

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 **September 1, 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:

1:00 P.M. Public Hearing and Possible Adoption of proposed amendments to R065-16, NAC Chapter 387, relating to the calculation and reporting of enrollment and attendance. The proposed amendments repeal the language in NAC 387.280, as monthly enrollment and attendance reports are no longer necessary for fiscal reporting or school funding purposes. In addition, the proposed amendments revise language in NAC 387.345 to clarify that basic support is based upon average daily enrollment instead of the previous single count day, as required in Senate Bill 508 (Chapter 536, Statutes of Nevada, 2015).

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

1. The need and the purpose of the proposed regulations/amendments.
Due to the changes pursuant to SB508 in the 2015 legislative session, language referring to “count day” is no longer relevant as the basic support guarantee is now measured quarterly and reflective of average daily enrollment (ADE).
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 Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved.
Strike all language and references to “count day.”
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.

7/22/16

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

LCB File No. R065-16

June 14, 2016

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

AUTHORITY: §§1-4, NRS 385.080 and 387.123.

A REGULATION relating to education; revising provisions relating to calculating pupil enrollment for the purpose of computing the basic support guarantee for each school district; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Nevada Plan and declares that “the proper objective of state financial aid to public education is to ensure each Nevada child a reasonably equal educational opportunity.” (NRS 387.121) To accomplish this objective, the Legislature establishes, during each legislative session and for each school year of the biennium, an estimated statewide average basic support guarantee per pupil for each school district. (NRS 387.122) The basic support guarantee for each school district is computed by multiplying the basic support guarantee per pupil that is established by law for the school district for each school year by pupil enrollment. Senate Bill No. 508 of the 78th Session of the Nevada Legislature revised the manner in which pupil enrollment is calculated for the purpose of computing the basic support guarantee for each school district. Prior to the passage of Senate Bill No. 508, pupil enrollment was based upon the count of pupils enrolled in public schools of the school district on the last day of the first school month of the school district, commonly referred to as the “count day.” Senate Bill No. 508 removed the “count day” and instead requires pupil enrollment to be calculated based on the “average daily enrollment” reported by school districts on a quarterly basis to the Department of Education. (NRS 387.1223) Existing regulations provide for the calculation of pupil enrollment for the purpose of computing the basic support guarantee for each school district to be based on the count of pupils on “count day.” (NAC 387.345) **Section 3** of this regulation makes conforming changes relating to the removal of “count day” and the calculation of “average daily enrollment.” **Section 4** of this regulation repeals provisions relating to reports of certain information relating to the count of enrollment and reports of the count of enrollment.

Section 1. NAC 387.193 is hereby amended to read as follows:

387.193 1. A pupil who is enrolled in a program of distance education that has been approved pursuant to NAC 388.830 shall be deemed an enrolled pupil if, for each course of distance education in which the pupil is enrolled:

(a) The course is included on the list of approved courses of distance education prepared and published by the Department pursuant to NRS 388.834;

(b) The name of the pupil is included in the electronic learning management system or the master register of enrollment and attendance required by NAC 387.171; and

(c) Except as otherwise provided in subsection 2, the school district or charter school has evidence of the pupil's progression in the course, as documented in the electronic learning management system or as documented by the pupil's participation in a real-time class session for the course which is conducted by a person who is licensed pursuant to chapter 391 of NRS and who is authorized by the school district or charter school for the course.

2. If a pupil is initially enrolled in a program of distance education during the calendar week immediately preceding the count day prescribed by NRS ~~387.1233~~ 387.1223 and the school district or charter school does not have evidence of the pupil's progression in each course of distance education as required by paragraph (c) of subsection 1, the pupil shall be deemed an enrolled pupil if:

(a) The school district or charter school documents that the pupil attended an orientation for the program of distance education or a similar admittance process for the program of distance education; and

(b) Within the first calendar week after count day, the school district or charter school has evidence of the pupil's progression in each course as documented:

- (1) In the electronic learning management system;
- (2) By the pupil's participation in a real-time class session for the course which is conducted by a person who is licensed pursuant to chapter 391 of NRS and who is authorized by the school district or charter school for the course; or
- (3) By the pupil meeting or otherwise communicating with a person who is licensed pursuant to chapter 391 of NRS and who is authorized by the school district or charter school for the course to discuss the pupil's progress.

3. Each pupil enrolled in a course of distance education offered through a program of distance education must be recorded in full attendance for each week that the school district or charter school has evidence of the pupil's progression in each course as documented:

- (a) In the electronic learning management system;
- (b) By the pupil's participation in a real-time class session for the course which is conducted by a person who is licensed pursuant to chapter 391 of NRS and who is authorized by the school district or charter school for the course; or
- (c) By the pupil meeting or otherwise communicating with a person who is licensed pursuant to chapter 391 of NRS and who is authorized by the school district or charter school for the course to discuss the pupil's progress.

⇒ The information required by this subsection to record the attendance of a pupil must be included in the master register of enrollment and attendance required by NAC 387.171 for that pupil.

4. A pupil who is enrolled full time in a program of distance education provided by:

(a) The board of trustees of a school district must be entered as an enrolled pupil in the master register of enrollment and attendance for the public school to which the pupil is declared affiliated by the board of trustees pursuant to NRS 388.862.

(b) A charter school must be entered as an enrolled pupil in the master register of enrollment and attendance for the charter school.

5. A pupil shall be deemed enrolled full-time in a program of distance education if:

(a) The program of distance education contains the number of school days in session required pursuant to NAC 387.120;

(b) The time that the pupil spends in the program is recorded by the pupil, the parent or legal guardian of the pupil, or by a computerized program; and

(c) The pupil satisfies the requirements of subsection 6 or 7, as applicable for his or her grade level.

6. For purposes of full-time enrollment in a program of distance education, a pupil in kindergarten or in any grade from grades 1 to 8, inclusive, must be enrolled in:

(a) The minimum daily period required pursuant to NAC 387.131; or

(b) A curriculum that is equivalent to the regular school curriculum, if an exception to the minimum daily period has been approved pursuant to subsection 3 of NAC 387.131.

7. For purposes of full-time enrollment in a program of distance education, a pupil in any grade from grades 9 to 12, inclusive, must:

(a) Be enrolled in the number of courses required for full-time pupils pursuant to subsection ~~[4]~~ 3 of NAC 387.345; or

(b) Have a written plan for enrollment prepared for the pupil which demonstrates that the pupil will complete during the school year the number of courses required for full-time pupils.

8. If a pupil is enrolled part time in a program of distance education, the record of the part-time attendance of the pupil must be maintained separately from the record of attendance maintained by the school in which the pupil is otherwise enrolled.

9. As used in this section, "electronic learning management system" means an electronic system used by a school district or charter school to track the enrollment, attendance, progression and participation of a pupil enrolled in a course of distance education offered through a program of distance education provided by the school district or charter school.

Sec. 2. NAC 387.195 is hereby amended to read as follows:

387.195 1. Except as otherwise provided in subsection 2, any pupil who is placed for independent study by a school district pursuant to a plan approved in accordance with NAC 389.720 shall be deemed to be in full attendance for a day if the combined number of minutes during which the pupil is:

(a) Attending school; and

(b) Completing the hours specified in his or her contract for independent study,

⇒ equals more than two-thirds of the number of minutes required for the daily session of his or her grade or category.

2. A pupil enrolled in independent study who is in kindergarten or in any grade from grades 1 to 8, inclusive, shall be deemed enrolled full-time if the pupil is enrolled in:

(a) The minimum daily period required pursuant to NAC 387.131; or

(b) A curriculum that is equivalent to the regular school curriculum, if an exception to the minimum daily period has been approved pursuant to subsection 3 of NAC 387.131.

3. A pupil enrolled in independent study who is in any grade from grades 9 to 12, inclusive, shall be deemed enrolled full-time if:

(a) The pupil is enrolled in the number of courses required for full-time pupils pursuant to subsection ~~{4}~~ 3 of NAC 387.345; or

(b) A written plan for enrollment has been prepared for the pupil which demonstrates that the pupil will complete during the school year the number of courses required for full-time pupils.

4. A pupil who is enrolled in independent study shall maintain a study log, which may be used to verify the pupil's attendance.

5. A pupil placed for independent study must be reported as enrolled on the monthly reports submitted to the Department.

Sec. 3. NAC 387.345 is hereby amended to read as follows:

387.345 1. Except as otherwise provided in subsections ~~{4}~~ 3 and ~~{5}~~ 4, the count of pupils for calculating the basic support for each school district for any *quarter during a* school year is the weighted count of *the average daily* enrollment of pupils in the school district ~~{on}~~ *for* the ~~{last day}~~ *immediately preceding quarter* of the ~~{first school month of the}~~ school year, *reported to the Department pursuant to subsection 1 of NRS 387.1223*, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school ~~{on~~ *the last day of the first school month of the school district for the school year. The last day of the first school month for that district is the last day of the first school month of the school calendar in which the greatest number of pupils attend.} *or university school for profoundly gifted pupils.**

2. ~~{If a school district operates any of its schools under a school calendar which does not provide for enrollment and attendance of pupils on the last day of the first school month as prescribed in subsection 1, the school district may, upon the written approval of the Superintendent of Public Instruction, include in the count of enrollment as prescribed in subsection 1, the count of pupils attending under such a calendar on the school day of that calendar which is within 5 school days of the school day closest to the count day prescribed in subsection 1.~~

~~—3.}~~ On a form prescribed by the Superintendent of Public Instruction, the superintendent of schools of each school district shall certify to the Department ~~{by November 1}~~ *on or before October 1, January 1, April 1 and July 1* of each school year the weighted count of enrollment ~~{as of the day prescribed in subsection 1.}~~ *for the immediately preceding quarter of the school year.* If a charter school *or a university school for profoundly gifted pupils* submits a form pursuant to this subsection, the charter school *or university school for profoundly gifted pupils* shall, upon the request of the sponsor of the charter school, *the governing body of the university school for profoundly gifted pupils* or a school district in which a pupil enrolled in the charter school *or university school for profoundly gifted pupils* resides, provide a copy of the form to the requester.

~~{4.}~~ 3. A school district shall not count a pupil who enrolls in the ninth grade as a full-time pupil for the purpose of calculating the basic support for the school district for a school year unless the pupil is in a minimum of:

- (a) Six courses or the equivalent of six periods per day if he or she is in grade 9, 10 or 11; or
- (b) Four courses or the equivalent of four periods per day if he or she is in grade 12.

~~{5-}~~ 4. A school district shall not count a pupil who is 21 years of age or older on or before September 30 of a school year for the purpose of calculating the basic support for the school district for that school year unless:

(a) The pupil is a pupil with a disability who is eligible to receive the benefits provided by chapter 395 of NRS pursuant to NRS ~~{395.020;}~~ 388.5223; or

(b) The Superintendent of Public Instruction has given express permission for the pupil to be counted.

↳ The grade level of a pupil is determined by the number of credits held by the pupil.

~~{6. If a pupil is counted pursuant to this section and the pupil subsequently enrolls in a public school in another school district before the count day for that school district:~~

~~—(a) The pupil must be included in the count for the school district to which the pupil transferred; and~~

~~—(b) The Department shall make appropriate adjustments to the apportionments made to the school district in which the pupil was initially counted to account for the transfer out of that school district.~~

~~7. Notwithstanding the provisions of NRS 387.1243 to the contrary, if the basic support for a school district or charter school is computed pursuant to NRS 387.1233 using an enrollment number that is larger than the actual enrollment of pupils for the current school year, that larger enrollment number shall be deemed the first month enrollment number rather than the actual count of pupils on count day when determining whether there is an increase in the enrollment of pupils after the second school month pursuant to subsection 4 of NRS 387.1243.~~

—~~8.~~ 5. For the purposes of subsections 2 and 3 of NRS ~~{387.1233,}~~ 387.1223, the enrollment of pupils in a charter school *or in a university school for profoundly gifted pupils* includes the pupils enrolled in the charter school *or university school for profoundly gifted pupils* who reside in the school district in which the charter school *or university school for profoundly gifted pupils* is located and the pupils enrolled in the charter school *or university school for profoundly gifted pupils* who reside outside that school district.

Sec. 4. NAC 386.355 and 387.280 are hereby repealed.

TEXT OF REPEALED SECTIONS

386.355 Apportionment from State Distributive School Account: Count day; prerequisite to receive apportionments. (NRS 386.540, 386.570)

1. Except as otherwise provided in subsection 2, the count day for a charter school is the same as the count day for the school district in which the charter school is located and is the last day of the first school month of that school district.

2. In lieu of using the count day described in subsection 1, a governing body may elect to use the count day for the school district in which the majority of pupils who attend the charter school reside if the charter school:

(a) Is sponsored by the State Public Charter School Authority;

(b) Provides a program of distance education pursuant to NRS 388.820 to 388.874, inclusive;
and

(c) Uses distance education as its primary method of instruction.

3. If a governing body elects to use the count day described in subsection 2, the governing body shall submit to the Superintendent of Public Instruction a written declaration of that election on or before May 1 of the year for which the election is made.

4. To receive apportionments from the State Distributive School Account, a charter school must have pupils enrolled and attending school and account for at least 20 school days in the first school month, which may include days on which class is not in session, including, without limitation, in-service days and conference days for teachers.

5. If an individual pupil is enrolled and attending a charter school at least 1 school day before the count day, that pupil will be counted.

387.280 Reports of enrollment and attendance. (NRS 385.080, 386.540, 387.123)

1. Information about enrollment and attendance which is recorded in the master register of enrollment and attendance must be accumulated at the end of each month for each grade within each school and submitted, in the manner prescribed by the Superintendent of Public Instruction, to the Department within 10 days after the last day of each school month. All reports from a school district must be submitted together and sorted so that all reports from similar kinds of schools are together. Before submission of the reports, each school district shall review the reports to ensure the accuracy and completeness of the reports. If a charter school submits a report pursuant to this subsection, the charter school shall, upon the request of the sponsor of the

charter school or a school district in which a pupil enrolled in the charter school resides, provide a copy of the report to the requester.

2. If a school district operates under more than one school calendar, the district shall submit, in addition to the reports required in subsection 1, the weighted and unweighted count of enrollment on the last day of the first school month of the school year for that district.

3. A pupil must be in attendance at least 1 day of the school month to be counted as enrolled at a school.

BRIAN SANDOVAL
Governor

STATE OF NEVADA

SOUTHERN NEVADA OFFICE
9890 S. Maryland Parkway, Suite 221
Las Vegas, Nevada 89183
(702) 486-6458
Fax: (702)486-6450
www.doe.nv.gov/Educator_Licensure

STEVE CANAVERO, Ph.D.
Superintendent
of Public Instruction



DEPARTMENT OF EDUCATION
700 E. Fifth Street
Carson City, Nevada 89701-5096
(775) 687 - 9200 · Fax: (775) 687 - 9101
<http://www.doe.nv.gov>

SMALL BUSINESS IMPACT STATEMENT
PURSUANT TO NRS 233B.0608

DATE: November 23, 2015

RE: Proposed amendments to NAC 387.280 and NAC 387.0345 regarding reports of enrollment and attendance

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

1. The proposed regulations amendments to NAC 387 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 regulation amendments will remove outdated language that requires a report to be submitted to the Department that is no longer needed. In addition the language calculating basic support guidance to school districts will be amended to account for Average Daily enrollment instead to a single count day enrollment figure. These amendments will parallel the corresponding provisions of the Nevada Revised Statutes.
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 historic scope of the Department's activities and present no 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, appearing to read "Steve Canavero".

STEVE CANAVERO, Ph.D.
Superintendent of Public Instruction