

## NEVADA DEPARTMENT OF EDUCATION

### Notice of Workshop to Solicit Comments on Proposed Regulation

The Nevada Department of Education is proposing regulation language pertaining to the Nevada Administrative Code. The Workshop has been scheduled for **Thursday, August 27, 2015** via video conference at the following locations: **Nevada Department of Education Offices, Board Conference Room, 700 East Fifth Street, Board Room, Carson City and 9890 South Maryland Parkway, 2<sup>nd</sup> Floor Board Conference Room, Las Vegas, Nevada.** The purpose of the Workshop is to solicit comments from interested person on the following general topics to be addressed in a proposed regulation:

**10:10 a.m. Workshop to solicit comments on proposed amendments to NAC Chapter 386, adding provisions for the operation of the Achievement School District within the Department of Education, including but not limited to authority of the executive director, selection of schools, and procedures governing charter operators, as required by AB 448 of the 78th Regular Session.**

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting by telephone Karen Johansen, State Board of Education Office, Nevada Department of Education, at 775-687-9225, or in writing to the Department of Education, 700 East Fifth Street, Carson City, Nevada 89701-5096. A reasonable fee for copying may be charged.

This Notice of Workshop to Solicit Comments on Proposed Regulation has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations: The offices of the Nevada Department of Education in Carson City and Las Vegas, the 17 Nevada School District Superintendents' Offices, the 17 Nevada County main public libraries, the Nevada State Library and Archives, and at the meeting locations.

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STATE OF NEVADA

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DALE A.R. ERQUIAGA  
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**SMALL BUSINESS IMPACT STATEMENT  
PURSUANT TO NRS 233B.0608**

Date: August 3, 2015

Re: Workshop to Adopt Regulations Concerning the Achievement School District (AB448), scheduled for August 25, 2015

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I, Dale A.R. Erquiaga, being the duly appointed Superintendent of Public Instruction, do hereby certify that, to the best of my knowledge or belief:

1. The proposed permanent regulations to be added the NAC Chapter 386 concerning the Achievement School District within the Department of Education 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 provide procedures for the operation of the new district.
2. A concerted effort was made to determine any economic burden. The Department of Education has relied legislative testimony during the consideration and passage of Assembly Bill 448 and consultation with national experts.
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,

A handwritten signature in black ink that reads "Dale A.R. Erquiaga". The signature is written in a cursive style with a large, sweeping flourish at the end.

DALE A.R. ERQUIAGA  
Superintendent of Public Instruction

## **The Nevada Achievement School District**

*These regulations are proposed pursuant to the authority granted to the Department of Education under Assembly Bill 448 of the 78<sup>th</sup> Session (Statutes of Nevada 2015, Chapter 22). Nevada Administrative Code Chapter 386 is amended by adding thereto new language as proposed below:*

### **Section 1. Authority of the Achievement School District Executive Director**

1. The Executive Director shall administer the Achievement School District (ASD), subject to the authority of the state superintendent as governing authority.
2. The Executive Director's authorities shall include but are not limited to:
  - (a) Exercising solely for and on behalf of the ASD all other authority and responsibilities affecting the achievement charter school(s) that are prescribed by law to the board of trustees and superintendent of the original district as determined by the Department of Education;
  - (b) Authorize charter operators;
  - (c) Employ or contract for any staff necessary to implement this act, subject to legislative appropriation or the availability of other funds;
  - (d) Contract with one or more individuals, governmental entities, nonprofit, or for-profit entities to manage the day-to-day operation of any or all schools placed in the ASD;
  - (e) Exercise finance and budget control;
  - (f) Streamline and strengthen management of the school(s);
  - (g) Establish policies, procedures, and organizational structures needed to efficiently and effectively operate the school(s);
  - (h) Negotiate with districts to create memorandums of understanding around substantial changes to schools that are made in lieu of placing those schools in the ASD;
  - (i) Contracting with entities outside of the Department of Education for support with ASD operations; and
  - (h) Establishing a performance management to hold schools accountability for student success.

### **Section 2. School Eligibility**

1. Pursuant to Section 20 of AB 448 from the 2015 session, the Department of Education may determine whether a school has satisfactory student and school performance using the following data:
  - (a) Literacy assessments;
  - (b) Dropout rates;
  - (c) Suspension rates;
  - (d) Credit deficiency;
  - (e) Student attendance;
  - (f) Staff attendance;
  - (g) State assessment data from previous school years;
  - (h) Other assessment data that is nationally normed and/or otherwise approved by the Department of Education; and
  - (i) Any other data which the Department of Education deems appropriate.

2. By October 15 of each year, the Department of Education shall publish a list of schools that are eligible for transfer to the ASD.

### **Section 3. School Selection Process**

1. The ASD Executive Director shall develop a process for soliciting community engagement regarding the selection of eligible schools to enter the ASD. This will include the input of parents of pupils enrolled at the public school that meet the ASD's eligibility criteria. Information shall be made publicly available on the ASD website.

2. The process for selecting schools to enter the ASD will be as follows:

(a) Each year by November 1, the ASD Executive Director will submit a list of not less than 20 percent of ASD eligible schools to the State Board for approval. This list will be posted for public review.

(b) Each year by December 31, the State Board will review and consider the list submitted by the ASD Executive Director at a regular or special meeting.

(c) Each year by December 31, the State Board must approve at least 50 percent of the list of schools submitted by the ASD Executive Director for entry into the ASD. The State Board cannot remove or add schools from the list submitted by the Executive Director.

(d) The Executive Director will consult with the board of trustees of the communities in which the schools have been designated by the State Board and shall solicit parent and public input at any school under consideration.

(e) Each year by April 5, the ASD Executive Director will notify the State Board, school, and board of trustees of his selection of not more than 6 schools for transfer to the ASD.

3. All of the schools that are eligible for entry into the ASD pursuant to Section 2(3) of this regulation that are not selected by the ASD Executive Director to become part of the ASD may be designated Turnaround Schools pursuant to S.B. 92 of the 78<sup>th</sup> Regular Session or may, at the request of the local school district or the State Board, enter into a memorandum of understanding (MOU) establishing clear steps the Department will support for the school to take in order to rapidly improve student performance and school achievement.

### **Section 4. Process for Establishing an ASD School**

1. The ASD has the power to enter into a contract directly with a charter management organization, educational management organization, or other person to operate an ASD charter school. Once this contract is entered into, the ASD is deemed the sponsor of that school for all purposes.

2. The ASD has the ability to authorize additional schools with a charter management organization, educational management organization, or other person to operate pursuant to Section 21 sub (3) of AB 448 from the 2015 legislative session.

### **Section 5. Student Enrollment & Transportation**

1. With regards to a school that is converted to an ASD school, all students who are zoned to attend the ASD school based on enrollment boundaries from the local district but were not yet enrolled at the time of the conversion, including but not limited to kindergarten and first grade students, must have first priority for enrollment in the ASD school. If, after all of these students in this section and section 1 are enrolled, there are open seats in the ASD school, the school

must hold a lottery pursuant to NRS 386.580(2) in order to enroll additional students in the school. ASD schools may weight their lotteries to create diverse student bodies and/or give priority to high-needs students.

2. If and when an ASD school holds a lottery for student enrollment, it must not discriminate on the basis of race, gender, religion, ethnicity, or disability of a student.
3. Upon the request of a parent or legal guardian of a homeschooled child, the governing body of the charter school may authorize the child to participate in a class that is not otherwise available to the child at his or her school or homeschool or participate in an extracurricular activity at the charter school if:
  - (a) Space for the child in the class or extracurricular activity is available;
  - (b) The parent or legal guardian demonstrates to the satisfaction of the governing body that the child is qualified to participate in the class or extracurricular activity; and
  - (c) The child is a homeschooled child and a notice of intent of a homeschooled child to participate in programs and activities is filed for the child with the school district in which the child resides for the current school year pursuant to NRS 392.705.
4. If the governing body of a charter school authorizes a child to participate in a class or extracurricular activity pursuant to this subsection, the governing body is not required to provide transportation for the child to attend the class or activity.

#### **Section 6. Use of District Services & School Facilities**

1. The ASD is responsible for paying all utilities used at its facilities. Extensive repairs to buildings or facilities that cost over \$15,000 are the responsibility of the original district and not the ASD. Any fixtures, improvements or tangible assets added to a school building or facility by the ASD must remain at the school building or facility upon its return to the original district.
2. The ASD may waive facilities requirements and rules for ASD schools that request such waivers if doing so is in the best interest of students in ASD schools.

#### **Section 7. Allocation of Funds & Federal Grants**

1. Each ASD LEA shall produce an annual school budget in the same way that a traditional LEA produces its budget. For the purposes of budgeting and all other operations, each operator of an ASD school can choose whether the LEA for each of its ASD schools is the school itself or the non-profit entity that oversees multiple schools.
2. Each ASD LEA shall receive per-pupil state and local funding in the same way that a traditional LEA receives per-pupil funding. For the purposes of receiving funding and all other operations, each operator of an ASD school can choose whether the LEA for each of its ASD schools is the school itself or a non-profit entity that oversees multiple schools.
3. For the purposes of receiving federal and state categorical grant funds, ASD charter schools or their non-profit parent entities are considered LEAs.
4. ASD schools and their parent entities must comply with all federal, state, and local reporting requirements.
5. If an ASD school is eligible for special education funds, the Department of Education must pay those funds directly to the school if the school is the LEA or the parent organization, if that organization if the LEA.

6. The ASD and all ASD schools are eligible to receive private grants.

### **Section 8. Purchasing & Contracts**

1. The ASD has the same authority and autonomy afforded to local boards of trustees under state law regarding the procurement of services, including but not limited to professional, personal, consulting, operating, and social services, the procurement of immovable property, and the leasing of movable property. As a division of the Nevada Department of Education, the ASD is authorized to procure such services.

### **Section 9. Termination of Charter Contract**

1. Each year, the ASD will conduct a performance review for each ASD charter school. If, as a result of the performance review or other evidence gathered from parent complaints or other sources, the ASD determines that the health, safety, and welfare of students may be threatened; the ASD shall conduct a subsequent in-depth review and prepare a formal report to be issued to the charter school's board and the State Board.

(a) If the subsequent review determines that, in fact, the health, safety, or welfare of students is threatened, then the ASD Executive Director may terminate the contract effective immediately or at the end of the school year.

(b) Parents of students in the ASD charter school for which the contract will be terminated must be notified of the termination by May of the last year that the operator will manage the school. The ASD charter school shall have the right to appeal to the State Board prior to the notification of parents and the public.

2. The ASD may select a new charter operator to operate an ASD charter school for which the contract with an operator has been terminated pursuant to this section. The new operator must be selected through the charter application process as outlined in Section 4. The transition to a new operator must be done between school years and not during a school year.