

Committee of the Whole
Thursday, September 26, 2024 5:30 PM
McKinley Education Center
301 West F Street
North Platte, NE 69103-1557

1. **Call to Order**
2. **Posting of the Open Meetings Act**
3. **Roll Call**
4. **Approval of Publication**
5. **Approval of Agenda**
6. **Pledge of Allegiance**
7. **Board Engagement**
8. **Public Comment**
9. **Agenda**
 - 9.1. LB 1081-Reading Improvement Act Report
 - 9.2. Rule 10 Assurances
 - 9.3. Commissioner"s Superintendent Advisory Council Report
 - 9.4. Sale of Osgood Elementary Discussion
10. **Adjournment**



NEBRASKA DEPARTMENT OF EDUCATION COMPLIANCE CHECKLIST FOR ACCREDITED SCHOOLS K-12

DEFINITIONS:

002.17 School means an individual attendance center within a school system which provides either elementary, middle, secondary and/or high school education.

002.18 School District means the territory under the jurisdiction of a single public school board as authorized in Chapter 79 of the Revised Statutes of Nebraska.

002.19 School System means a public school district or a nonpublic school or group of nonpublic schools under a governing body organized to provide education in elementary, middle, secondary, and/or high school grades as provided in this Chapter.

CODE SECTION	REGULATORY and STATUTORY REQUIREMENTS	MEETS COMPLIANCE Yes / No
003	MANDATORY REQUIREMENTS FOR LEGAL OPERATION	
003.01 Certification	The school system shall use only persons certificated pursuant to 92 NAC 21 to be a teacher or administrator. Pursuant to 79-1603 R.R.S., persons conducting religion or pre kindergarten classes in nonpublic schools which are not counted as a part of the school's courses for purposes of complying with the requirements of this Chapter are excluded from this requirement. Pursuant to 79-802.01 R.R.S., American Indian language teachers who are approved by the tribe to teach their native language are also excluded from this requirement when conducting native language classes.	
003.05 Graduation Requirements	<p>Each high school shall require from grades nine through twelve at least 200 credit hours for graduation, for which at least 80 percent shall be from the core curriculum. The number of credit hours given for a course may be less than the number of instructional units and may be increased up to 25 percent above the number of instructional units.</p> <p>003.05A By the 2014-15 school year, school districts shall adopt and implement graduation requirements that meet the highest level of rigor of the standards as specified in the state standards set forth in the appendices of this Chapter, including, but not limited to the following:</p> <p>003.05A1 Language Arts. Forty (40) credit hours of Language Arts with course content that includes composition, verbal communication, literature, research skills, and technical reading and writing.</p> <p>003.05A2 Mathematics. Thirty (30) credit hours of mathematics with course content that includes algebraic, geometric, data analysis, and probability concepts.</p> <p>003.05A3 Science. Thirty (30) credit hours of science with course content that includes biological, earth/space, and physical science concepts with corresponding science inquiry skills and laboratory experience.</p> <p>003.05A4 Social Studies/History. Thirty (30) credit hours of social studies/history with course content that includes civics/government, geography, United States and world history, and economic concepts.</p> <p>003.05B School systems may adopt a policy allowing high school credit to be awarded to students enrolled in a middle grades course if the course content and requirements are equivalent to a course offered in the high school.</p>	

	<p>003.05C As required in 92 NAC 18, school systems accept the academic credit earned at Interim Program Schools and issue diplomas to students transferring from Interim Program Schools who have met the requirements for graduation from their own accredited high school.</p>	
<p>003.06 School Year</p>	<p>Each school system shall provide at least the following instruction annually between July 1 and June 30 for the grades it offers: (a) for grades up through grade eight, the time equivalent to 1,032 hours, (b) for grades nine through twelve, the time equivalent to 1,080 hours; and (c) for kindergarten, the time equivalent to 400 hours.</p> <p>When a school is dismissed for any reason such as tournaments or contests, parent/teacher conferences, funerals, parades, and school picnics, time shall not be counted in meeting the 400/1,032/1,080 hour school year requirement. Time scheduled for the school lunch period shall not be counted in meeting the school year requirements.</p> <p>Pursuant to the provisions of 79-213 R.R.S., school systems unable to meet the minimums for instructional hours due to epidemic sickness, severe storm conditions, or destruction of the school house may request permission from the Board to offer fewer than the minimum hours by submitting an affidavit sworn to by the secretary of school board and explaining the circumstances resulting in the request.</p>	

004	CURRICULUM AND STANDARDS	
<p>004.01A-B Instructional Program and Standards</p>	<p>The instructional program of the school system is based on written purposes or standards and is approved by the local board of education or governing body. These documents are on file in each school building and each certificated staff member is provided a copy.</p> <p>School districts adopt academic content standards in the subject areas of reading and writing (language arts), mathematics, and science determined by each district to be measurable quality standards that are the same as, equal to, or more rigorous than the state academic content standards in Appendix A (English Language Arts Standards), Appendix B (Mathematics Standards), Appendix C (Science Standards), and Appendix D (Social Studies Standards) pursuant to 79-760.01 R.R.S. The deadline for school districts to adopt replacement academic content standards will not extend past one year following the State Board's adoption of new content standards. Nonpublic schools have local academic content standards for reading, writing, mathematics, science, and social studies/history approved by the local governing body.</p>	
<p>004.01C Curriculum and Standards</p>	<p>The school system has written guides, frameworks, or standards for all other areas of the curriculum. In connection with this requirement, school systems are encouraged to adopt the Fine Arts Standards adopted by the State Board March 4, 2014. The school system also has a written description of the library media and guidance programs.</p>	
<p>004.01D Writing</p>	<p>Writing experiences are incorporated in all curricular areas K-12.</p>	
<p>004.01E Technology</p>	<p>Educational/computer technology is incorporated in the instructional program at the elementary, middle, and secondary levels.</p>	
<p>004.01F Multicultural Education</p>	<p>The instructional program in public schools incorporates multicultural education in all curriculum areas at all grades. Multicultural education includes, but is not limited to, studies relative to the culture, history, and contributions of African Americans, Hispanic Americans, Native Americans, Asian Americans and European Americans with special emphasis on human relations and sensitivity toward all races. The regulation is based on statute and cannot be waived through Section 013.01 of 92 NAC 10.</p> <p><u>004.01F1</u> The district has a statement of philosophy or mission for the multicultural education program. Local program goals address multicultural education.</p>	

	<p><u>004.01F2</u> The district curriculum guides, frameworks, or standards incorporate multicultural education.</p> <p><u>004.01F3</u> The district multicultural education program includes a process for selecting appropriate instructional materials.</p> <p><u>004.01F4</u> The district has a process for provision of staff development in multicultural education including professional development for administrators, teachers, and support staff which is congruent with local district and program goals.</p> <p><u>004.01F5</u> The district has a process for periodic assessment of the multicultural education program. An annual status report is provided to the local board of education.</p>	
<p>004.02A Elementary Instructional Program</p>	<p>The elementary school has a representative weekly schedule for each classroom teacher encompassing experiences in the following subject areas:</p> <p><u>004.02A1</u> Reading and Language Arts. The curriculum includes development and practice of skills and understanding in reading, writing, speaking, and listening. It helps children develop appreciation of literature, creativity, and expression.</p> <p><u>004.02A2</u> Mathematics. The curriculum includes development, practice, and application of numeration, computation, estimation, problem solving, geometry/spatial concepts, measurement and related topics.</p> <p><u>004.02A3</u> Social Studies. The curriculum helps children to develop an understanding of the world and its people. It includes experiences drawn from geography, history, economics, government, citizenship, career awareness, human relations, current affairs, and cultural studies. This includes instruction in American history and stories about the exploits and deeds of American heroes, singing patriotic songs, memorizing the Star-Spangled Banner and America, and reverence for the flag and proper conduct for its presentation as provided in 79-724 R.R.S.</p> <p><u>004.02A4</u> Science. The curriculum helps children develop an understanding of science concepts and processes, and includes science as inquiry. It includes experiences drawn from physical science, life science, earth and space science, science and technology, and history and nature of science.</p> <p><u>004.02A5</u> Health. The curriculum helps children develop an understanding of the body systems, nutrition, wellness (including physical activity), and healthy living habits.</p> <p><u>004.02A6</u> Physical Education. The curriculum helps children develop and maintain physical coordination, large and small muscle control, physical fitness, leisure activities, and healthy behaviors.</p> <p><u>004.02A7</u> Visual Arts. The curriculum helps children understand and apply a variety of media, techniques, and processes within a range of subject matter, symbols, and ideas. The curriculum includes reflection upon and assessment of art and study of art in relation to history, culture, and other curricular areas.</p> <p><u>004.02A8</u> Music. The curriculum helps children to sing and play a variety of music, read and notate music, listen to and describe music, and evaluate music. The curriculum includes music in relation to history, culture, and other curricular areas.</p>	
<p>004.02B Kindergarten Admissions</p>	<p>For school year 2012-2013 and each school year thereafter, admission to public school kindergarten is on an unqualified basis to all resident children who will reach age 5 by July 31 of the calendar year in the school year for which the child is seeking admission begins. Testing prior to school entrance, if any, is conducted only to identify children with disabilities under 92 NAC 51 or to meet requirements of 79-214(2) R.R.S.</p>	
<p>004.02C K-6 Athletic Limitations</p>	<p>Pupils in kindergarten through sixth grade do not participate in any kinds of athletic contests between schools within a school system or between school systems except that elementary school systems having seventh and eighth grade athletics may include sixth grade boys or girls when combined enrollment for seventh and eighth grade becomes fewer than 12 boys or 12 girls and if the school board or local governing body has a policy regulating participation for sixth graders. Annual field or play days are excluded from this regulation.</p>	
<p>004.03A Middle Grade Instruction</p>	<p>The program in the middle grades includes instruction for each grade each year in the following subject areas. Instruction may be provided through separate courses, integrated blocks of time, and/or through exploratory programs.</p> <p><u>004.03A1</u> Reading. The curriculum includes experiences designed to help students expand, develop and apply reading skills introduced in the elementary grades. It includes reading for both information and enjoyment.</p> <p><u>004.03A2</u> Language Arts. The curriculum includes activities that engage students in using language for a variety of reading, writing, speaking, and listening purposes.</p> <p><u>004.03A3</u> Mathematics. The curriculum includes practice in numeration, computation, estimation, problem solving, geometry/spatial concepts, and measurement. It introduces algebraic and statistical concepts and provides opportunities for students to develop understanding of the structure of mathematics.</p> <p><u>004.03A4</u> Social Studies. The curriculum includes content and experiences drawn from geography, history, economics, citizenship, government, cultural studies, and current events. This includes instruction in American history that makes the course interesting and attractive and to instill a love</p>	

	<p>of country as provided in 79-724 R.R.S. All history courses stress contributions of all ethnic groups in the development and growth of America.</p> <p><u>004.03A5</u> Science. The curriculum includes elements of life, physical, earth and space sciences, science as technology, and history of science. Learning activities emphasize science as inquiry and scientific processes and concepts.</p> <p><u>004.03A6</u> Health. The curriculum includes the study of body systems and those factors which affect health, including natural and man-made threats and individual health choices.</p> <p><u>004.03A7</u> Art. The curriculum includes activities and experiences designed to develop skills in working with a variety of artistic techniques, processes, and media. The curriculum relates art to history and culture and to other curricular areas.</p> <p><u>004.03A8</u> Music. The curriculum includes experiences that involve students in singing and playing musical instruments and provides opportunities for students to pursue individual musical interests and to develop individual talents. It includes the study of a varied repertoire of music and its relation to history and culture.</p> <p><u>004.03A9</u> Physical Education. The curriculum includes active involvement in health-related physical fitness activities designed to develop cardiorespiratory endurance, muscular strength and endurance, and flexibility. It encourages students to develop habits of physical exercise through individual and team activities and by emphasizing involvement rather than competition. Practice for and participation in interscholastic activities cannot substitute for any part of physical education.</p>	
004.03B Middle Grade Career Education	Career education is included in the middle grades program.	
004.03C Middle Grade Athletic Competitions	No student in grades seven or eight participates in interscholastic athletic contests between schools within a school system or between school systems which exceed six games in football, fourteen matches in volleyball, twelve games in basketball, eight meets in wrestling, eight meets in track and field, and eight contests in all other activities. Contest limits shall be based upon the total number of contests played. Each game, match or meet played in a tournament shall count as one of the contests permitted within these contest limits.	
004.04A High School Instructional Units	The high school program consists of courses totaling at least 400 instructional units.	
004.04B1 Language Arts Units	60 instructional units. The curriculum includes written composition, critical reading, interpretation of fiction and non-fiction, oral presentation, and application of listening skills.	
004.04B2 Social Science Units	40 instructional units. The curriculum includes content drawn from American and world history, geography, economics, civics, government and citizenship and may also include content from other social science areas such as sociology, psychology, and anthropology. This includes instruction in the U.S. and Nebraska Constitutions, the benefits and advantages of our government, the dangers of Nazism, Communism, and similar ideologies, the duties of citizenship and the appropriate patriotic exercises to include Lincoln's birthday, Washington's birthday, Flag Day, Memorial Day and Veterans Day as provided in 79-724 R.R.S. All history courses stress contributions of all ethnic groups in the development and growth of America.	
004.04B3 Math Units	40 instructional units. The curriculum includes communicating, reasoning, problem solving, numeration, computation, estimation, measurement, geometry, data analysis, probability and statistical concepts, and algebraic concepts.	
004.04B4 Science Units	40 instructional units. The curriculum includes science concepts and processes, science as inquiry, physical science, life science, earth and space science, science and technology, and history and nature of science.	

<p>004.04B5 World Languages Units</p>	<p>20 instructional units or two years of daily classes in the same language. The curriculum includes reading, writing, speaking, and listening skills for communicating in one or more languages other than English, knowledge and understanding of other cultures, and developing insight into the nature of language and culture.</p>	
<p>004.04B6 Career Education Units</p>	<p>Beginning in 2010-11, the curriculum includes 80 instructional units in Career Education that include instruction in any of the following career fields: (1) Arts, Communication, and Information Systems, (2) Business, Marketing, and Management, (3) Environmental and Agricultural Systems, (4) Health Sciences, (5) Human Services and Resources, and (6) Industrial, Manufacturing, and Engineering Systems.</p> <p><u>004.04B6a</u> Communication and Information Systems. The curriculum in this career field includes areas such as advertising, public relations, commercial photography, journalism, graphic design, broadcasting, scriptwriting, radio/TV production, computer applications, web design, interactive media, networking, e-commerce, computer science, and information technology.</p> <p><u>004.04B6b</u> Business, Marketing, and Management. The curriculum in this career field includes areas such as e-commerce, business communication, finance, business and consumer law, entrepreneurship, accounting, business economics, personal finance, consumer economics, financial services marketing, retailing, fashion marketing/merchandising, clothing and textiles, international marketing, sports and entertainment marketing, hospitality and recreation marketing.</p> <p><u>004.04B6c</u> Environmental and Agricultural Systems. The curriculum in this career field includes areas such as animal, plant, and soil sciences, agribusiness, food sciences, power, structural and technical systems, leadership and human resource development, natural resources, and environmental science.</p> <p><u>004.04B6d</u> Health Sciences. The curriculum in this career field includes areas such as nutrition and food, family health, medical terminology, certified nursing assistant, and health care sciences.</p> <p><u>004.04B6e</u> Human Services and Resources. The curriculum in this career field includes areas such as independent/adult living, home management, housing and home furnishings, family health, clothing and textiles, leadership and human resource development, business management, business law, international business, criminal justice, human growth and development, interpersonal relationships, parenting/child development, and applied psychology.</p> <p><u>004.04B6f</u> Industrial, Manufacturing, and Engineering Systems. The curriculum in this career field includes areas such as housing and home furnishings, woods and construction, construction/electricity, construction/home maintenance, computer aided drafting, metals and welding, manufacturing/metalworking, manufacturing/woodworking, millwork and cabinetmaking, electronics, technology engineering education, Principles of Technology, technology education, transportation power/auto mechanics, automotive services, data base management and computer applications.</p> <p><u>004.04B6g</u> Nonpublic college preparatory schools may substitute additional courses in language arts, foreign language, science, mathematics, and/or social science for up to 40 instructional units in career and technical education.</p>	
<p>004.04B7 Health / Physical Education Units</p>	<p>20 instructional units or two years of daily classes in personal health and physical fitness. The personal health and physical fitness curriculum includes content to emphasize life-long wellness habits. The curriculum emphasizes non-participation in high risk behavior. The physical fitness curriculum includes an active program of health-related physical fitness, including cardiorespiratory endurance, muscular strength and endurance, flexibility, and body composition. Practice for and participation in interscholastic athletic activities are not accepted as a substitute for any part of the personal health and physical fitness requirement.</p>	

<p>004.04B8 Visual and Performing Arts Units</p>	<p>40 instructional units which include each year instruction in vocal music, instrumental music, and visual arts. It may also include dance and theater. The visual and performing arts curriculum includes performance, interpretation, and evaluation.</p> <p><u>004.04B8a</u> Music. The curriculum includes singing and playing a varied repertoire of music, improvising melodies and accompaniments, reading and notating music, listening to and describing music, evaluating music and music performances, recognizing relationships between music and the other disciplines, and the study of music in relation to history and culture.</p> <p><u>004.04B8b</u> Visual Arts. The curriculum includes media, techniques, and processes; choice and evaluation of a range of subject matter, symbols, and ideas; assessment of characteristics and merits of student work and the work of others; and the visual arts in relation to other disciplines.</p>	
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005	ASSESSMENT	
<p>005.01A-B Assessment Plan</p>	<p><u>005.01A</u> All school districts participate annually in statewide assessments in compliance with the schedule as outlined in Appendix E. Nonpublic schools have an assessment plan which includes a schedule and procedures for assessing success in achieving their academic content standards. Student success in achieving their standards is reported to the head administrator or governing board of the nonpublic school.</p> <p><u>005.01B</u> Whole grade norm-referenced assessment using a national assessment instrument begins no earlier than grade two and is conducted annually in at least one grade in each of the following two levels: grades 2-5; grades 6-8. A national assessment instrument is administered at least once in the high school grades. The Board's recommendations for assessing and reporting are found in Appendix E of this Chapter.</p>	
<p>005.02A-C Statewide Assessment</p>	<p><u>005.02</u> Each school year, for the purpose of implementing a statewide system of tracking student achievement as required by 79-760.05 R.R.S., school districts shall report by June 30 of each school year the following data to the Department electronically via the NSSRS portal using the Department's student identifier system:</p> <p><u>005.02A</u> Individual student demographics including each student's race, poverty status, high mobility status, attendance, and limited English proficiency;</p> <p><u>005.02B</u> Individual student achievement including individual student achievement data from the state assessment instruments required in Section 005.01A and scores and subscores available to the district on national assessment instruments administered by the district; and</p> <p><u>005.02C</u> Individual student educational input characteristics including class size, teacher education, teacher experience, special education, early childhood programs, federal programs, and targeted education programs.</p>	
<p>005.03 Student Assistance Process</p>	<p>Each school has a student assistance process of its own design to provide problem solving and intervention strategies.</p>	

006	LIBRARY AND MEDIA	
<p>006.01A Library/ Media Area</p>	<p>Each school has a library media area(s) which is available to students during the entire school day. All library media resources are properly cataloged, marked, and shelved according to a standard classification system.</p> <p>Each school has at least one set of encyclopedias available in either print or electronic format with copyright dates in the past five years.</p>	
<p>006.01B New Library Resources</p>	<p>Each elementary school acquires a minimum of 25 new library media resources in print format, exclusive of textbooks and encyclopedia, of different titles, per teacher per year, up to 150 titles during one year.</p> <p>The minimum number of new titles in print format is 75 if library media resources are also available through electronic format. Each middle and high school acquires a minimum of 150 titles each year in either print or in full text electronic format.</p>	

006.01C Middle Grade Periodicals	Each middle level school subscribes to at least ten periodicals either in print or in full text electronic format.	
006.01D Secondary School Periodicals	Each secondary school subscribes to at least 25 periodicals in print or in full text electronic format.	
007	INSTRUCTIONAL PROGRAM	
007.01A Elementary Endorsed	Computed on a full-time equivalency basis, a minimum of 95 percent of the teachers in the elementary grades are assigned to areas for which they hold certificates having appropriate endorsements pursuant to 92 NAC 24.	
007.01B Pre-K Coordinator	Pre-kindergarten programs operated by public schools are coordinated by a staff member who holds a Nebraska Teaching Certificate with at least 9 college credit hours in early childhood education.	
007.02A Middle Grades Endorsed	<p><u>007.02A</u> Computed on a full-time equivalency, at least 90 percent of the teachers in middle grades hold one of the following endorsements or meet the provisions of Sections 007.02A1a or 007.02A4:</p> <p><u>007.02A1</u> In grades seven and eight, any middle grades endorsement or an appropriate secondary endorsement.</p> <p><u>007.02A1a</u> Teachers holding an elementary endorsement may teach in grades seven and eight if they acquire six credit hours per year toward the middle grades endorsement or participate in staff development in accordance with a local mission and plan for education of middle grade students.</p> <p><u>007.02A2</u> In grades four through six, an elementary endorsement or any middle grades endorsement</p> <p><u>007.02A2a</u> Teachers holding a content area endorsement at the secondary level may teach grade six in that content area if they acquire six credit hours per year toward the elementary or middle grades endorsement or participate annually in staff development in accordance with a local mission and plan for education of middle grade students.</p> <p><u>007.02A3</u> In grade nine, an appropriate secondary endorsement or any middle grades endorsement.</p> <p><u>007.02A4</u> Teachers not holding an appropriate endorsement may be assigned to the middle grades if they acquire six credit hours per year toward a middle grades endorsement.</p> <p><u>007.02A5</u> Secondary teachers assigned to integrated courses or curriculum in grades seven through nine are considered appropriately endorsed if they hold an endorsement for any of the subjects or fields included in the course.</p>	
007.03A Secondary School Endorsed	<p><u>007.03A</u> At least 80 percent of the instructional units offered in secondary grades during the regular school term are assigned to teachers who hold certificates having appropriate endorsements issued pursuant to 92 NAC 24. If 92 NAC 24 does not provide an endorsement designated for a particular course or subject area, any teacher holding a regular certificate may instruct such course without penalty to the school system. Teachers holding a subject endorsement are considered appropriately endorsed for any other subject within the broad field if they annually acquire, prior to the opening of school, six credit hours toward the subject endorsement or the broad field endorsement.</p> <p><u>007.03A1</u> Teachers assigned to integrated courses or curriculum in accordance with Sections 002.11 and 004.04C1 are considered appropriately endorsed if they hold an endorsement for any of the subjects or fields included in the course.</p>	

007.04A System Library/ Media Staffing	<u>007.04A</u> Each K-12 school system and each secondary school system has a person holding a Nebraska Teaching Certificate with an endorsement appropriate for library science or educational media specialist, or meeting Section 007.04B, assigned on at least a one-half time basis to provide library media services to the school system.	
007.04A1 Building Media Staffing	<u>007.04A1</u> Each school building having an enrollment of from 70 to 249 students has a person holding a valid Nebraska Teaching Certificate with an appropriate endorsement for library science or educational media specialist assigned on at least a one-fifth time basis or has a library media paraprofessional assigned on at least a one-half time basis under the supervision of a certificated staff member.	
007.05A Guidance Staffing	<u>007.05A</u> Each K-12 and each secondary school system assigns at least a one-half time equivalency person to conduct a guidance and counseling program. The level of assignment is determined by the local school system and the person assigned holds a guidance and counseling endorsement appropriate for the level(s) assigned. When enrollment in a school system exceeds 400, the system assigns at least one full-time equivalency appropriately endorsed person.	
007.05B Guidance Staffing Middle and High School	<u>007.05B</u> School systems having a total of 300 or more students in the middle grades, secondary grades, or high school grades assign at least a one-half time appropriately endorsed person to provide guidance and counseling for the level. When the total enrollment in any of those levels reaches 450, one full-time equivalent appropriately endorsed person is assigned. Thereafter, an additional one-half time appropriately endorsed person is assigned for each 225 students at any of those levels.	
007.05C Elementary Guidance Program	<u>007.05C</u> School districts having 300 or more students in the elementary grades have guidance programs or services available for the elementary students. The procedures and time allotment are determined by the local school district.	
007.06A Certificated Staff Evaluation	<p><u>007.06A</u> The school district has a written board policy for the evaluation of teachers. The policy is approved by the Department as required by 79-318 (5)(h) R.R.S. Sections 007.06A through 007.06B are based on statute and cannot be waived under the provisions of Section 013 of 92 NAC 10.</p> <p><u>007.06A1</u> The policy is implemented by written procedures that include:</p> <p><u>007.06A1a</u> Annual written communication of the evaluation process to those being evaluated;</p> <p><u>007.06A1b</u> A description of the duration and frequency of observations and written evaluations for probationary and permanent teachers;</p> <p><u>007.06A1c</u> Specific district-defined evaluation criteria, which include, at a minimum:</p> <p><u>007.06A1c(1)</u> Instructional performance,</p> <p><u>007.06A1c(2)</u> Classroom organization and management, and</p> <p><u>007.06A1c(3)</u> Personal and professional conduct.</p> <p><u>007.06A1d</u> Provision for written communication and documentation to the evaluated teacher specifying all noted deficiencies, specific means for the correction of the noted deficiency, and an adequate timeline for implementing the concrete suggestions for improvement;</p> <p><u>007.06A1e</u> Provision for the teacher to offer a written response to the evaluation; and</p> <p><u>007.06A1f</u> A description of the district plan for training evaluators.</p> <p><u>007.06A2</u> In the event a district changes its policies or procedures for certificated-employee evaluation, it shall submit the revised policies and procedures to the Commissioner or designee for approval. If the Commissioner or designee finds the policies and procedures in compliance with the requirements of Sections 007.06A through 007.06A1f, of this Chapter, it notifies the district in writing that such policies and procedures are approved. Such approval shall remain in effect until there is a change in the policies or procedures by the district, or the amendment of state law or regulations relating to such approval. In the event the Commissioner or designee does not find the revised policies and procedures of the district in compliance with the provisions of this Chapter, the Commissioner or designee will notify the district in writing and the district may resubmit amended policies and procedures.</p>	
007.07A Staff Development	The school system annually conducts or arranges staff development sessions. Each teacher participates in at least ten hours of staff development activities each year.	
008	ADMINISTRATIVE STAFF	

<p>008.02A Administrative Staffing and Endorsement</p>	<p><u>008.02</u> Each elementary school has a principal assigned who holds a Nebraska Administrative and Supervisory Certificate with an endorsement appropriate for serving as an elementary principal or for superintendent.</p> <p>When the number of full-time equivalency teachers supervised by a principal in one or more school systems reaches 10, the principal is assigned at least one-half time for administration and supervision. The principal is assigned full-time when the number of full-time equivalency teachers reaches 20 or more.</p>	
<p>008.03A Middle Grades Endorsement Options</p>	<p><u>008.03A</u> Each middle grades school has a principal who holds a Nebraska Administrative and Supervisory Certificate with an endorsement for middle grades principal, elementary principal, secondary principal or for superintendent.</p> <p><u>008.03A1</u> Middle grades schools having only grades four through six have a principal holding an endorsement for elementary principal, middle grades principal, or superintendent.</p> <p><u>008.03A2</u> Middle grades schools having only grades seven through nine have a principal holding an endorsement for middle grades principal, secondary principal, or superintendent.</p>	
<p>008.03B Middle Grades Principal Staffing</p>	<p><u>008.03B</u> When the number of full-time equivalency teachers supervised by the principal reaches 10, the principal is assigned at least one-half time for administration and supervision. The principal is assigned full-time when the number of full-time equivalency teachers reaches 20 or more.</p>	
<p>008.04A Secondary Grades Principal Staffing</p>	<p><u>008.04A</u> Each secondary school has a principal assigned who holds a Nebraska Administrative and Supervisory Certificate with an endorsement for serving as a secondary principal or for superintendent. When the number of full-time equivalency teachers reaches 10 or more, the principal is assigned at least one-half time for administration and supervision. The principal is assigned full-time for administration and supervision when the number of full-time equivalency teachers reaches 20 or more.</p>	
<p>008.05A Head Administrator Endorsement</p>	<p><u>008.05A</u> Each K-12 and each secondary school system having grades ten through twelve has a head administrator who holds a Nebraska Administrative and Supervisory Certificate with an endorsement for serving as a superintendent. Nonpublic systems may share an area or diocesan head administrator.</p>	
<p>008.05B Administrative Positions Endorsement</p>	<p><u>008.05B</u> Any person assigned to administrative and/or supervisory duties holds a Nebraska Administrative and Supervisory Certificate with an appropriate endorsement for the position held.</p>	
<p>008.05C Certificates Filed</p>	<p><u>008.05C</u> A copy of the certificate or permit of each staff member who is required to have a certificate is on file in the school or school system's administrative office. Upon initial employment or acquisition of a new certificate, the certificate or permit is registered by the head administrator of the school system in accordance with 79-804(1) R.R.S.</p>	

<p>009</p>	<p>CONTINUOUS IMPROVEMENT</p>	
<p>009.01A Continuous Improvement Plan</p>	<p><u>009.01A</u> The school system develops and implements a school improvement process to promote quality learning for all students. This process includes procedures and strategies to address quality learning, equity, and accountability. In public schools, the process incorporates multicultural education as described in 004.01G. In all school systems, the school improvement process includes the following activities at least once within each five years.</p> <p><u>009.01A1</u> Review and update of a mission or vision statement.</p> <p><u>009.01A2</u> Collection and analysis of data about student performance, demographics, learning climate, and former high school students.</p> <p><u>009.01A3</u> Selection of improvement goals. At least one goal is directed toward improving student performance.</p> <p><u>009.01A4</u> Development and implementation of a plan which includes procedures, strategies, or actions to achieve goals.</p> <p><u>009.01A5</u> Evaluation of progress toward improvement goals.</p>	

009.01B External Visit	The school improvement process includes a visitation by a team of external representatives to review progress and provide written recommendations. A copy of the written recommendations is provided to the Department. The external team visits are conducted at least once each five years.	
010	ACCOUNTABILITY REPORTING	
010.01A Annual Written Report	010.01A The school system annually prepares a written report which includes at least student academic performance as required in Section 005.02, school system demographics, school improvement goals and progress and, in the case of public schools, financial information. School systems report the information in accordance with the policy in 010.01B.	
010.01B Policy for Performance Report(s)	010.01B The school system has a written policy for annually preparing and distributing the performance report(s) required in Section 010.01A to the residents of the district or, in the case of nonpublic schools, to the appropriate body. The policy assures that individual test scores are kept confidential. If the school has fewer than ten students in the grades being reported, or if reporting would allow for the identification of students because they all had comparable scores, no public reports of student performance are provided for those grades.	
011	SCHOOL ENVIRONMENT	
011.01A Building Safety	011.01A Each school system maintains safe, healthful, and sanitary conditions within the school building(s) and on the school grounds and meets fire, safety, and health codes.	
011.01B Safety Plan	011.01B Each school system has a safety and security plan for the schools in the system. The plan addresses the safety and security of students, staff, and visitors. The plan is approved by the local governing body.	
011.01C Safety Committee	011.01C Each school system has a school safety and security committee which includes representatives of faculty, parents, and the community. The committee meets at least annually to prepare and/or review safety and security plans and procedures, including emergency plans and procedures.	
011.01D Safety and Security Visit	011.01D The school system's safety and security plan(s) are reviewed annually by one or more persons not on the local school system safety committee and not an employee of the school system. This review will include a visit to school buildings to analyze plans, policies, procedures, and practices and provide recommendations. Any recommendations made as a result of the analysis are forwarded to the head administrator and to the school safety and security committee to be considered in making revisions to the plan.	
011.01E Seclusion and Restraints	011.01E Each school system has a seclusion and restraints policy approved by the school board or local governing body.	
011.01F Bullying	011.01F Each school system shall develop and adopt a policy concerning bullying prevention and education for all students. The school system shall review the policy annually.	
011.01G Dating Violence Policy	011.01G Pursuant to 79-2,141 (2) R.R.S., each school district shall develop and adopt a specific policy to address incidents of dating violence involving students at school. This policy shall include a statement that dating violence will not be tolerated.	
012	SCHOOL SYSTEM GOVERNANCE	

012.01A Written Board Policies Accessible	<u>012.01A</u> The governing body has a written set of policies for the school system. These policies are accessible in each school building.	
012.01B Policy On Instructional Hours	<u>012.01B</u> The school system has a written policy which assures that each school will meet the statutory requirement of at least 400 hours for kindergarten, at least 1,032 hours for students up through grade eight, and at least 1,080 hours for students in grades nine through twelve. The policy(ies) or regulations stipulate the conditions for which individual students may be excused from the regular school day.	
012.01C Ratio of Pupils to Certificated Staff	<u>012.01C</u> The ratio of pupils to certificated staff members, computed on a full-time equivalency basis, in each school does not exceed 25 to 1.	
APPENDIX		
Americanism Committee	School Board has an Americanism Committee to carry out 79-725	
Character Education	Character education instruction emphasis in public and nonpublic classrooms 79-725	
Seizure Safe Schools	Public, private, denominational, and parochial schools educate staff as outline in the Seizure Safe Schools Act 79-3201	
Financial Literacy	Meet Financial Literacy component as outlined in NE Revised Statute 79-3001 through 79-3004	

Updated August 2023

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MEMORANDUM

To: Superintendent Todd Rhodes and Director Stuart Simpson

FROM: Steve Williams

DATE: August 26, 2024

RE: Sale or Disposition of School District Property

I am writing to respond to your questions about the sale or other disposition of school district property. North Platte is considering the sale of a one track elementary school that is no longer being used by the district. You have asked about the available options and about the process for disposing of the property. This memorandum will summarize your options for disposal of the property.

DUTY TO RECEIVE VALUE FOR PROPERTY

Often when a school board decides to dispose of real property, the board members feel pressure to donate the property to a local organization or municipality so that the building remains available to the community. We recommend against caving in to this pressure.

Lack of Authority to Give Gifts. It is well settled law that a school district in Nebraska is a creature of statute and possesses no other powers than those granted by the Legislature. *School District of Seward Ed. Association vs. School District of Seward*, 188 Neb. 772 (1972). Except as granted by statute, a school district is without power to act. *Connot vs. Monroe*, 193 Neb. 453 (1975). As will be further discussed below, the legislature has explicitly granted school boards the power to *sell* school district property. NEB. REV. STAT. § 79-10,114.

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ATTORNEYS LICENSED IN STATES INDICATED

However, there is no statute which permits the district to give gifts of school district property. Consequently, the Nebraska Department of Education's Office of the Commissioner of Education has advised that "a school district does not appear to have authority to just 'give away' its property, if that property has value." *Advisory Letter #1* (August 23, 1993). Thus, a school district cannot dispose of property without compensation or for less than its fair market value.

Application of Political Accountability and Disclosure Statutes.

In the abovementioned advisory letter warning school districts against giving away school district property, the Commissioner noted that the political accountability and disclosure statutes may also prohibit the giving of gifts by a school district. He cited what is now section 49-14,101.01(2) of the Nebraska Statutes which states in pertinent part:

" . . . A public official or public employee shall not use or authorize the use of personnel, resources, property, or funds under his or her official care and control other than in accordance with prescribed constitutional, statutory, and regulatory procedures or use such items, other than compensation provided by law, for personal financial gain."

The Commissioner noted that these provisions apply to elected or appointed members of school boards and any employee of the state or a political subdivision, such as a superintendent. Further, the Commissioner pointed out that donating something of value to a business or organization with which a public official or employee is affiliated, could be a violation of other sections of the Political Accountability and Disclosure Act, or a violation of section 28-924 regarding misconduct of a government officer or employee. The violation of section 49-14,101.01 is a Class III misdemeanor which carries a maximum penalty of a \$500 fine, or three months imprisonment, or both.

Duty to Receive the Best Price for District Property. Not only does the district lack authority to gift school district property, but the board of education has an obligation to the taxpayers to try to obtain the best price for school property. Courts have held that each member of the board "owes an undivided duty to the public [and cannot] act other than for the best interest of the public." *Public Officers and Employees*, 63 Am. Jur.2d § 321.

On at least one occasion, the Nebraska Supreme Court has indicated that school board members have an obligation to act in the best financial interest of the taxpayers whom they represent. In *Grein v. Board of Education*, 216 Neb. 158, 165 (1984), the Nebraska Supreme Court wrote "it is axiomatic that concerns of citizens and taxpayers of the school district

include the fiscal policy and cost of operating the district. The district's expenses will ultimately be reflected in taxes borne by the taxpayers."

If the board of education sells the property for less than the property's fair market value, the taxpayers of the school district will, in effect, be taxed to make up the difference between the fair market value of the land and the amount paid by the purchasers. The Nebraska Supreme Court has held that the state constitution prohibits one group of taxpayers from being taxed for the benefit of another group. *See e.g., Mann v. Wayne County Board of Equalization*, 186 Neb.753, 186 N.W.2d 729 (1971). *Id.*

Thus, it is implicit that the board of education is obligated to obtain fair market value when it seeks to dispose of property. This is consistent with the obligations explicitly imposed upon school districts by courts, constitutions, and statutes in other states. *See, New City Jewish Center v. Flagg*, 490 N.Y.S.2d 560 (noting that a school board is charged with the duty to seek the best price obtainable in selling property). *See also, City of Bluefield v. Taylor*, 365 S.E.2d 51 (W. Va. 1987) (discussing a district's obligation to sell property at auction in compliance with state statute to ensure property is sold for proper value). Furthermore, although the district does not hold this property in trust as a fiduciary trustee, this obligation is consistent with the duty imposed upon the Nebraska Board of Educational Lands and Funds to "obtain a maximum return" in selling the property entrusted to it. *State ex rel. Raitt v. Peterson*, 156 Neb. 678 (1953).

Summary of Advice Against Disposing of Property without Obtaining Fair Market Value. The board has a responsibility to maintain school district assets and to see that those assets are used for school purposes. The school district would not have the authority to make a gift of the property for the benefit of a private person. Similarly, we have not been able to find any statutory authority over the years that would allow a school district to simply make a gift of property to a political subdivision or civic organization. It is my recommendation that the school district should not proceed in that fashion.

DISPOSING OF PROPERTY FOR FAIR MARKET VALUE

Nebraska law authorizes the board to sell the property at its fair market value:

No school property of any kind belonging to any Class III or IV school district shall be sold by the school board or board of education except at a regular meeting of the board and with an

affirmative recorded vote of at least two-thirds of all the members of the board.

NEB. REV. STAT. § 79-10,114 (emphasis added).

In disposing of property in this matter, courts in other jurisdictions have indicated that the board is afforded "broad discretion" in exercising its judgment to sell a parcel of land consistent with statutory authorization, and that such discretion will not be overturned unless manifestly abused. *Veal v. Smith*, 221 Ga. 712, 715 (1966).

Determining or Defining Fair Market Value. "'Fair market value' is generally defined as the price which a purchaser, willing but not obliged to buy, would pay an owner, willing but not obliged to sell, taking into consideration all uses to which the property is adapted and might, in reason, be applied. In determining fair market value, the trial court may consider any competent evidence of matters which would be considered by a prospective vendor or purchaser or which tend to enhance or diminish the value of property." *Douglas Cty. Bank & Tr. Co. v. Stamper*, 244 Neb. 226, 229 (1993) (internal citations omitted).

In the context of determining a property's value for purposes of taxation, the Nebraska Supreme Court has advised that "[m]any elements enter into the determination of actual value. No one element of value is controlling and all elements entering into a determination of actual value must be taken into consideration where applicable." *Carpenter v. State Bd. of Equalization & Assessment*, 178 Neb. 611, 630 (1965). In that context, the court opined that market price is generally accepted a one of the best tests for value, but it is not the only element that may be considered. *Id.* at 631-32.

OPTIONS FOR DISPOSAL OF THE PROPERTY BY SALE

The board is clearly authorized to dispose of the property by sale for fair market value. There are several methods that the board can use that tend to show that the property sold for its fair market value.

Solicitation of Sealed Bids. The board could announce the sale of the property and solicit sealed bids by a specified date. *See Anderson v. Peterson*, 221 Neb. 149, 153 (1985) ("competitive bidding, after public advertising, is a fundamental, time-honored procedure that assures the prudent expenditure of public money").

There is nothing to prevent the board from notifying any local organization or other interested buyer that the board is soliciting bids. The propriety of this option would be further bolstered by publishing an advertisement that the board is soliciting such bids. If there are no private buyers willing to make a substantial bid, the board would have strong evidence that it lawfully accepted a bid to purchase the property even for nominal value.

If the board is interested in this option, we can provide documents for you to use to dispose of the property in this manner. If the board accepts a sealed bid, you would also need a real estate purchase agreement to govern the rights and obligations of the parties to the sale. We can draft this agreement if you pursue this approach.

Sale of Property at Auction. Public entities frequently sell property at a public auction. As long as the board hires a reputable auctioneer and properly notifies the public about when and where the auction will take place, a patron of the district will have a difficult time demonstrating that the sale was not for fair market value.

There are two drawbacks to sale of property at auction. Most auctioneers work on a commission basis, and require sellers to set a minimum bid. The alternative is for the district to hire an auctioneer for a flat rate. Of course, that adds additional expense to the process of property disposal. Another drawback is that the district has little to no control over the purchaser of the property. The purchaser would have the ability to use the property for any lawful purpose.

If you are interested in this option, we can prepare a motion for the board to hire an auctioneer, set a date, and advertise the action. Again, once the property is actually purchased, the board should enter into a real estate purchase agreement with the high bidder. We are happy to prepare this agreement if you would like.

Appraisal and Listing of Property with Real Estate Agent. A third option is for the board to have the property appraised and to list it for sale with a real estate agent or to otherwise make a private sale. This is the least attractive form of disposing of public property. There is little assurance that any entity or individual will be willing to pay the appraised price for the property. After the sale, some disgruntled patron can always claim that the District should have held out for a better price.

We strongly discourage any private sale to a public official or public employee or a member of their immediate family or a business with which they are affiliated. Assuming that any such sale is otherwise allowed by law,

the district must comply with all requirements and provisions of the Nebraska Political Accountability and Disclosure Act (NEB. REV. STAT. § 49-1401 through § 49-14,142).

Option to Contract for the Use of the Property. The board is empowered by statute to contract for the use of the property. Pursuant to Neb. Rev. Stat. § 79-10,107:

(1) The school board or board of education of any school district may permit the use, upon such terms and conditions as it determines, of any school district property or portion thereof at times when it is not needed for school district use.

(2) If the school board or board of education of any school district determines that any school district property or portion thereof is not currently needed for the use of the school district but may be needed for future use, the school board or board of education of any school district may lease such property, or portion thereof, upon such terms and conditions as it determines.

Thus, if the school board determines that there are times when the use of the property is not needed for school district use, it may permit another organization to make use of it during those times. Further, if the board determines that the property is not currently needed for the use of the school district at any time, it may lease that property. In either case, the board is authorized to enter into such an agreement "upon such terms and conditions as it determines."

This grant of authority is likely more flexible than that provided for in the statute governing the sale of the property, and the board's decision under this statute is probably less likely to become the subject of dispute or review. However, in granting permission for use of the property or in leasing the property, the district should still seek fair market value for the use.

The board would likely retain more flexibility in pursuing this option because it could demonstrate that a contract shifting the cost of maintaining and operating the property to another party provides legitimate value to the district, especially if the district retains some rights to use of the property. Nevertheless, in entering into any such lease or agreement, the board must be mindful of the provisions of the Political Accountability and Disclosure Act discussed above.

If you are interested in this option, we can negotiate terms with interested parties and subsequently prepare any lease or agreement

permitting the use of the property by an outside party. Further, we can advise the board as to whether any potential agreement would implicate the terms of the Political Accountability and Disclosure Act.

Interlocal Agreement. Another option would be to enter into an agreement under the Interlocal Cooperation Act ("ICA") (NEB. REV. STAT. § 13-801 through §13-827) with at least one other "public agency" to share the facility. Public agency means any county, city, village, school district, or agency of the state government or of the United States, any drainage district, sanitary and improvement district, or other municipal corporation or political subdivision of this state, and any political subdivision of another state. It may be possible to structure the agreement so that both agencies share in the use of the facility for some period of time while also transferring ownership of the property upon the termination of the agreement. Think of this as a "rent to own" type arrangement in which the other public agency transfers fair market value to the school district over the term of the agreement.

Conclusion. Nebraska schools are creatures of statute limited in power. While the school board is not granted authority to gift the property at issue to another entity or individual, it is empowered to sell the property for fair market value. Fair market value would be determined by what a willing, but not obligated party would pay for the property if purchased from a school board willing, but not obligated, to sell the property. There are multiple options available for disposing of the property for fair market value. Additionally, the board is empowered to contract for use of the property, or to lease the property for a given period of time, upon such terms and conditions it determines appropriate. The board may also enter into an interlocal agreement, as it may allow the board to get a bit more creative in sharing the facility with another governmental entity.

I hope that this information is helpful to you. Please let me know if you need any additional information or if I can be of any further assistance.