission of the application.

2. On or before July 1 of each year, the department shall determine the balance of money in the fund. If the department determines that the balance of money in the fund is \$5,000 or more, the department shall provide notice of that fact and the availability of loans from the fund to each charter school that has been issued a written charter pursuant to NRS 386.527.

Sec. 6. 1. To the extent that money is available in the fund, the department shall grant priority for loans from the fund to those charter schools with approved applications that will use the money obtained from the loan in preparing to commence the first year of operation.

2. In determining whether to approve an application, the department shall consider the:

(a) Reliability of the business plan submitted with the application;

(b) Ability of the charter school to obtain financial assistance from other sources;

(c) Information submitted in the application; and

(d) Effect of approval of the application on the equitable geographic distribution throughout this state of loans from the fund.

Sec. 7. 1. The rate of interest for loans made from the fund is the prime rate at the largest bank in Nevada, as ascertained by the commissioner of financial institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the transaction.

2. If a loan is made to a charter school from the fund, the department shall deduct from the apportionments made to the charter school pursuant to NRS 387.124, an amount of money equal to the annual repayment amount of the loan, including interest. The deductions must be made:

(a) In quarterly amounts corresponding with the quarterly apportionment to the charter school.

(b) In equal amounts during the period of repayment agreed upon by the governing body of the charter school and the department, not to exceed 3 years.

3. If a loan is made to an operational charter school, the deductions must be made commencing in the same fiscal year in which the loan is made. If a loan is made to a charter school that has a written charter issued pursuant to subsection 4 of NRS 386.527, the deductions must be made commencing with the first fiscal year immediately succeeding the fiscal year in which the charter school becomes an operational charter school.

4. If a charter school that receives a loan:

(a) Defaults on repayment of the full amount of the loan;

(b) Was issued a written charter pursuant to subsection 4 of NRS 386.527 and the charter school fails to obtain a written charter issued pursuant to subsection 2 of NRS 386.527; or

(c) Closes or otherwise ceases operation,

the charter school shall be solely liable for repayment of the full amount of the loan.

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5. As used in this section, “fiscal year” means the 12-month period beginning on the first day of July and ending on the last day of June.

Sec. 8. NAC 386.010 is hereby amended to read as follows:

386.010 As used in ~~[NAC 386.010 to 386.390, inclusive,]~~ *this chapter*, unless the context otherwise requires, the words and terms defined in NAC 386.020 to 386.050, inclusive, have the meanings ascribed to them in those sections.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R206-01**

The State Board of Education adopted regulations assigned LCB File No. R206-01 which pertain to charter schools (chapter 386 of the Nevada Administrative Code) on January 26, 2002.

Notice date: 11/9/2001 and 12/18/2001

Date of adoption by agency: 1/26/2002

Hearing date: 12/1/2001 and 1/26/2002

Filing date: 4/1/2002

INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 386:

1. A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.

The Notice of Workshop to Solicit Comments on proposed revisions to NAC 386, Charter Schools, was sent to approximately one-hundred fifty individuals and educational organizations. A workshop was conducted by the Nevada State Board of Education on December 1, 2001, to provide the opportunity for comments by affected parties and the public. There were no comments from the public.

The Notice of Intent to Act Upon a Regulation for public hearing and Board adoption of proposed revisions to NAC 386, Charter Schools, was sent to approximately one-hundred fifty individuals and educational organizations. One public hearing was conducted by the Nevada State Board of Education on January 26, 2002, to provide the opportunity for comments by affected parties and the public. There were comments from the public. The Board adopted the proposed language without revision.

2. The Number of Persons Who:

a) Attended Each Hearing:	Workshop: 17	Hearing: 19
b) Testified at Each Hearing;	Workshop: 0	Hearing: 5
and,		
c) Submitted Written Statements:	Workshop: 0	Hearing: 3

Written comments submitted were: 1) Letter dated January 24, 2002, from Senator Maurice Washington with concerns for the at-risk charter school definition, proposed time limits on Section 16 charters, and the proposed timelines for a charter school to become operational; 2) letter dated January 25, 2002, from Odyssey Charter School, Las Vegas, with questions on accounting procedures to follow with a management organization; and, 3) letter dated January 26, 2002, from Joan Sando, Chief Education Officer, Explore Knowledge Academy Charter School, with concern for requiring teachers to have two years experience in Nevada..

3. A description of how comment was solicited from affected businesses, a summary of the response and an explanation how other interested parties may obtain a copy of the summary.

Comment was solicited through the workshop notice of November 9, 2001. No comments from the public were received at the December 1, 2001, workshop.

Comment was solicited through the public hearing notice of December 18, 2001. There were comments from five individuals in the public were received at the January 26, 2002, public hearing: 1) Craig Butz, Principal, Odyssey Secondary Charter School, Las Vegas, advised that his charter school board contracts with educational management organizations in areas of administration, teaching, financial accounting, special education, clerical and janitorial services allowing for savings in personnel between the two charter schools; 2) Ricci Elkins, Executive Director, Nevada Charter Schools Alliance, expressed the following concerns and recommendations: pertaining to the fifty-one percentage requirement for an at-risk charter school, she recommended the application component show the different services the school will provided for the accountability purpose in identifying an at risk school; as there is insufficient time for a development period which is usually twelve to 18 months for a school to become operational, it is her recommendation that the date should be mid-September rather than June 30; regarding the loan process, she encouraged reconsideration of the one year submission of a loan application prior to approval which would address the possible short term needs of a charter school to meet a payroll; and, that there should be assurance that school districts are complying with the necessary building and safety codes; 3) Joan Sando, Chief Education Officer, Explore Knowledge Academy, was confused about two years of teaching in Nevada and clarification was made that the proposed language requires "two years of experience as an employed teacher in any state in a position for which a teaching license is required" and does not require two years of teaching in Nevada; 4) Leslie Fritz, Learning and Public Policy Specialist, Nevada State Education Association spoke regarding the definition of "at-risk," stating that it is firmly believed that 51% is sufficient which meets the intent of the legislation, that there is concern regarding contracts with for-profit educational management organizations (EMO's) as charter schools should be non-profit as are all public schools and urged the Board's adoption of the proposed language as presented; and, 5) Dotty Merrill, Interim Senior Director, Public Policy, Accountability and Assessment, Washoe County School District, supported the language regarding the definition of an "at-risk" charter school, accreditation of charter schools, and identification of storage of permanent records.

A copy of the summary and/or minutes of the public hearing may be obtained by calling LaDonna Byrd, Board Secretary, at the Department of Education (775) 687-9225, or by writing to the Department of Education at 700 East Fifth Street, Carson City, Nevada 89701-5096.

4. If the regulation was adopted with or without change to any part of the proposed regulation, a summary of the reasons for adopting.

The permanent regulation language was adopted by the Nevada State Board of Education at the public hearing held January 26, 2002, without revision.

- 5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

There is no economic effect on the business which is regulated. There is no estimated economic effect on the public, either adversely or beneficially, nor immediate or long term.

- 6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the agency for enforcement of this regulation.

- 7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

No other state or government agency regulations will be overlapped or duplicated by the above noted regulations. There is no duplication or overlap of federal regulations.

- 8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

There are none.

- 9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

This regulation does not provide or involve a new fee.