

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption of Regulations of the Nevada State Board of Education Nevada State Board for Career and Technical Education

The Nevada State Board of Education/Nevada State Board for Career and Technical Education will hold a public hearing on **June 16, 2016 to be video conference in the Board Room at the Nevada Department of Education Offices, 700 East Fifth Street Carson City Nevada and 9890 South Maryland Parkway, Las Vegas, Nevada.**

The purpose of the hearing is to receive comments from all interested persons regarding the amendments/adoptions/repeal of regulations of the Nevada Administrative Code (NAC) 395.

The time for the hearing is scheduled as follows:

9:30 A.M. Public Hearing and Possible Adoption of Proposed Amendments to R032-16; NAC 395.010 to amend by adding a subsection addressing: "A pupil with significant disabilities" defined; "Special Education" defined; "Related Services" defined; "Supplementary aids and services" defined; "Transition services" defined; "Department" defined; "Superintendent" defined; Additionally adding the following sections and subsections regarding access to the special education contingency account: Application requirements and process; reimbursement requirements and allowable expenditures; development of a process for a timely review and approval or disapproval of applications; timeline for reimbursement of funds.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need and the purpose of the proposed regulations/amendments.
The Contingency Account for Special Education was created as part of **S.B. 508 Sec. 24** requiring an amendment to NAC 395.
2. Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved.
Proposal to amend NAC 395 by adding a subsection addressing: "A pupil with significant disabilities" defined; "Special Education" defined; "Related Services" defined; "Supplementary aids and services" defined; "Transition services" defined; "Department" defined; "Superintendent" defined; Additionally adding the following sections and subsections regarding access to the special education contingency account: Application requirements and process; reimbursement requirements and allowable expenditures; development of a process for a timely review and approval or disapproval of applications; timeline for reimbursement of funds.
3. There is no economic effect of the regulation on the business that it regulates and no impact on the public.
4. The estimated cost to the agency for enforcement of the proposed regulation is none.
5. There is no duplication or overlap of regulations of state of local government agencies.
6. This regulation is not required pursuant to federal law.
7. There is no federal law affecting or overlapping the proposed regulations.
8. The proposed regulations do not establish a new fee nor increase an existing fee of the regulating agency

Persons wishing to comment upon the proposed action of the State Board of Education may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the, Nevada Department of Education, 700 E. 5th St, Carson City, NV 89701 June 2, 2016 . If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Department of Education/State Board of Education may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the State Library and Archives, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at the Nevada Department of Education, 700 East Fifth St, Carson City, Nevada 89701 and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies, if it is deemed necessary.

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.

This notice of hearing has been posted at the following locations: Nevada Department of Education, both locations; 17 Nevada County School District Offices; 16 Nevada Public Libraries; both locations; and Nevada State Library and Archives.

5/11/16

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

LCB File No. R032-16

April 12, 2016

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

AUTHORITY: §§1-3; NRS 385.080 and section 24 of Senate Bill No. 508, chapter 536, Statutes of Nevada 2015, at page 3730.

A REGULATION relating to special education; prescribing the circumstances under which certain extraordinary expenses incurred by a school district or charter school are eligible for reimbursement from the Contingency Account for Special Education Services; establishing requirements for applications for reimbursement, approval of applications and disbursement of money from the Account; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law creates the Contingency Account for Special Education Services. Where the money otherwise available is insufficient, money from the Account may be used to reimburse school districts and charter schools for extraordinary program expenses and related services for pupils with significant disabilities. The State Board of Education is required to adopt regulations governing applications for reimbursement, approval of applications and disbursement of money from the Account. (Section 24 of Senate Bill No. 508, chapter 536, Statutes of Nevada 2015, at page 3730)

This regulation is proposed pursuant to that requirement. **Section 2** of this regulation defines “pupil with significant disabilities” to mean a pupil with a disability for whom the cost of services exceeds the total funding otherwise available to the school district or charter school for the pupil. **Section 2** also describes the expenses that are eligible for reimbursement. **Section 3** of this regulation prescribes the required contents of an application to the Department of Education for reimbursement. For any application that is approved, **section 3** also requires the Department to identify the expenses for which reimbursement is allowed and to disburse money as those expenses are actually incurred.

Section 1. Chapter 395 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *An expense incurred by a school district or charter school is eligible for reimbursement from the Contingency Account for Special Education Services pursuant to section 24 of Senate Bill No. 508, chapter 536, Statutes of Nevada 2015, at page 3730, if:*

(a) The expense is for special education, related services, supplementary aids and services or transition services provided to a pupil with significant disabilities;

(b) The school district or charter school has determined that the pupil to whom the services are provided is eligible to receive special education and related services pursuant to NRS 388.440 to 388.520, inclusive;

(c) The Superintendent of Public Instruction determines that the total cost of special education, related services, supplementary aids and services and transition services provided to the pupil exceeds the total funding available to the school district or charter school for the pupil;

(d) The services are set forth in an individualized education program developed by the school district or charter school for the pupil in accordance with NRS 388.520; and

(e) The school district or charter school has not received reimbursement for the expense from any other source.

2. *As used in this section and section 24 of Senate Bill No. 508, chapter 536, Statutes of Nevada 2015, at page 3730, “pupil with significant disabilities” means a pupil with a disability:*

(a) To whom special education, related services, supplementary aids and services or transition services are provided; and

(b) For whom the Superintendent of Public Instruction determines pursuant to paragraph (c) of subsection 1 that the total cost of services described in paragraph (a) that are provided to the pupil exceeds the total funding available to the school district or charter school for the pupil.

3. As used in this section:

(a) "Pupil with a disability" has the meaning ascribed to it in NAC 388.093.

(b) "Related services" has the meaning ascribed to it in NAC 388.101.

(c) "Special education" has the meaning ascribed to it in NAC 388.115.

(d) "Supplementary aids and services" has the meaning ascribed to it in NAC 388.132.

(e) "Transition services" has the meaning ascribed to it in NAC 388.133.

Sec. 3. 1. A school district or charter school may apply to the Department for reimbursement from the Contingency Account for Special Education Services pursuant to section 24 of Senate Bill No. 508, chapter 536, Statutes of Nevada 2015, at page 3730, by submitting an application in the form prescribed by the Department.

2. The application must:

(a) Clearly identify the services for which reimbursement is requested; and

(b) Include, without limitation, documentation of all such services and their respective expenses, and any other information required by the Department.

3. The Department shall review and approve or deny a completed application for reimbursement and give notice of its decision to the applicant. The Department may deny an

application, wholly or in part, if it determines that the expense for which reimbursement is requested is excessive, unsubstantiated or not eligible for reimbursement pursuant to section 2 of this regulation.

4. If the Department approves an application for reimbursement, the Department shall clearly identify each expense or category of expenses for which reimbursement is approved. For any expense that has not been incurred as of the date the application is approved, the Department shall disburse the reimbursement as the expense is actually incurred.

5. A decision of the Department approving or disapproving an application for reimbursement, including, without limitation, that part of a decision establishing the amount of an approved reimbursement, is not subject to administrative or judicial review.

BRIAN SANDOVAL
Governor

STEVE CANAVERO, Ph.D.
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SMALL BUSINESS IMPACT STATEMENT
PURSUANT TO NRS 233B.0608

Date: June 16, 2016

Re: Workshop to Adopt Regulations Regarding Special Education pursuant to SB 508 and Proposed Amendments to NAC 395

I, Marva Clevon, Director of Special Education for the Nevada Department of Education, do hereby certify that, to the best of my knowledge or belief:

1. The proposed permanent regulations to be added to the NAC Chapter 395 concerning the regulations for Education of Persons with Disabilities are not likely to (a) impose a direct or significant economic burden upon a small business, or (b) directly restrict the formation, operation or expansion of a small business. The proposed regulations make necessary changes to special education regulations per SB 508.
2. A concerted effort was made to determine any economic burden.
3. All relevant materials were reviewed and the Department considered its history with implementing similar regulations; the proposed changes are within the scope of the Department's budget and legislatively approved activities and present no new significant cost of enforcement.
4. Comment has not been solicited from small businesses, and no summary of their response is provided, because small businesses are not impacted by this regulation and thus no burden or economic impact can be assessed.

I hereby further certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the regulation on small businesses and that the information contained in this statement was prepared properly and is accurate.

Respectfully submitted,

Marva Clevon
Director, Office of Special Education