

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 14, 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) 385.

The time for the hearing is scheduled as follows:

9:05 A.M. Public Hearing and Possible Adoption of proposed regulation R027-16; NAC 385, that provide for the Nevada Educational Choice Scholarship Program (Statutes of Nevada 2015, Chapter 22). Proposed amendments seek to clarify the testing requirements contained in Sec. 11 of the adopted regulations (i.e., R035-15)

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

1. The need and the purpose of the proposed regulations/amendments.
To clarify the language that was previously adopted.
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 Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved.
The amended language clarifies the meaning of "content validity" and narrows the topics the test serves to measure from core academic areas to English language arts and mathematics.
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 May 31, 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.

**PROPOSED REGULATION OF THE
DEPARTMENT OF EDUCATION**

LCB File No. R027-16

April 6, 2016

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

AUTHORITY: §1, section 5 of Assembly Bill No. 165, chapter 22, Statutes of Nevada 2015, at page 87.

A REGULATION relating to education; revising requirements for a norm-referenced test that a private school is required to administer to each pupil for whom grant money is provided pursuant to the Nevada Educational Choice Scholarship Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Nevada Educational Choice Scholarship Program. (Sections 2-6 of Assembly Bill No. 165, chapter 22, Statutes of Nevada 2015, at pages 86-88) Pursuant to the Program, a taxpayer may receive a tax credit against its modified business tax for making a donation to a scholarship organization. (Section 4 of Assembly Bill No. 165, chapter 22, Statutes of Nevada 2015, at page 86) The scholarship organization uses such donations to provide grants to allow pupils who are members of certain low-income households to attend a private school, attend a different public school or participate in certain tuition-based programs at a public school chosen by the parents of the pupils. (Section 5 of Assembly Bill No. 165, chapter 22, Statutes of Nevada 2015, at page 87)

Existing regulations require each registered private school to administer at least one nationally norm-referenced test each year to each pupil for whom grant money is provided and include the results of the test in the record of academic progress of the pupil. Such a test is required to: (1) have high validity, as evidenced by the alignment of the test with nationally recognized content standards as well as specific evidence of content, concurrent or criterion validity; and (2) serve as a measure of pupil achievement in core academic areas for pupils enrolled in kindergarten through grade 12. (Section 11 of LCB File No. R035-15) This regulation instead provides that such a test must: (1) have high content validity; and (2) serve as a measure of pupil achievement in English language arts and mathematics for such pupils. This regulation also defines “content

validity” to mean the extent to which a test accurately measures the subject area that it purports to measure.

Section 1. Section 11 of LCB File No. R035-15, which was adopted by the Department of Education and was filed with the Secretary of State on October 27, 2015, is hereby amended to read as follows:

Sec. 11. 1. At least once each school year, each registered private school shall administer at least one nationally norm-referenced test that has been approved by the Department pursuant to subsection 2 to each pupil on behalf of whom a grant is provided pursuant to section 5 of Assembly Bill No. 165, chapter 22, Statutes of Nevada 2015, at page 87. The registered private school must include the results of the test in the record of the academic progress of the pupil that the school is required to maintain pursuant to subsection 5 of section 5 of Assembly Bill No. 165, chapter 22, Statutes of Nevada 2015, at page 87.

2. Except as otherwise provided in subsection 3, the Department will approve a nationally norm-referenced test for administration to pupils on behalf of whom grants are awarded if:

(a) The test has a reliability coefficient of at least 0.8 measuring the internal consistency of the test;

(b) The test has high *content* validity; ~~{as evidenced by the alignment of the test with nationally recognized content standards as well as specific evidence of content, concurrent or criterion validity;}~~

(c) Norming studies have been conducted on the test within the immediately preceding 10 years; and

(d) The test serves as a measure of pupil achievement in ~~{core academic areas}~~ *English language arts and mathematics* for pupils enrolled in kindergarten through grade 12.

3. The Department may approve a test that does not meet the requirements of subsection 2 for administration to pupils on behalf of whom grants are awarded who are enrolled in kindergarten, first grade or second grade.

4. The Department will maintain a list of each test that is approved pursuant to subsections 2 and 3.

5. *As used in this section, "content validity" means the extent to which a test accurately measures the subject area that it purports to measure.*

BRIAN SANDOVAL
Governor

STEVE CANAVERO, Ph.D.
Interim Superintendent
of Public Instruction

STATE OF NEVADA



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**SMALL BUSINESS IMPACT STATEMENT
PURSUANT TO NRS 233B.0608**

Date: May 11, 2016

Re: Proposed Amendments to Chapter 385 of NAC regarding the Nevada Educational Choice Scholarship Program - specifically, Sec. 11 of R035-15A

I, Steve Canavero, being the duly appointed Interim Superintendent of Public Instruction, do hereby certify that, to the best of my knowledge or belief:

1. The proposed changes to regulations to description of what regulations do and 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 deal only with courses required for a diploma.
2. A concerted effort was made to determine any economic burden. The Department of Education has relied on the expert knowledge of Department staff; the impact is solely on persons seeking an adult standard diploma.
3. All relevant materials were reviewed and the Department considered its history with implementing similar regulations; the proposed changes are within the historic scope of the Department's activities and present no new 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.
5. The revisions of this regulation after its initial drafting were made to description of what changes to regulations do and have no effect on small businesses.

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 blue ink that reads "Steve Canavero".

STEVE CANAVERO, Ph.D.
Superintendent of Public Instruction