

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption of Regulations of the Nevada Department of Education

The Nevada Department of Education will hold a public hearing on **July 31, 2017 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) 386 and 387.

The time for the hearing is scheduled as follows:

9:00A.M. Public Hearing on proposed amendments to R131-16; NAC Chapters 386 and 387. The proposed amendments concern: authorizing a pupil at a multi-campus school to matriculate to another campus of the multi-campus school; authorizing the sponsor of a multi-campus school to close a campus of the multi-campus school without closing the multi-campus school; authorizing the sponsor of a charter school to require the governing body of the charter school to develop and submit a plan for the recruitment of pupils; establishing provisions relating to enrollment at a charter school; requiring a charter school to provide certain notices to pupils and potential pupils; establishing provisions relating to the restarting of a charter school; establishing provisions relating to weighted lotteries for admission to a charter school; requiring a sponsor of a charter school to submit an application to the Department of Education before accepting an application to form a charter school in certain circumstances; establishing various provisions relating to audits of charter schools; authorizing a committee to form a charter school to create an organization to raise funds on behalf of the charter school in certain circumstances; and providing other matters properly relating thereto.

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

1. SB509 from the 2015 Legislative Session gave the Department of Education authorization to adopt regulations regarding these topic areas, and required the Department to do so in some of the areas.
2. This regulation distinguishes between multi-campus and single campus charter schools and provides clarity on enrollment procedures and gives a sponsor authority to close a campus within a multi-campus school. It gives sponsors authority to require schools to develop recruitment plans with certain requirements. This regulation would require charters to notify all applicants and enrolled pupils of their rights to receive accommodations and support services, as well as the star-rating of the school. It also establishes a process to restart a school and authorizes charters to use a weighted lottery in certain circumstances. It gives clarity on the proper uses of a non-profit fundraising entity for charters, requires the Department to develop a charter school audit guide, and makes other changes relating to annual audits of charter schools.
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 March 14, 2017. 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 [legislative website](#). 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.

BRIAN SANDOVAL
Governor
STEVE CANAVERO, Ph.D.
Superintendent of Public Instruction

STATE OF NEVADA



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

DEPARTMENT OF EDUCATION
Northern Nevada Office
700 E. Fifth Street
Carson City, Nevada 89701-5096
(775) 687 - 9200
Fax: (775) 687 - 9101
www.doe.nv.gov

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

DATE: July 7, 2017

RE: Public Hearing on Proposed Amendments to NAC Chapters 386 and 387
Concerning Charter Schools Scheduled for July 31, 2017.

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

1. The proposed regulation amendments and additions to be added to the NAC Chapters 367 and 387 concerning charter schools 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 and additions make necessary changes to charter school regulations per SB 5098, SB460 and the authority to the Nevada Department of Education in NRS 386.540.
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 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.
5. The Proposed regulation will have no direct or indirect effects.

I hereby further certify that, to the best of my knowledge or believe, 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, P.D.
Superintendent of Public Instruction

**PROPOSED REGULATION OF THE
DEPARTMENT OF EDUCATION**

LCB File No. R131-16

October 4, 2016

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

AUTHORITY: §§1-16, 18 and 22-27, NRS 388A.105; §§17 and 19-21, NRS 388A.110.

A REGULATION relating to charter schools; authorizing a pupil at a multi-campus school to matriculate to another campus of the multi-campus school; authorizing the sponsor of a multi-campus school to close a campus of the multi-campus school without closing the multi-campus school; authorizing the sponsor of a charter school to require the governing body of the charter school to develop and submit a plan for the recruitment of pupils; establishing provisions relating to enrollment at a charter school; requiring a charter school to provide certain notices to pupils and potential pupils; establishing provisions relating to the restarting of a charter school; establishing provisions relating to weighted lotteries for admission to a charter school; requiring a sponsor of a charter school to submit an application to the Department of Education before accepting an application to form a charter school in certain circumstances; requiring the use of the enrollment number from the current school year for the purpose of apportioning money from the State Distributive School Account in the State General Fund for a charter school in certain circumstances; establishing various provisions relating to audits of charter schools; authorizing a committee to form a charter school to create an organization to raise funds on behalf of the charter school in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Department of Education to adopt regulations concerning certain matters relating to charter schools and authorizes the Department to adopt regulations as it determines are necessary to carry out the provisions of law relating to charter schools. (NRS 388A.105, 388A.110) **Section 4** of this regulation allows a pupil who attends one campus of a multi-campus school to matriculate to another campus of the school. **Section 4** authorizes a campus of a multi-campus school to hold an internal lottery for matriculating pupils before holding an external lottery for new pupils. **Section 4** requires a new pupil to apply separately to each campus of a multi-campus school. **Section 5** of this regulation authorizes the sponsor of a multi-campus school to close a campus of the multi-campus school without closing the multi-campus school. **Section 6** of this regulation authorizes the sponsor of a charter school to require the governing body of the charter school to develop and submit a plan to recruit and enroll a population of pupils comparable to the demographics of the area where the charter school is

located. **Section 7** of this regulation provides for the sponsor of a charter school to limit enrollment in the charter school to pupils from certain locations in certain circumstances. **Section 8** of this regulation prohibits a charter school from engaging in certain activities relating to the recruitment and enrollment of pupils. **Section 8** also authorizes the sponsor of a charter school to require the charter school to submit its marketing materials and application for admission to the sponsor for review. **Section 9** of this regulation requires a charter school to notify all applicants and enrolled pupils of their rights to receive accommodations and support services in certain circumstances and of certain information relating to the performance of the charter school. **Section 10** of this regulation requires a charter school to maintain accurate records relating to enrollment and provide certain information to the sponsor of the charter school upon request. **Section 11** of this regulation establishes a process for a sponsor to restart a charter school. **Section 12** of this regulation authorizes a charter school to use a weighted lottery for admission in certain circumstances. **Section 13** of this regulation requires a sponsor of a charter school to submit an application to the Department before accepting an application to form a charter school if the sponsor has not accepted an application to form a charter school for 3 consecutive years. **Section 17** of this regulation requires the Department to consult with sponsors of charter schools to issue a Nevada Charter School Audit Guide. **Section 18** of this regulation authorizes a committee to form a charter school to create an organization to raise funds on behalf of the charter school in certain circumstances. **Section 19** of this regulation revises provisions relating to annual audits of charter schools and university schools for profoundly gifted pupils. **Section 20** of this regulation requires the sponsor of a charter school to commence a proceeding to revoke the written charter or charter contract of the charter school if the sponsor determines that a violation of statute or regulation reported in an annual audit merits the revocation or termination.

Existing law generally requires that, if the enrollment of pupils in a charter school is less than or equal to 95 percent of the enrollment in the preceding school year, the enrollment number from the preceding school year be used for purposes of apportioning money from the State Distributive School Account in the State General Fund. However, existing law further requires that the enrollment number from the current school year be used for the purposes of apportioning money from the Account if the Department determines that a charter school has deliberately caused a decline in the enrollment of pupils in the charter school. (NRS 387.1223) **Section 16** of this regulation interprets the term “deliberately causes a decline in the enrollment of pupils” to include certain actions by the sponsor of a charter school which would have the effect of decreasing enrollment.

Section 1. Chapter 386 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this regulation.

Sec. 2. *“Multi-campus school” means a charter school that operates two or more campuses, each of which has a distinct academic leader who is responsible for its staff and*

NEW FIRST
PARALLEL
SECTION

each of which may serve the same group of grade levels or differing groups of grade levels, under one written charter or charter contract, as applicable.

Sec. 3. *“Single-campus school” means a charter school that serves a specified group of grade levels with a single academic leader responsible for its staff for the entire group of grade levels of the campus regardless of whether the educational programs of the charter school are delivered in one or more than one building.*

Sec. 4. 1. *A pupil who attends one campus of a multi-campus school may matriculate to another campus of the multi-campus school. If there are insufficient spaces at a campus for matriculating pupils, the campus may hold an internal lottery for matriculating pupils from another campus of the multi-campus school before holding an external lottery for new pupils.*

2. *A new pupil must apply to each campus of a multi-campus school through a separate application and lottery process.*

NEW FIRST
PARALLEL
SECTION

Sec. 5. *The sponsor of a multi-campus school may amend the written charter or charter contract, as applicable, to close a campus without closing the multi-campus school.*

Sec. 6. *The sponsor of a charter school may require the governing body of the charter school to develop and submit a plan to the sponsor which includes specific strategies the charter school will use to recruit and enroll a pupil population that is comparable to the demographic composition of the pupil population who attend public schools within the same zone of attendance as the charter school.*

NEW FIRST
PARALLEL
SECTION

Sec. 7. 1. *A charter school may, regardless of whether the charter school offers a program of distance education, request that the sponsor of the charter school limit enrollment in the charter school to pupils who reside in the county in which the charter school is located,*

or to such a county and any adjacent county, if the charter school determines that such a limitation would be in the best interest of the pupils who are enrolled in the charter school.

2. If the sponsor of a charter school determines that restricting the counties from which pupils may be enrolled would be in the best interest of the pupils who are enrolled in a charter school which executes or amends a charter contract on or after January 1, 2017, the sponsor may prohibit the charter school from enrolling pupils from one or more counties.

3. If the sponsor of a charter school determines that a charter school should have its written charter revoked, its charter contract terminated or its governing body reconstituted, the sponsor of the charter school may prohibit the charter school from enrolling additional pupils from any county other than the county from which the charter school enrolls the largest number of pupils.

Sec. 8. 1. A charter school shall not:

(a) Administer a test to a prospective pupil or base an enrollment decision on the results from any test of the ability or achievement of a prospective pupil;

(b) Use financial incentives to recruit pupils;

(c) Design, use or intend to use requirements for enrollment in the charter school, including, without limitation, the payment of fees, expectations for the performance of volunteer work or attendance at informational meetings and interviews, for the purpose of discrimination;

(d) Require a prospective pupil or his or her family to attend an interview or informational meeting as a condition of applying for, enrolling in or attending the charter school;

(e) Except as necessary for a charter school formed pursuant to subsection 9 of NRS 388A.453, require a pupil to:

(1) Submit records from a previous school or provide a copy of an individualized education plan, transcript, report card or any other item prohibited by the sponsor of the charter school before the pupil has accepted admission to the charter school; or

(2) Complete an affidavit to home school, an application to participate in a program for free or reduced-price meals or any other document prohibited by the sponsor of the charter school as a condition of applying for, enrolling in or attending the charter school;

(f) Require the payment of a fee as a condition of applying for, enrolling in or attending the charter school; or

(g) Adopt a fee policy unless the policy is approved by the sponsor of the charter school and contains a provision for the waiver of fees for any pupil who qualifies to participate in a program for free or reduced-price meals, regardless of whether the charter school participates in the program for free or reduced-price meals under the National School Lunch Act or School Breakfast Program, as defined in NRS 387.0693 and 387.073, respectively.

2. The sponsor of a charter school may require the charter school to submit all marketing materials and its application for admission, and any subsequent material revisions to such documents, to the sponsor for its approval. Each such document must be offered in any language required by the sponsor based on an analysis of the demographics of other public schools located near the charter school.

Sec. 9. *Each charter school shall notify all potential and enrolled pupils of:*

1. The rights of pupils with diverse learning needs, including, without limitation, pupils with disabilities, pupils who are enrolled in a program of special education, pupils who are English language learners, pupils who are academically behind their peers and gifted pupils to attend the charter school and receive accommodations and support services; and

2. The performance rating of the charter school pursuant to the statewide system of accountability for public schools, any findings issued by the sponsor relating to the performance audit of or performance framework for the charter school and any performance data required by the sponsor of the charter school, including, without limitation, its cohort graduation rate, if applicable.

Sec. 10. *1. Each charter school shall maintain accurate records relating to enrollment, including, without limitation, records of applications for admission, its lottery process and its waiting list, if applicable.*

2. The sponsor of a charter school may require the charter school to submit an annual report that contains the total enrollment of the charter school and the projected number of pupils selected for admission to the charter school, indicated by grade level and school district of residence for the subsequent academic year.

3. The sponsor of a charter school may require the charter school to submit a list of pupils who entered a lottery for admission to the charter school but were not selected for admission. The list must include, without limitation, each pupil's:

- (a) Full name;*
- (b) Address;*
- (c) Telephone number;*
- (d) Date of birth;*
- (e) School district of residence;*
- (f) Grade level; and*
- (g) Unique identification number, if any.*

4. The Department will assign a unique identification number to each charter school and a unique campus identification number to each campus operated by a charter school. Each charter school shall ensure that the records maintained pursuant to subsection 1 include the appropriate unique identification number and unique campus identification number.

Sec. 11. 1. *If the sponsor of a charter school revokes the written charter or terminates the charter contract of the charter school, as applicable, the sponsor may restart the charter school by soliciting:*

(a) Requests to amend the written charter or charter contract, as applicable, for expansion from operating charter schools; and

(b) Applications for a charter contract from committees to form a charter school and charter management organizations.

↪ The sponsor of the charter school shall review and evaluate such requests or applications on an expedited basis outside of its normal timeline for amendments or applications. The sponsor may select one or more such persons or entities to restart the charter school.

2. The sponsor of a charter school shall grant the person or persons selected by the sponsor to restart a charter school the right of first refusal to acquire any assets of the previous charter school, including, without limitation, any facility owned by the previous charter school. Such person or persons may enter into negotiations to assume a lease of the previous charter school or secure a new facility in close proximity to the previous charter school.

3. If a new charter school selected pursuant to this section will serve the same grade level as the previous charter school, the new charter school must ensure that any pupil who was enrolled in the previous charter school who wishes to enroll in the new charter school is

enrolled in the new charter school before any new pupil may be enrolled. If more pupils who were enrolled in the previous charter school request enrollment in the new charter school at a grade level than the new charter school can accommodate, the new charter school shall hold an enrollment lottery for that grade level.

Sec. 12. 1. *A charter school may develop and use a policy for a weighted lottery for admission that gives preference to one or more categories of pupils over others if the weighting is:*

(a) Necessary to comply with Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et seq.; Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 et seq.; section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; the Equal Protection Clause of the United States Constitution or any applicable federal or state law or to address the specific deficiency and category of pupils outlined in a court order issued to the charter school or its sponsor; or

(b) In favor of one of the following subgroups of educationally disadvantaged pupils:

(1) Pupils who are economically disadvantaged;

(2) Pupils with disabilities;

(3) Migrant pupils;

(4) Pupils with limited English proficiency;

(5) Pupils who are neglected or delinquent; and

(6) Pupils who are homeless.

2. *A policy for a weighted lottery for admission developed pursuant to paragraph (b) of subsection 1 must identify the weight to be assigned to each category of pupils and justify the use of weights to:*

(a) Align to the specific vision and mission of the charter school to meet the needs of a category of pupils described in paragraph (b) of subsection 1; or

(b) Address specific targets to meet or exceed the percentage of pupils in a category of pupils described in paragraph (b) of subsection 1 for the school district or geographic area in which the charter school is located or, if the charter school accepts pupils from multiple school districts, for this State as a whole.

3. A charter school shall not use a weighted lottery for the purpose of creating a charter school exclusively to serve a particular subset of pupils. A charter school that uses a weighted lottery shall continue to implement a broad strategy of outreach, recruitment and retention for all pupils, including, without limitation, educationally disadvantaged pupils as described in paragraph (b) of subsection 1.

4. The adoption and use of a weighted lottery which is consistent with federal and state laws and regulations and any federal guidelines relating to charter schools shall not be construed as discrimination in violation of NRS 388A.453 or any other law or regulation relating to charter schools.

Sec. 13. NAC 386.225 is hereby amended to read as follows:

386.225 1. At least once every 3 years, the Department will conduct a comprehensive review of each sponsor of charter schools that the Department has approved for sponsorship.

2. In conducting a comprehensive review of a sponsor, the Department will:

(a) Review the annual reports submitted to the Department by the sponsor pursuant to NRS

~~386.610.~~ 388A.351.

(b) Determine whether the sponsor has complied with all applicable statutes and regulations.

(c) Determine whether the sponsor has complied with nationally recognized best practices in carrying out its duties as a sponsor.

3. Based on the comprehensive review described in subsection 2, the Department will determine whether to continue or revoke the authorization of the sponsor to sponsor charter schools.

4. If the sponsor of a charter school does not accept and review applications to form a charter school for 3 consecutive years, the sponsor must submit to the Department an application to sponsor additional charter schools before accepting an application to form a charter school or granting a charter contract to a new applicant.

FIRST
PARALLEL
SECTION

Sec. 14. NAC 386.353 is hereby amended to read as follows:

386.353 1. The governing body of a charter school shall not limit the enrollment of pupils in the charter school to a specified number of pupils unless:

(a) The written charter or charter contract, as applicable, identifies a limit on the *total* number of pupils the charter school will enroll, *identifies a limit on the number of pupils the charter school will enroll in a particular grade* or identifies a ratio of pupils to teachers for the charter school;

(b) The charter school limits the enrollment of pupils to a number that corresponds with the maximum capacity of persons allowed to occupy the facility of the charter school as determined by the building, fire or health authority which inspected the facility; or

(c) The charter school has obtained written permission from the Superintendent of Public Instruction pursuant to subsection 5 to set a limit on the enrollment of pupils.

2. If more pupils who are eligible for enrollment apply for enrollment in a charter school than the number of spaces available, the governing body of the charter school shall establish a

waiting list for enrollment in the charter school and place the pupils who were not enrolled in the charter school on the waiting list. The governing body of the charter school shall make available for inspection during the business hours of the charter school a list of the names of pupils on the waiting list.

3. Except as otherwise provided in subsections 5 and 6, if a space for a new pupil becomes available for enrollment, the governing body of the charter school shall *immediately* fill the available space using the lottery system described in its written charter or charter contract, as applicable, to determine to which pupil on the waiting list established pursuant to subsection 2 the governing body will offer the available space for enrollment in the charter school. The governing body of the charter school shall provide notice to the pupil selected pursuant to this subsection of the availability of a space for enrollment in the charter school.

4. Except as otherwise provided in subsection 5, a charter school must enroll the pupil notified by the governing body of the charter school pursuant to subsection 3 if that pupil seeks enrollment in the charter school. If the pupil notified by the governing body of the charter school does not wish to enroll in the charter school, the governing body shall, using the lottery system to select another pupil on the waiting list, provide notice of the available space for enrollment to another pupil until the available space is filled.

5. Not later than the first day of the school year, a charter school may submit an application, on a form prescribed by the Superintendent of Public Instruction, to the Superintendent of Public Instruction for:

(a) Written permission to limit the enrollment of pupils in the charter school pursuant to subsection 1; or

(b) A waiver from the requirement to enroll a pupil from the waiting list pursuant to subsection 4.

6. The Superintendent of Public Instruction may approve an application submitted pursuant to subsection 5 if the governing body of the charter school:

(a) Has entered into an agreement with a provider of software for a program of education used in the charter school; and

(b) Submits documentation which demonstrates that the enrollment of additional pupils in the charter school will be an undue financial burden on the charter school.

7. If the Superintendent of Public Instruction denies an application submitted pursuant to subsection 5, the governing body of the charter school may appeal the decision to the State Board.

8. A charter school that limits the enrollment of pupils pursuant to:

(a) Paragraph (a) of subsection 1 must submit a request to the sponsor of the charter school to amend the written charter or charter contract, as applicable, before enrolling pupils in excess of the approved limit.

(b) Paragraph (b) of subsection 1 must obtain permission from the appropriate building, fire or health authority before enrolling pupils in excess of the maximum capacity allowed to occupy the facility.

Sec. 15. Chapter 387 of NAC is hereby amended by adding thereto the provisions set forth as sections 16, 17 and 18 of this regulation.

NEW FIRST
PARALLEL
SECTION

Sec. 16. 1. *The Department interprets the term “deliberately causes a decline in the enrollment of pupils,” as used in NRS 387.1223, to include:*

(a) The approval of an amendment to a written charter or charter contract, as applicable, to reduce enrollment, eliminate grade levels, convert from a multi-campus school to a single-campus school or cease operations; and

(b) The imposition by the sponsor of a charter school of a requirement, as a condition of renewing a charter contract or allowing the continued operation of any facility of a charter school, to limit future enrollment.

2. As used in this section:

(a) “Multi-campus school” has the meaning ascribed to it in section 2 of this regulation.

(b) “Single-campus school” has the meaning ascribed to it in section 3 of this regulation.

Sec. 17. *The Department, in consultation with the sponsors of charter schools, will issue a Nevada Charter School Audit Guide which recommends the standards for an annual audit of a charter school pursuant to NAC 387.775. The standards must be based upon the best practices of sponsor entities nationally, including, without limitation, treating any foundation or other nonprofit corporation formed exclusively to benefit a charter school as a component unit of the charter school for the purposes of the audit.*

Sec. 18. 1. *A committee to form a charter school may create an organization to raise funds on behalf of the charter school proposed by the committee. Such an organization must be recognized as exempt under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), organized for the sole purpose of benefitting the charter school proposed by the committee and have directors and officers who are:*

(a) Identical to the membership of the committee to form a charter school; or

(b) Not also members of the committee to form a charter school.

2. If a committee to form a charter school creates an organization to raise funds on behalf of a charter school described in paragraph (a) of subsection 1:

(a) The bylaws of the organization and the bylaws of the charter school must explicitly require that, if the charter school is awarded a charter contract, except as otherwise provided in paragraph (g), the membership of the governing body of the charter school and the directors and officers of the organization to raise funds on behalf of the charter school remain identical for the duration of the charter contract;

(b) The sponsor of the charter school shall consider any change to the bylaws of the organization or the bylaws of the charter school to be a material change to the charter contract;

(c) All meetings of the organization must be held simultaneously with meetings of the governing body of the charter school and in compliance with chapter 241 of NRS;

(d) The books and records of the organization must be made available for public inspection at the same times and on the same basis as the books and records of the charter school;

(e) No officer or employee of the charter school may accept compensation from the organization;

(f) The organization shall not provide staff or services to the charter school for compensation; and

(g) Within 3 years after the charter school is awarded a charter contract, the charter school must be recognized as exempt under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), and the organization must dissolve and transfer all its assets to the charter school.

3. If a committee to form a charter school creates an organization to raise funds on behalf of a charter school described in paragraph (b) of subsection 1:

(a) The bylaws of the organization and the bylaws of the charter school must explicitly require that, if the charter school is awarded a charter contract, no director or officer of the organization may serve as a member of the committee to form the charter school or the governing body of the charter school for the duration of the charter contract;

(b) No officer or employee of the charter school may serve on the board of or accept compensation from the organization;

(c) The organization may provide staff or services to the charter school for compensation if it enters into a management agreement as an educational management organization, as defined in NRS 388A.030, with the charter school; and

(d) If the organization is dissolved or ceases to exist for the exclusive purpose of benefiting the charter school, all assets of the organization must be transferred to the charter school.

FIRST
PARALLEL
SECTION

Sec. 19. NAC 387.775 is hereby amended to read as follows:

387.775 1. The governing body of a charter school or university school for profoundly gifted pupils shall cause the charter school or university school for profoundly gifted pupils to be audited on an annual basis.

2. All audits must be performed : ~~{by:}~~

(a) ~~{A}~~ By a certified public accountant ~~{certified or registered;}~~ or accounting firm selected by the governing body of the charter school from a list developed by a committee consisting of two members appointed by the Superintendent of Public Instruction, two members appointed by the State Public Charter School Authority and two members appointed by the Director of the Office of Finance; and

(b) ~~[A partnership or professional corporation registered,~~

~~↪ pursuant to the provisions of chapter 628 of NRS.]~~ *In accordance with the Government Auditing Standards, 2011 Revision, issued by the Comptroller General of the United States. The Department hereby adopts the Government Auditing Standards by reference. A copy of the standards may be obtained free of charge from the United States Government Accountability Office at the Internet address <http://www.gao.gov/yellowbook/overview>.*

3. *The contract between the auditor and the governing body of a charter school or a university school for profoundly gifted pupils must be approved by the governing body not more than 1 month after the close of the fiscal year for which the annual audit is conducted.*

4. Each annual audit must:

(a) Cover the business of the charter school or university school for profoundly gifted pupils during the full fiscal year; *and*

(b) ~~[Be a financial audit conducted in accordance with generally accepted auditing standards in the United States; and~~

~~—(c)]~~ Include:

(1) An analysis of and findings on compliance with applicable statutes and regulations;

(2) A management letter outlining any recommendations for improvement;

(3) An expression of opinion on the financial statements;

(4) If the annual audit relates to a charter school that operates pursuant to a charter contract, an analysis of and findings on compliance with the performance indicators for ~~[finances]~~ *organization* set forth in the performance framework of the charter school; and

(5) Any other comments deemed pertinent by the auditor.

↪ The form of the financial statements must be prescribed by the Department, and the chart of accounts must be, as nearly as possible, the same as that used in the preparation and publication of the annual budget.

~~{4.}~~ 5. The annual audit of the charter school or university school for profoundly gifted pupils must be concluded and the report submitted to the governing body not later than 4 months after the close of the fiscal year for which the audit is conducted.

~~{5.}~~ 6. The opinion and findings of the auditor contained in the report of the audit must be presented at a meeting of the governing body held not more than 30 days after the report is submitted to it.

~~{6.}~~ 7. Immediately thereafter, the entire report, together with the management letter required by generally accepted auditing standards in the United States, must be filed as a public record with:

- (a) The Department;
- (b) The Legislative Counsel Bureau; and
- (c) If the school is a charter school, the sponsor of the charter school.

~~{7.}~~ 8. After the report of the audit is filed by the charter school or university school for profoundly gifted pupils, the report of the audit, including, without limitation, the opinion and findings of the auditor contained in the report of the audit, may be disseminated by or on behalf of the charter school or university school for profoundly gifted pupils for which the report was prepared by inclusion, without limitation, in or on:

- (a) A filing made pursuant to the laws or regulations of this State;
- (b) A filing made pursuant to a rule or regulation of the Securities and Exchange Commission of the United States; or

(c) A website maintained by a charter school or university school for profoundly gifted pupils on the Internet or its successor,

↳ without the consent of the auditor who prepared the report of the audit. A provision of a contract entered into between an auditor and a charter school or university school for profoundly gifted pupils that is contrary to the provisions of this subsection is against the public policy of this State and is void and unenforceable.

~~8.1~~ **9.** If an auditor finds evidence of fraud or dishonesty in the financial statements of a charter school or university school for profoundly gifted pupils, the auditor shall report such evidence to the appropriate level of management in the charter school or university school for profoundly gifted pupils, or to the governing body or sponsor of the charter school or university school for profoundly gifted pupils if the evidence of fraud or dishonesty involved the highest levels of management or the governing body.

~~9.1~~ **10.** The governing body shall act upon the recommendations of the report of the audit within 3 months after receipt of the report, unless prompter action is required concerning violations of law or regulation, by setting forth in its minutes its intention to adopt the recommendations, to adopt them with modifications or to reject them for reasons shown in the minutes.

NEW FIRST
PARALLEL
SECTION

Sec. 20. NAC 387.780 is hereby amended to read as follows:

387.780 1. The Department shall review the annual audit of each charter school and each university school for profoundly gifted pupils to determine whether it complies with the applicable statutes and regulations governing charter schools and university schools for profoundly gifted pupils. Any independent auditor's report, whether upon financial position and results of operations or upon internal financial controls, which the Department believes may not

comply with those regulations must be referred by the Department to the Nevada State Board of Accountancy for investigation and such action in respect to the issuing accountant as the Board may find appropriate in the circumstances.

2. In its review of the annual audits submitted, the Department shall identify all violations of statute and regulation reported therein. Within 60 days after the delivery of the annual audit to the charter school or university school for profoundly gifted pupils, the governing body shall advise the Department *and, for a charter school, the sponsor of the charter school* what action has been taken to prevent recurrence of each violation of law or regulation or to correct each continuing violation. The Department shall evaluate the plan of correction proposed by the charter school or university school for profoundly gifted pupils and, if the plan is satisfactory, shall so advise the governing body ~~and~~ *and, for a charter school, the sponsor of the charter school*. If the plan is not satisfactory, the Department shall advise the governing body *and, for a charter school, the sponsor of the charter school* that it deems the plan inadequate and propose an alternative plan. Within 30 days thereafter, the governing body shall report its assent to the Department's plan or request a hearing before the State Board. The hearing must be held at the next meeting of the State Board, but must not be held more than 90 days after such a request is received. The determination of the State Board is final.

3. If the governing body fails to submit a proposed plan of correction pursuant to subsection 2, or if the Superintendent of Public Instruction determines that the plan established is not being complied with, the Superintendent must, through the Office of the Attorney General, seek a writ from a court of competent jurisdiction to compel compliance ~~and~~ *and, for a charter school, notify the sponsor of the charter school. Upon receipt of such a notice, the sponsor of a charter*

school may commence a proceeding pursuant to NRS 388A.330 to reconstitute the governing body of the charter school, revoke its written charter or terminate its charter contract.

4. If the sponsor of a charter school determines that a violation of statute or regulation reported in an annual audit of the charter school merits revocation of its written charter or termination of its charter contract, the sponsor shall commence a proceeding pursuant to NRS 388A.330 to revoke the written charter or terminate the charter contract of the charter school.

NEW
SECOND
PARALLEL
SECTION

Sec. 21. NAC 387.780 is hereby amended to read as follows:

387.780 1. The Department shall review the annual audit of each charter school and each university school for profoundly gifted pupils to determine whether it complies with the applicable statutes and regulations governing charter schools and university schools for profoundly gifted pupils. Any independent auditor's report, whether upon financial position and results of operations or upon internal financial controls, which the Department believes may not comply with those regulations must be referred by the Department to the Nevada State Board of Accountancy for investigation and such action in respect to the issuing accountant as the Board may find appropriate in the circumstances.

2. In its review of the annual audits submitted, the Department shall identify all violations of statute and regulation reported therein. Within 60 days after the delivery of the annual audit to the charter school or university school for profoundly gifted pupils, the governing body shall advise the Department and, for a charter school, the sponsor of the charter school what action has been taken to prevent recurrence of each violation of law or regulation or to correct each continuing violation. The Department shall evaluate the plan of correction proposed by the charter school or university school for profoundly gifted pupils and, if the plan is satisfactory, shall so advise the governing body and, for a charter school, the sponsor of the charter school. If

the plan is not satisfactory, the Department shall advise the governing body and, for a charter school, the sponsor of the charter school that it deems the plan inadequate and propose an alternative plan. Within 30 days thereafter, the governing body shall report its assent to the Department's plan or request a hearing before the State Board. The hearing must be held at the next meeting of the State Board, but must not be held more than 90 days after such a request is received. The determination of the State Board is final.

3. If the governing body fails to submit a proposed plan of correction pursuant to subsection 2, or if the Superintendent of Public Instruction determines that the plan established is not being complied with, the Superintendent must, through the Office of the Attorney General, seek a writ from a court of competent jurisdiction to compel compliance and, for a charter school, notify the sponsor of the charter school. Upon receipt of such a notice, the sponsor of a charter school may commence a proceeding pursuant to NRS 388A.330 to reconstitute the governing body of the charter school ~~[, revoke its written charter]~~ or terminate its charter contract.

4. If the sponsor of a charter school determines that a violation of statute or regulation reported in an annual audit of the charter school merits ~~[revocation of its written charter or]~~ termination of its charter contract, the sponsor shall commence a proceeding pursuant to NRS 388A.330 to ~~[revoke the written charter or]~~ terminate the charter contract of the charter school.

NEW
SECOND
PARALLEL
SECTION

Sec. 22. Section 2 of this regulation is hereby amended to read as follows:

Sec. 2. "Multi-campus school" means a charter school that operates two or more campuses, each of which has a distinct academic leader who is responsible for its staff and each of which may serve the same group of grade levels or differing groups of grade levels, under one ~~[written charter or]~~ charter contract . ~~[, as applicable.]~~

NEW
SECOND
PARALLEL
SECTION

Sec. 23. Section 5 of this regulation is hereby amended to read as follows:

Sec. 5. The sponsor of a multi-campus school may amend the ~~[written charter or]~~ charter contract ~~[, as applicable,]~~ to close a campus without closing the multi-campus school.

NEW
SECOND
PARALLEL
SECTION

Sec. 24. Section 7 of this regulation is hereby amended to read as follows:

Sec. 7. 1. A charter school may, regardless of whether the charter school offers a program of distance education, request that the sponsor of the charter school limit enrollment in the charter school to pupils who reside in the county in which the charter school is located, or to such a county and any adjacent county, if the charter school determines that such a limitation would be in the best interest of the pupils who are enrolled in the charter school.

2. If the sponsor of a charter school determines that restricting the counties from which pupils may be enrolled would be in the best interest of the pupils who are enrolled in a charter school which executes or amends a charter contract on or after January 1, 2017, the sponsor may prohibit the charter school from enrolling pupils from one or more counties.

3. If the sponsor of a charter school determines that the charter school should have its ~~[written charter revoked, its]~~ charter contract terminated or its governing body reconstituted, the sponsor of the charter school may prohibit the charter school from enrolling additional pupils from any county other than the county from which the charter school enrolls the largest number of pupils.

NEW
SECOND
PARALLEL
SECTION

Sec. 25. Section 11 of this regulation is hereby amended to read as follows:

Sec. 11. 1. If the sponsor of a charter school ~~revokes the written charter or~~ terminates the charter contract of the charter school, ~~as applicable,~~ the sponsor may restart the charter school by soliciting:

(a) Requests to amend the ~~written charter or~~ charter contract ~~, as applicable,~~ for expansion from operating charter schools; and

(b) Applications for a charter contract from committees to form a charter school and charter management organizations.

↳ The sponsor of the charter school shall review and evaluate such requests or applications on an expedited basis outside of its normal timeline for amendments or applications. The sponsor may select one or more such persons or entities to restart the charter school.

2. The sponsor of a charter school shall grant the person or persons selected by the sponsor to restart a charter school the right of first refusal to acquire any assets of the previous charter school, including, without limitation, any facility owned by the previous charter school. Such person or persons may enter into negotiations to assume a lease of the previous charter school or secure a new facility in close proximity to the previous charter school.

3. If a new charter school selected pursuant to this section will serve the same grade level as the previous charter school, the new charter school must ensure that any pupil who was enrolled in the previous charter school who wishes to enroll in the new charter school is enrolled in the new charter school before any new pupil may be enrolled. If more pupils who were enrolled in the previous charter school request enrollment in the

new charter school at a grade level than the new charter school can accommodate, the new charter school shall hold an enrollment lottery for that grade level.

Sec. 26. Section 16 of this regulation is hereby amended to read as follows:

Sec. 16. 1. The Department interprets the term “deliberately causes a decline in the enrollment of pupils,” as used in NRS 387.1223, to include:

(a) The approval of an amendment to a ~~written charter or~~ charter contract ~~[, as applicable,]~~ to reduce enrollment, eliminate grade levels, convert from a multi-campus school to a single-campus school or cease operations; and

(b) The imposition by the sponsor of a charter school of a requirement, as a condition of renewing a charter contract or allowing the continued operation of any facility of a charter school, to limit future enrollment.

2. As used in this section:

(a) “Multi-campus school” has the meaning ascribed to it in section 2 of this regulation.

(b) “Single-campus school” has the meaning ascribed to it in section 3 of this regulation.

Sec. 27. This section and sections 1 to 20, inclusive, of this regulation become effective upon filing with the Secretary of State.

2. Sections 21 to 26, inclusive, of this regulation become effective on January 1, 2020.