

NEBRASKA STATE BOARD OF EDUCATION MEETING NOTIFICATION AND AGENDA

- Meeting Date:** Friday, February 4, 2022 9:00 AM
- Meeting Title:** State Board of Education Meeting Notification and Agenda
- Location:** Embassy Suites by Hilton Lincoln
Regents Ballroom A
1040 P Street
Lincoln, NE 68508
- Web Streaming:** Live web streaming will be available through the State Board of Education website: www.education.ne.gov/StateBoard/
- Agenda:** Except for emergency items added at the time of the meeting, the agenda will not be changed less than 24 hours prior to the start of the meeting and any changes will be immediately posted on the website. The Board will attempt to adhere to the sequence of the published agenda, but reserves the right to adjust the order of items if necessary and may elect to take action on any of the items listed.
- Interpreter:** If you need interpreter services or other reasonable accommodations, please contact the Nebraska Department of Education at (402) 471-5059 five (5) days prior to the meeting to coordinate arrangements.
- Website:** An electronic version of the agenda and support materials are available on the State Board of Education's Agenda page: www.education.ne.gov/StateBoard/Agendas.html
- Lunch:** On Friday, February 4, 2022, if necessary, the State Board of Education may break for lunch at 12:30 p.m. The Board may resume work on the agenda at approximately 1:00 p.m.

1. CALL TO ORDER (The Board will take a 45 minute recess at or after 12:00 p.m.)
President Koch Johns
 - 1.1. Roll Call
President Koch Johns
 - 1.2. Pledge of Allegiance
President Koch Johns
 - 1.3. Announcement of the placement of the Open Meetings Act information
President Koch Johns
 - 1.4. COVID-19 Meeting Protocol
Commissioner Blomstedt
2. SPECIAL PRESENTATIONS
President Koch Johns

- 2.1. CTE Month Recognition
Katie Graham
- 3. PUBLIC COMMENT PERIOD
President Koch Johns
 - 3.1. Public Comment
 - 3.2. Written Public Comment
- 4. COMMISSIONER'S REPORT
Commissioner Blomstedt
 - 4.1. Agenda Overview and Consent Agenda Process
Commissioner Blomstedt
 - 4.1.A. Commissioner's recommendations and items to be removed from consent agenda
Commissioner Blomstedt
 - 4.2. Rule Memo for February 2022
Commissioner Blomstedt
 - 4.3. Board Operations Information
Ryan Foor
- 5. PRESIDENT'S REPORT
President Koch Johns
- 6. CONSENT AGENDA
President Koch Johns
 - 6.1. Board Member Out-of-State Travel Approval
 - 6.2. Committee Appointments
 - 6.3. Contract Approvals
 - 6.3.A. Authorize the Commissioner to contract with Beyond School Bells
(Nebraska Children and Families Foundation)
Lane Carr
 - 6.3.B. Authorize the Commissioner to contract with Dr. Barbara Buttes
Zainab Rida
 - 6.3.C. Authorize the Commissioner to amend the current contract with Vivayic
Cory Epler and Dorann Avey

6.3.D. Authorize the Commissioner to renew the contract with Mosaic by ACT
Zainab Rida and Jessie Coffey

6.3.E. Authorize the Commissioner to amend the current contract with Data
Recognition Corporation
Jeremy Heneger and Cory Epler

6.4. Grant Approvals

6.5. Lease Approvals

6.6. Minutes of the Previous State Board of Education Meeting

6.7. Miscellaneous Approvals

6.7.A. Authorize the Commissioner to continue to fund the Nebraska WORDS
project (formerly titled Practice-Based Professional Development) through the
University of Nebraska – Lincoln
Amy Rhone

6.7.B. Authorize the Commissioner to make public a list of approved reading
assessments for SY 2022-2023 and the threshold level of performance for each
assessment
Cory Epler and Abby Burke

7. STANDING COMMITTEE REPORTS

President Koch Johns

7.1. Executive Committee
President Koch Johns

7.1.A. Review 2022 Proposed State Legislation and Take Action on Board Positions
Deputy Commissioner Halstead

7.2. Budget and Finance Committee
Maureen Nickels

7.2.A. Action Item: Accept the Commissioner's Proposed Plan for Use of the
Remainder of American Rescue Plan (ESSER III) Funds
Commissioner Blomstedt

7.2.B. Monthly Board Travel Expense Report

7.2.C. In-State Travel Authorization Reports

7.3. Planning and Evaluation Committee
Patti Gubbels

- 7.3.A. Discussion Item: Nebraska's College & Career Ready Standards for Mathematics
Cory Epler, Marissa Pazyant, and Deb Romanek

- 7.4. Rules and Regulations Committee
Jacquelyn Morrison

- 7.4.A. Action Item: Approve the proposed revision to Title 92, Nebraska Administrative Code, Chapter 51 (Rule 51), *Regulations and Standards for Special Education Programs*
Amy Rhone

- 8. SPECIAL COMMITTEE REPORTS
President Koch Johns

- 8.1. Report from the Ad Hoc Committee on Content Area Standards
Jacquelyn Morrison

- 9. ADDITIONAL BUSINESS
President Koch Johns

- 9.1. Amend the Previously Adopted Motion (from 09.03.2021) to Postpone the Development of Health Education Standards
Kirk Penner

- 9.2. Adopt a Policy on Local Control of Non-Required Standards
Kirk Penner

- 9.3. Discussion on Books Available in School Libraries
Kirk Penner

- 10. INFORMATION ITEMS AND REPORTS
President Koch Johns

- 10.1. Contracts Approved by Commissioner

- 10.2. Grants Approved by Commissioner

- 10.3. Contested Case Update

- 11. GOOD OF THE ORDER

This section of the agenda is intended for Board members to offer informal observations of the work of the State Board. Board members may make brief announcements about attendance at future events for the purpose of informing other Board members. No business or motions, or suggested actions of the Board may be offered at this point in the agenda; nor should Board members engage in substantive discussion about other agenda items or introduce new agenda items.

President Koch Johns

12. ADJOURNMENT

President Koch Johns

The next regularly scheduled meeting of the State Board of Education will be held on Friday, March 4, 2022, at 9:00 a.m. at a location to be determined. As needed, a work session will be held on Thursday, March 3, 2022 at a time to be determined.

The agenda contains a list of subjects known at the time of its distribution on January 27, 2022. A copy of the agenda reflecting any changes will be available for public inspection during the normal business hours in the Office of the Commissioner of Education and on the State Board of Education's Agenda

page: www.education.ne.gov/StateBoard/Agendas.html. *Except for items of an emergency nature, the agenda will not be changed later than 24 hours before the scheduled commencement of the meeting.*



Nebraska State Board of Education
Covid-19 Meeting Protocol

Meeting date/time: Thursday, February 3, 2022
Friday, February 4, 2022

Meeting location: Embassy Suites by Hilton
Regents Ballroom A
1040 P Street
Lincoln, NE 68508

Purpose

The purpose of this document is to outline and detail measures and protocols that seek to protect and ensure the health, welfare, and safety of the public in light of the COVID-19 pandemic. For the purposes of this protocol document, “attendee” shall mean any individual person who is attending the meeting, but not limited to: state board members, Nebraska Department of Education staff members, other State of Nebraska employees, hearing respondents, and members of the public.

Maximum attendance

Maximum attendance at the meeting is limited to the rated capacity of the meeting room. However in order to maintain physical distancing between individuals, the room will be setup with chairs spaced three (3) feet apart. Standing is not allowed in the meeting room. If the meeting room becomes full or crowded, members of the public may wait in the pre-function area.

Considerations for Attendees to Access Public Meetings

Attendees are asked to comply with the following directives:

- a. **Accessibility:** Members of the public are encouraged to maintain 3 feet of physical distancing between others when entering and exiting the room.
- b. **Masks:** Masks that cover the mouth and nose are recommended for all attendees. Individuals who have not been vaccinated for COVID-19 are strongly encouraged to wear a mask.
- c. **Hand sanitizer:** Use of hand sanitizer is strongly recommended upon entrance to the meeting room and after attendees touch their face, cough, or sneeze.
- d. **Physical distancing:** The meeting room will be arranged to ensure that all attendees are able to practice physical distancing with a space of at least three feet between individuals. Arranged chairs and tables are not to be moved. Attendees are encouraged to avoid shaking hands or making physical contact with other attendees.

e. **Personal questionnaire:** Attendees will be presented with the following questions on signage at the entrance to the meeting room and asked to self-identify responses of “Yes” or “No” to each question.

1. Are you experiencing, or experienced any of the following symptoms in the last 14 days?
 - i. Fever or chills
 - ii. Cough
 - iii. Shortness of breath or difficulty breathing
 - iv. Fatigue
 - v. Muscle or body aches
 - vi. Headache
 - vii. New loss of taste or smell
 - viii. Sore throat
 - ix. Congestion or runny nose
 - x. Nausea or vomiting
 - xi. Diarrhea
2. Have you been in physical contact with or in close proximity to anyone who tested positive for COVID-19 in the last 14 days?
3. Have you traveled outside of the United States in the last 14 days?
4. Have you been in physical contact with or in close proximity to anyone who has traveled outside of the country, or who has been ill?
5. Do you have a temperature of greater than 100.4 degrees Fahrenheit?

Should an attendee be able to identify a “Yes” response to any of these question, the Attendee should self-select to not enter the meeting room and leave the meeting venue.

Nebraska State Board of Education Written Public Comment February 2022

Nebraska State Board of Education

Pursuant to State Board of Education Bylaw B9 - Public Participation at Board Meetings:

Persons may address the Board for public comment purposes by written submission in lieu of live testimony. Such written submissions must be provided 24 hours in advance to the start of the public meeting where public comment is scheduled, or by close of business of the Thursday prior to any meeting scheduled for a Monday, and is limited to 750 words. Written public comments submitted in accordance with these requirements will be provided to the Board members and become part of the record of the meeting, but will not be read aloud during the meeting.

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Submissions must include your complete first and last name, city and state. You will also be required to electronically sign the submission. This information will be included with your comments.

Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Sherrie

Last name *

Roggr

City *

Lincoln

State *

Ne

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

My granddaughter attends a private school that follows all LPS guidelines. She has constantly got a sore throat from wearing a mask for 8 hours a day! She has to stay home a lot because you can not go to school with symptoms! It is more unhealthy to wear the mask than for her to just catch covid and build up her immunities. The fact that schools are receiving bonus covid money to keep kids masked up is disgusting. Our kids' health does not seem to matter! Only how much money schools can get to force children to wear a face covering and breathe bacteria all day!!!! Stop the masking of our children! It is child abuse.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Sherrie

Last name *

Rogge

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Sandra

Last name *

Rucilez

City *

Kearney

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

For the love of all that is good and holy step down or start doing the right thing. Lining your pockets is not why you are on the school board & yet you keep proving otherwise. Take a look at the big picture, seek guidance from the Lord and remember why you're there.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Sandra

Last name *

Rucilez

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Tim

Last name *

Shaw

City *

Gretna

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

If critical race theory is taught in schools my kids won't be attending

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Tim

Last name *

Shaw

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Nebraska State Board of Education

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Patricia

Last name *

Pierce

City *

Bertrand

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Wow I am more concerned now than every about you shoving these liberal, unwanted views on our children and grandchildren. You have been fought every step of the way to keep this inappropriate material out of the health standards, now for us to see that you are trying to add it to the social studies curriculum. You should all be ashamed of yourselves! Sexual grooming is not allowed! You know exactly what you are doing. I have grown up around gay friends and gay relatives and they didn't need to be "taught" how to be gay or sexual believe me, so there is no need for you to think it needs to be taught! Teaching children about how you want them to become racist and dominant over other races is ridiculous and you know it. You want us to become south Africa where a black family can just move into our homes because for some reason you think we owe them? CRT is a bunch of lies and has no factual basis. If you want to teach " fictitious facts", form your group outside of school and see how many come to your racist, bigoted meetings because it does not belong in our schools! li am sick of all of you trying to ruin public schools!

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Patricia

Last name *

Pierce

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Cynthia

Last name *

Hartman

City *

Lincoln

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Much has been done in cleaning up the curriculum yet more remains. Nebraskans are paying attention . We will hold our boards, school officials, and instructors accountable on what is taught to the children.

There needs to be parent advisory input as new material is sought for review. Prior to use in classrooms parents need to weigh in on the proposed material.

There must be transparency moving forward. Simply put you have not proven yourselves very trustworthy thus far. However mistakes can be rectified for the greater good of the children. Put them first .

Thank you.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Cyndi

Last name *

Hartman

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Vern

Last name *

Friesen

City *

Wallace

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

To the Nebraska State Board of Education,

I have read the "Social Engineering" proposed studies that you would like to implement into our school systems. My opinion is that we need to teach and teach well the core curriculum subjects that are essential for productive citizens of our society to possess. In addition to these areas of study, schools are free to offer athletics, art, music and the like as their local communities desire. Students should be expected to behave, treat others with respect and to always act in appropriate manners. If this is not done they should be disciplined.

I am opposed to what you propose in this line of study. This reeks of political ideology and social engineering. Our test scores reveal that the schools are failing to provide acceptable levels of proficiency in our core areas of study. The more we mess around the basic tenets of education, the worse our outcomes have become. Lets stick to the basics of education, please.

Sincerely,
Vern Friesen

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Vern

Last name *

Friesen

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Nebraska State Board of Education Written Public Comment February 2022

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Andrea

Last name *

Schmidt

City *

Fairbury

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I'm am still deeply concerned with what is going on in Nebraska schools. I cannot for the life of me figure out how so many adults are aware of all the inappropriate books in our school libraries with so much filth written in them and they are allowed to stay on the shelves for innocent children to read. Disgusting filth talking about a young boy sucking another boys dick and explicit sexual intercourse stories with graphic explanations. How is this even possible? Do you not care to preserve the innocence of children? Do you not think these disgusting reading materials are contributing to kids wanting to act this out. Pornography is proven to change the brain and many young kids exposed to this especially at a young age become addicted and it can lead to many problems as they become adults. Even causing marital problems as they struggle with porn addiction as adults. How is this even possible that our elected officials are turning a blind eye to this garbage? Concerned parents are awake now ... this will not continue or you can bet the homeschooling numbers and opt out for alternative education will continue to climb. Do your job and protect our kids!

Thank you Kirk for having the guts to stand up for what is right!! We have all watched this board gaslight us for nearly a year. No one believes a word they say at this point. Please continue to fight for all of our children Kirk! More will be joining you after the 2022 elections!

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Andrea

Last name *

Schmidt

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Becky

Last name *

Wilkins

City *

Kearney

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

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I would like you, the members of the Nebraska State Board of Education, to know that I am vehemently opposed to your proposed mandate of teaching sex education and critical race theory to the K through 12 classes of our public schools. I would like you to know that I am STILL very much concerned and engaged and watching very closely!

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Becky

Last name *

Wilkins

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Michaela

Last name *

Lewis

City *

Broken Bow

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I'm mainly speaking to Deb Neary's comments regarding a desire to create a combined committee to handle getting information out and feedback from the public in order to prevent "misinformation" regarding new policies and standards released in the future.

As a parent, The factual details of the health education standards that reached the public last year was NOT the problem and a committee designed specifically to sugar-coat and leave out what information actually makes it to the public and when; is NOT the fix.

In the September meeting, Deb publically called members of this board bullies and accused them of attacking kids for daring to get this critical information out to the public when it was never her right to conceal it in the first place. Her desire to control that information is very concerning to me and something I do not believe should be entertained.

Even as an urban representative elected to find the middle ground, Deb Neary is the one who chose 1 side of the comprehensive sex education standards discussion and disrespected and attacked all others. As parents, our obligation is to share our opinions with this board; positive, negative, and whether or not any of you agree with it.

Deb Neary has failed as a representative and the CRT and CSE guidelines were more than an opt out program.

I believe it was brought up by Mrs. Morrison but, the reason why most parents don't opt their kids out the current sex education is because even if they did, their peers would involve them anyway through lude, inappropriate handling of this information that did little but,make them aware of what they COULD do with their underage bodies.

My own children have been subjected to this behaviour and with the addition of the proposed CSE guidelines that promoted colorful depictions of confusing theories and sexual lifestyle choices meant for adults ages 18 and up, this would only get worse.

So, don't disrespect us with your "opt out" reach-around or attempt to form devisive committees that specifically work to keep vital, decision-making information from the public.

I beg this board, Stop allowing Deb Neary to attack ours families, our kids, and our right to information and choice.

We have had to work to make our majority opinion heard and we deserve better.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Michaela

Last name *

Lewis

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Michael

Last name *

Lewis

City *

Broken Bow

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I'm mainly speaking to Deb Neary's comments regarding a desire to create a combined committee to handle getting information out and feedback from the public in order to prevent "misinformation" regarding new policies and standards released in the future.

As a parent, The factual details of the health education standards that reached the public last year was NOT the problem and a committee designed specifically to sugar-coat and leave out what information actually makes it to the public and when; is NOT the fix.

In the September meeting, Deb publically called members of this board bullies and accused them of attacking kids for daring to get this critical information out to the public when it was never her right to conceal it in the first place. Her desire to control that information is very concerning to me and something I do not believe should be entertained.

Even as an urban representative elected to find the middle ground, Deb Neary is the one who chose 1 side of the comprehensive sex education standards discussion and disrespected and attacked all others. As parents, our obligation is to share our opinions with this board; positive, negative, and whether or not any of you agree with it.

Deb Neary has failed as a representative and the CRT and CSE guidelines were more than an opt out program.

I believe it was brought up by Mrs. Morrison but, the reason why most parents don't opt their kids out the current sex education is because even if they did, their peers would involve them anyway through lude, inappropriate handling of this information that did little but, make them aware of what they COULD do with their underage bodies.

My own children have been subjected to this behaviour and with the addition of the proposed CSE guidelines that promoted colorful depictions of confusing theories and sexual lifestyle choices meant for adults ages 18 and up, this would only get worse.

So, don't disrespect us with your "opt out" reach-around or attempt to form devisive committees that specifically work to keep vital, decision-making information from the public.

I beg this board, Stop allowing Deb Neary to attack ours families, our kids, and our right to information and choice.

We have had to work to make our majority opinion heard and we deserve better.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Michaela

Last name *

Lewis

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Nebraska State Board of Education Written Public Comment February 2022

Nebraska State Board of Education

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Ryan

Last name *

Bruna

City *

Kearney

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I firmly believe Christ calls us to respect the each person with empathy, respect, dignity, and without partiality. And I believe some of the material on the NDE website is in line with that. But I also believe there is material on there that is trying to teach kids to be "Anti-Racists", meaning "try to be less white". Which is counter racism. It swings the pendulum in the wrong direction. THAT material needs to be removed immediately.

Thank you,

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Ryan

Last name *

Bruna

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Amanda

Last name *

Lewis

City *

Kearney

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Please choose to have educators only teach reading, writing, math, the arts, science, counseling and history. We need to teach kindness to all and not critical race theory. Also, we will talk about sex ed to our own children. We don't want taught that it is ok to sexually please others in private. That is something between adults and they will learn it as they get older. Not in 2nd grade. That is completely wrong. There are tons of parents that care about their kids and feel just I as do. That is why you are getting such a backlash of people. Please let kids be kids! They will grow up to fast the way it is.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Amanda

Last name *

Lewis

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Cindy

Last name *

Sandoz

City *

Gordon

State *

Ne

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Please keep CRT and Sex Health Standards out of Nebraska School Curriculum.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Cindy

Last name *

Sandoz

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Teresa

Last name *

Parvin

City *

Bellevue

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I am a concerned parent regarding the curriculum standards for Nebraska public schools. I am NOT in favor of any type of social emotional learning being taught. This is not the job of the schools. Please remove this from any curriculum going forward.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Teresa

Last name *

Parvin

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Jen

Last name *

Read

City *

North platte

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I'm concerned about the push for LBGTQ and the CKLA and critical race theory in our schools! The sex Ed is inappropriate for the ages you are pushing for as well as what you think needs to be included in this. Our children don't need to be taught or have access to pornographic books in libraries etc. They don't need to be brainwashed either. Teach them about finances, how to cook for themselves, bring back homemec for real world life skills, not the stuff you are trying to push. I fear for the safety of our children in so called public schools. Parents have the right to protect our children and will do so. Thanks.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Jen

Last name *

Read

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Jessica

Last name *

Bokish

City *

Arcadia

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Good day,

I am still waiting for accountability from the board. There are still resources touted as "anti-racist" on the NDE website, however the biased nature is clear.

I understand you want it to read that it's harmless, but with this comes books and material that is not harmless.

Please do better for our children!

Jessica Bokish

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Jessica

Last name *

Bokish

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

D.....

Last name *

Hosier.....

City *

Kenesaw

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

NDE board, I am writing as a concerned parent and tax payer regarding the CSE and CRT still on your website. Some of the materials that are in the school libraries is straight pornographic. This is unacceptable. Everyone has different beliefs and morals and you are taking one side demanding this is how you must think. Your job is not to decide how families are raised but to help students in math and language arts. In no way should you be debating whether you should be sexualizing children or teaching racism in public schools. With this said, Deb Neary still needs to be held accountable for her direct involvement of stacking the writers for the health standards one sided. Due to the blatant dishonesty from all board members in the past year or so, there is no faith in the sitting board members (aside from Kirk Penner) or your ability to make decisions regarding our children's education. In conclusion, majority of Nebraskans do not want CRT or CSE in our public schools.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

D

Last name *

Hosier

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Mary

Last name *

Palmer

City *

Lincoln

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

As I was reading on your website the detailed description of your social engineering experiment with our children, I was wondering why you feel the need to teach this to our children. Your purpose is to teach them reading, math & computer skills so our children will be able to further their education. I know now it's unpopular to do what the parents want, as we seem to have no say in the teaching of our children. Shame on you! We, as parents will teach them social skills. Yes I know there are many children in difficult situations at home. Teach those children social learning & leave the rest of the children alone. Make this optional not mandatory for all!

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Mary

Last name *

Palmer

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Jane

Last name *

Kinsey

City *

Lincoln

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Please discard the original Health guidelines for public schools in Nebraska. They are not appropriate for mentally sound growth. I am out of town for the meeting and this is my testimony.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Jane

Last name *

Kinsey

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Sheri

Last name *

Robertson

City *

Lincoln

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Please know that we are still watching you. When I say "we", I mean the good people of the State. We want the SBOE to abandon all content containing CSE & CRT materials. CRT is divisive and teaches kids to react to color vs character. We want the SBOE to leave sex education to the family - stay in your lane.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Sheri

Last name *

Robertson

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Steven

Last name *

Suttles

City *

Mitchell

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I am still very concerned with the intentions of this board and my wife and I are going to keep watching what comes out of this group

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Steven

Last name *

Suttles

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Josh

Last name *

Brokering

City *

Hickman

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Keep CSE out of our schools! Parents are aware and concerned about what is going on and this needs to stop! If I were to walk down the street and show random kids the things that are being taught in some schools these days, I could go to jail. So why is it ok for teachers to show it in the classroom or to have books in the school library containing those same graphic pictures, illustrations, or text. Leave this up to the parents, and look into alternative methods to empower us, like sending informative flyers, emails, links to videos, etc, and let US do the teaching in regards to sex.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Josh

Last name *

Brokering

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Pamela

Last name *

Frecks

City *

Cambridge

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I really appreciate you continuing to allow the overwhelming voice of parents, grandparents, etc. to continue inactivity on the horrid sex standards which were proposed several months ago. I attended meetings where huge numbers of Nebraskans voiced the opinion of the majority of the electorate. Stick to the core subjects and leave values education (re-education) to those to which it belongs (parents). How dare you undermine the God given rights/responsibilities of parents! No one has appointed you to that position and no one ever will.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Pamela

Last name *

Frecks

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Gayle

Last name *

Bontz

City *

Kearney

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I'm writing to state my opposition to any form of comprehensive sex education or critical race theory taught in our public schools. CASEL is full of unacceptable material...the section on CSE is from Planned Parenthood which is a vehicle for "legal murder." You may make fun of that, but I will say that God's judgment will come from these corrupt curriculums.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Gayle

Last name *

Bontz

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Anna

Last name *

Meis

City *

Elgin

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

After reviewing the Social and Emotional Learning content sources I am alarmed. The opening statement talks about "developing the whole child." Children are sent to school to learn academic material. It is the job of the parent to develop the whole child. Social Studies and Social-Emotional Learning do not go hand in hand. Social Studies is to teach facts about other countries, cultures and civilizations not how a child should respond to these.

Again it is the parents job to teach their child how they want to them to treat others. Of course the best example of this will be watching their own parents interact with others. The school's place is not to "handle" a child's emotions or in other words tell them what they should think about a certain situation. Children are naturally curious and should direct questions they have about different customs, lifestyles, etc to their parent for an answer as many of these responses will be affected by the religious beliefs and family experiences. These proposed content sources cannot possibly reflect the different viewpoints of every family Nebraska public schools. These content sources OVERSTEP the bounds of what a public school system is commissioned to do. I strongly oppose!

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Anna

Last name *

Meis

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Nebraska State Board of Education Written Public Comment February 2022

Nebraska State Board of Education

Pursuant to State Board of Education Bylaw B9 - Public Participation at Board Meetings:

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Pam

Last name *

Fredrickson

City *

Omaha

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I would like to respectfully request that the Nebraska Department of Education be aware that our community has concerns about our educational system. Social and Emotional Learning can be a positive tool, however when diversity and race become a component of this, you could very well be setting up deprived kids for lifelong failure. There is no skin color factor when it comes to intelligence. Under with proper guidance both in school and at home, every child can learn and develop their talents. Using race in your teaching is eliminating accountability. You are not encouraging or helping students in any way by playing the race card and teaching either directly or indirectly that they are victims. Likewise, we cannot teach that any race can oppress another race. Going forward, please be mindful of this. Our goal is to never become a racist society. We made great progress since the '50s in eliminating racism. incidents that may arise due to lack of respect by an individual can be properly handled. This kind of behavior is certainly not systematic.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Pam

Last name *

Fredrickson

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Nebraska State Board of Education

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Marvin

Last name *

Tiffany

City *

York

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Briefly, I strongly believe that any discussion about sexuality should start with the parents and the school system has no business teaching and/or exploring a students sexuality. And, no discussion in school should take place unless the parents agree and are able to see the materials and discussion that will take place.

In a different vain, I strongly oppose the teaching of CRT; which tends to cause more discrimination then if it is left alone.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Marvin

Last name *

Tiffany

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Nebraska State Board of Education

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Cathy

Last name *

Frisch

City *

Newman Grove

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Please remember to keep our children's education to math, English, science, history and government. Basics without prejudice from teachers or other instructors. Parents should be the only persons involved in their child's knowledge of sexual information.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Cathy

Last name *

Frisch

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Nebraska State Board of Education

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Kathy

Last name *

Peter

City *

O'Neill

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I'm writing again to ask that the standards be done away with. Our children deserve better. They deserve to be educated in academics not be political pawns for the lefts agenda. Stop using our children to push through immoral ideas.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Kathy

Last name *

Peter

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Cora Charlene

Last name *

Martin

City *

Broken Bow

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Education formats should be a local level decision, not State mandated and should be a basic education of reading, math and history, not ideological brainwashing rammed though by a group of people that do not represent the majority of the Nebraska people and is certainly not in the best interest of the children.

Nebraska does not score well nationally. There is a problem with where the education system in Nebraska is headed.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Cora Charlene

Last name *

Martin

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Taylor

Last name *

Smith

City *

Parks

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Dear Nebraska Department of Education,

I am writing you because of the concerns I still have with the sexual education, gender, and race proposed educational standards in our state right now. I am very thankful that these standards have been postponed, but still want to make sure they are not taken back up at a later date.

As both a former teacher and current parent, I see every day how crucial it is to equip the next generation of Nebraskans with an education that's consistent with our shared American values and free from ideological indoctrination. I urge you to please remove all sex education and other ideologically motivated content from schools and its curriculum by completely scrapping the newly proposed health state standards entirely and not adding these ideologies to the English Language Arts, Social Studies, or other newly developed or revised standards.

A school's responsibility is to provide an educational framework to prepare students for college or a future career someday, NOT force belief systems on such sensitive topics or political agendas onto children. These are topics that are the responsibility of parents alone to address. Therefore, these are topics that should not be addressed in school, especially this young of age. I strongly believe these new standards will sexualize our children, lead to sexual grooming, racial division, and achieve the opposite of what you have proposed by drafting them.

Topics like sexual activity, pornography, sexual orientation, gender-roles, gender-identities, gender expression, family structures, cohabitating, abortion, and sexual development are ones that should be addressed by parents, not schools forcing their opinions on these matters to children in schools. Topics like racial biases/stereotypes have become also very sensitive topics in our current political atmosphere. Curriculum like Critical Race Theory has openly been developed by Marxist ideologies. These ideologies have proven through history to actually achieve the opposite of what this curriculum is proposing. I urge you to remove the standards that still could embody these same ideologies and will lead to the same result.

Furthermore, it has become apparent that the Nebraska Department of Education has received an overwhelming amount of feedback to scrap these standards. After receiving countless emails from concerned parents and members of the public, as well as receiving resolutions from multiple senators and school boards opposing these standards, I urge you to listen to these concerned Nebraskans and remember your duty to represent them.

Finally, if this curriculum is not completely scrapped, I foresee Nebraska losing many good teachers. These new standards encompass ways of teaching topics that some parents, teachers, and students might not morally agree with. If our state adopts these standards, you will lose teachers who morally refuse to teach them. I know this because I myself would have been one of them and have talked with many others like me who feel the same way. This will intensify the current teacher shortage we are seeing.

Thank you for all that you are doing. I pray that God continues to give you the discernment and strength to make the decisions that, without a doubt, will affect our children and their children's future.

Sincerely,

Taylor Smith

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Taylor

Last name *

Smith

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Nebraska State Board of Education

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Shayla

Last name *

Stutzman

City *

Dorchester

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Hi my name is Shayla Stutzman. I want to thank you for allowing me to share my opinions concerning the proposed sex Ed health standards. I am a mother of 4, a grandmother of 11 and a retired teacher. I spent 26 years of my career teaching First Grade. So I am going to talk to you today, from the perspective of a teacher.

Young children look at their world, try to understand how it works, and try to figure out how and where they fit into it. They are very curious and eager to learn.

An example of this process is I taught a unit about spiders. Throughout the unit the students drew pictures of spiders, wrote stories about spiders, and acted out the life of the spider, on the playground at recess.

Some were spiders, some in any way!

were insects, and the playground was a giant spider web. It was so much fun to watch them engage in what they had learned by acting it out, because it was AGE APPROPRIATE learning.

However, I would NOT want to see them acting out what they would be learning if taught these age inappropriate proposed sex Ed standards. In fact, they are not appropriate in any way!

Children should be our highest priority in preserving our society. These proposed standards are trying to steal our children's childhood from them. They would be putting them in situations that they are NOT developmentally capable of handling. I feel like we are in a war against our children by trying to implement this curriculum.

As a former teacher, I know that schools have a full time job teaching Reading, Math, Writing, Science and Social Studies. They do not need to teach this proposed sex Ed curriculum! This is the right and responsibility of the parents to teach this at age appropriate times, when their children are ready. By adopting these standards, you are stealing the parental rights from parents. These are OUR children. They don't belong to the educational system.

As I read and reviewed these standards, I was appalled by the language and content that is being proposed! They sound more like a manual on grooming children to be exploited and sexually abused rather than protecting children. Sexual consent should NEVER be an issue to a child to have to decide!

So I ask you to please REJECT these proposed standards, and protect our children from being exploited and used by teaching this devastating curriculum!

Thank you,

Shayla Stutzman

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Shayla

Last name *

Stutzman

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Joyce

Last name *

Porter

City *

Lincoln

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I just want it to be known I do not support cse & crt. I am absolutely against it!!! Kids need to be kids & just want to have fun with their friends. They do not need to be exposed to this horrible sex education you are trying to get passed. It is criminal & pornographic!! If anyone in the public would be caught with these type of materials they would be charged for having pornographic or pedophilia materials & be arrested!! Let's let the kids be kids okay?? They will have to deal with adult issues soon enough!!! PLEASE DO NOT LET THIS GET PASSED!!! SAVE OUR KIDS!!!! THANK YOU!!!

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Joyce

Last name *

Porter

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Evelyn

Last name *

Kumm

City *

Blair

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I am still concerned about the teaching of Critical Race Theory or similar curriculum in our Nebraska schools. Do not subject our Nebraska children to such curriculum. Our Nebraska children being schooled in such curriculum would only hurt them in their views of themselves as valued United States of America citizens.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Evelyn

Last name *

Kumm

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

JOan

Last name *

Garvey

City *

Omaha

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I want to make to make it known and clear that my husband and I , registered voters and tax payers , are very much against the public schools (which we support with our taxes) disseminating information with regard to sex, gender , marriage and the family and anything else in the least bit controversial. It is for teachers to teach our children the things that are agreed upon by all involved and caring parents in the state; things which will afford our children the knowledge necessary to reach their intellectual potential and to become contributing members of society.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Joan A

Last name *

Garvey

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Naomi

Last name *

Saathoff

City *

Kearney

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

As a former educator in both private and public school systems, a homeschool parent, and now grandparent, I am extremely concerned about the future of education in this state. There is a need for transparency from our educators and school boards and parents absolutely need to have a say in what their children learn.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Naomi

Last name *

Saathoff

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Clayton Bruce and Cheryl

Last name *

Willis

City *

KEARNEY

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

We continue to compel you, Nebraska State Board of Education, to drop the thrust to complete the creating and updating of curriculum for CSE and for CRT. Even though there seems to be a surface that says it isn't happening, the truth is, it is. We see it and we read it and we find it in our children's homework and libraries. The Social-Emotional Learning curriculum filters this material into it, and it is NOT HEALTHY for the communities and schools. Our children's scores for the basic core subjects are dwindling because we spend so much time on "feelings" and being sure that they get what they want. This is not education. This is still indoctrination. Please let family, faith and moral values guide the children in their homes, and for education, stick with TRUTH in math, science, language arts, social studies, political science, and the values found in good debate.

Thank you.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Clayton Bruce and Cheryl

Last name *

Willis

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Teresa

Last name *

Cook

City *

Kearney

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

With the vast majority of Nebraskans wanting you to scrap the standards, why have you not done this? By tabling it and not getting rid of it in its entirety is a total disrespect for the majority of people that voted you in.

What we see that has been brought to light by deception and untruths is out there and the trust has been shattered.

The people are not going to quit fighting for our children as grandchildren and as we become more involved, we will vote you all out for not doing the right thing which is to get rid of these horrible proposed "Health" standards.

I implore you to get rid of these standards and stay in your lane. This is not something you have any right to implement.

Thank you

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Teresa

Last name *

Cook

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Nebraska State Board of Education

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Richard

Last name *

Mlinar

City *

Doniphan

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

It's time to stop the CRT and Health Education Standards.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Richard

Last name *

Mlinar

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Nebraska State Board of Education Written Public Comment February 2022

Nebraska State Board of Education

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Anne

Last name *

Kalkowski

City *

Omaha

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I was troubled watching the January meeting when Mr. Penner stated he wanted to use his position on the State Board of Education to read selections of books from a local school library at the February meeting. I see this is on the agenda. Each school and district should have a policy on handling books challenged by parents and stakeholders. I am concerned the meeting will be used as a dog whistle for the current book banning movement. The State Board of Education is not the place to challenge individual school library books or to cultivate animosity towards school libraries among the people of our state. On the contrary, it should be the place to support books, reading, and school library programs. School librarians work tirelessly to curate a collection to meet the needs of their diverse student and family populations. They are teachers who strive to help guide students and staff in their journey to be lifelong readers and learners.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Anne

Last name *

Kalkowski

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Maris

Last name *

Bentley

City *

Plattsmouth

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I urge Board members to vote in favor of Mr. Penner's amendment to the previously postponed health education standards. Those standards were not acceptable to many, many Nebraskans, as you should certainly have realized. As a subject area which does not require standards from you, health education standards and curriculum should be decided at the local level by parents and communities.

Which leads me to the next request, that the Board members, who are supposed to represent the people of Nebraska, do so by voting for the local control policy, also being presented by Mr. Penner. Do not vote against local control! Not a good look for you, if you do vote against it. I hope I don't need to remind you that your votes will be a matter of public record.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Maris

Last name *

Bentley

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

SHAPE NEBRASKA

Last name *

Leadership Council

City *

Omaha

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

February 1st, 2022

State Board of Education
Nebraska Department of Education
Attn: Ryan Foor
P.O. Box 94987
Lincoln, NE. 68509-4987

State Board of Education Members:

The Society of Health and Physical Educators of Nebraska has recognized that there is proposed legislation in the Nebraska Unicameral under legislative bill 768 that would prohibit academic content standards in new areas and repeal the original academic content standards in content areas not assessed through statewide testing. More recently, we became aware of proposed policy from the Nebraska Board of Education that would also eliminate "non-required standards" from being adopted by the Nebraska Department of Education. While we are very much proponents of local control when it comes to curriculum development and delivery, we are concerned about these proposals and their potential to impact students, particularly in their overall physical health and well-being.

Under the proposal brought forth by Nebraska Board Member Penner, the only standards that would be available for adoption by the Nebraska Department of Education would be within the areas of reading, writing, mathematics, science and social studies. While we certainly recognize the value of these content areas and the importance for having standards, our concern would be the lack of content standards for other content areas including Physical Education. While Physical Education may not be assessed on a statewide level, content standards for Physical Education exist to provide local districts with a road map toward competencies in physical literacy and overall student fitness and health. Without these road maps, it makes the challenge of providing a high-quality Physical Education program increasingly difficult for many of our school districts across the state of Nebraska. Having these tools available to districts actually provides the district with a higher degree of local control when it comes to making decisions regarding curriculum and resources and provides them an efficient means for creating content and lessons that support the standards. SHAPE Nebraska recognizes that our best educators in Nebraska are utilizing the Nebraska Physical Education Standards to help them develop a scope and sequence, pacing guides, lesson plans and assessments that assure students are receiving a high-quality education in the Physical Education space.

We ask that you not consider the needless elimination of valuable resources such as the Nebraska Physical Education Standards. In addition to boosting student well-being and physical health, these standards provide valuable tools for the Nebraska Department of Education to assess district delivery of high-quality Physical Education programs pursuant to Rule 10 within the Nebraska Department of Education. If you would like to discuss further, we would be happy to provide you with additional resources that demonstrate the need for high-quality Nebraska State Standards and Grade-level Benchmarks in Physical Education.

Regards,

SHAPE Nebraska Executive Team and Leadership Council

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

SHAPE NEBRASKA

Last name *

Leadership Council

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Nebraska State Board of Education Written Public Comment February 2022

Nebraska State Board of Education

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

PHYLLIS

Last name *

Schwab

City *

Kearney

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I am writing to let the State School board know that I am still concerned about the material that is being used in the classroom to teach sex education. I believe that parents have the responsibility to teach sex education to their children as they see fit. Teachers should be teaching the basics to our children, Reading, Math, History and Science. Reading is the most important since many students are not reading at grade level when they graduate. I hope you will considerate my comments as you work on plans for our education system in Nebraska.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

PHYLLIS

Last name *

Schwab

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Nital

Last name *

Lechner

City *

Grand Island

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I continue to watch in disbelief how the State Board of Education continues to throw their weight around and use up valuable time and energy pushing to insert a sex ed curriculum into NE schools, refusing to "Let it Go."

The four areas you are required to write standards for are in grave need of attention! Sex education is NOT an area any of you need to interfere in. Students have parents and adults who know when and what their children need to know. To believe any of you know what is best for another persons child is insanity at its finest.

The way you tried to slip this agenda in was/is deceitful and NOT an example of integrity!

The people you hand chose do NOT have the beat interest of NE children in mind. I used to respect the NDE and the State Board-not anymore. I am appalled at the road this board is traveling.

Work on Nebraska peoples concerns about education in the four core areas and let parents and local boards deal with their own sex standards!

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Nita

Last name *

Lechner

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Lola

Last name *

Tiller

City *

Holdrege

State *

nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I am concerned that the Nebraska Dept of Education is still trying to indoctrinate school children with resources that are biased and anti-American, anti-parent, anti-God. The Board has still not shown any accountability regarding all the filth proposed in the Health and Sex Ed curriculums. Stay out of the local school districts. Vote to dismantle the State School Board. Thank you for placing my comments in the official record. Lola Tiller Holdrege, Ne.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,**First name ***

Lola

Last name *

Tiller

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Kari

Last name *

McGrew

City *

Lincoln

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

We are writing in full support of Kirk Penner's motion to permanently reject any development of health standards. We do feel it should be handled at the local level and not written by the NSBOE as it stands now.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Kari

Last name *

McGrew

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

James

Last name *

Koepp

City *

Glenvil

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Do not allow CRT.

Do not allow males and females sharing restrooms.

Do not allow transgenders to compete against others in sports other than their sex at birth.

Do not allow after school activities in the school involving satan.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

James

Last name *

Koepp

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Margaret

Last name *

Koepp

City *

Hastings

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

No sharing of restrooms of males and females.

No CRT in school.

No after school activities in the school involving satan.

Do not allow transgenders to compete in sports other than their sex at birth.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Margaret

Last name *

Koepp

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Paul

Last name *

Ehernberger

City *

Rogers

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Nebraska Board Of Education Member District 7, Robin Stevens, and I share a lot of common experience, besides being Nebraskans born in the same year, 1950. We are good friends, with a long history of successfully serving the public together in Schuyler and Colfax County.

But never, in my 71 years, have I witnessed an institution that has completely lost the trust of the people who it serves, as I have observed during the past 10 months with the Nebraska Department Of Education and The Nebraska Board Of Education.

As Chairman Of The Colfax County Board Of Supervisors, Carl E. Grotelueschen, stated at a Schuyler Board Of Education meeting last summer, "The Nebraska Department Of Education has been hijacked by some radical groups!"

I'm sorry if you have been taken advantage of, and I pray fervently for all of you, as I do for all of my friends.

My friend Robin is a team player who yearns for everyone to get along, even when it is difficult. At a Gothenburg School Board meeting this summer Robin quoted from the Pledge Of Allegiance which the Nebraska Board Of Education recites at the start of each month's Friday meeting, that we are, "One nation, under God!"

We can not be united as a nation, if our leaders reject God, and His clearly defined biblical standards.

As you have seen and heard this year, the vast majority of people in Nebraska have clearly stated that they want leaders who respect, not reject, God's time-honored biblical standards.

It appears that your new board member from District 5, Kirk Penner is taking righteous leadership to stand for what is right.

With the motions that Kirk is presenting to the Nebraska Board Of Education this week, each one of you has the opportunity to courageously do what is right for the people of Nebraska.

Please vote FOR the motions that Kirk Penner presents to you on Friday, and begin to regain trust in and respect for The Nebraska Department Of Education.

Paul Ehernberger
Rogers, Nebraska

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Paul

Last name *

Ehernberger

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Tammy

Last name *

Hanel

City *

Lincoln

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I am writing you to let you know I still want my voice heard for the children of NE. I stand with Kirk Penner in permanently scrapping any & all material that promotes cse & crt. I left teaching for LPS over 20 years ago because I saw firsthand where public education was going for students & teachers. I had the blessing of being able to stay home while our daughter attended select (our personal standards) public elementary, middle, & high schools in the district. I was engaged in the schools, asked her questions, & was very present in teaching her alongside what she was learning in school. Her experience has been a positive one due to the involvement of her parents in her education. However, many students don't have this blessing, & yes, it is a blessing. These students are vulnerable & prime targets for indoctrination. They don't know what they don't know. Parents across the state are not only taking a stand for their own children, but for these vulnerable children they'll never meet. Public education has lost its way, & unfortunately we're seeing the ramifications of that with abysmal test scores, graduation rates declining, reading, writing, math proficiency not being met by more & more students, behavioral issues skyrocketing, the list goes on & on. Clearly pushing & focusing on social justice causes doesn't bode well for student achievement. If these things continue, I foresee a not so distant future where NE parents will no longer trust the school system & pull their kids from it. And as for those vulnerable students who are stuck in a failing & broken system, they won't be forgotten. A way will be provided for them to escape as well.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Tammy

Last name *

Hanel

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Margie

Last name *

Mosier

City *

Bellevue

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I support Kirk Penners motion to reject any attempt on the part of the Nebraska State School Board to develop any Health Education Standards at any time now or in the future. This is the purvue of local school boards and parents. As a former teacher, I know that local school boards and parents are more invested in the welfare of the students and much much MUCH better judges of curriculum. I actually am not sure of the function of a State School Board. We need to get back to a basic education which requires rigorous math, reading and writing skills, critical thinking and decision making skills and improving personal responsibility and work ethic. There is not enough time in the day to accomplish what we should in those areas.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Margie

Last name *

Mosier

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Amber

Last name *

Brown

City *

Kearney

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Please vote to accept the motions being put forth by Kirk Penner at this meeting. He is standing up for what my family stands for. He is listening to the people.

Thank you

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Amber

Last name *

Brown

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Nebraska State Board of Education Written Public Comment February 2022

Nebraska State Board of Education

Pursuant to State Board of Education Bylaw B9 - Public Participation at Board Meetings:

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Corri

Last name *

Roucka

City *

Arlington

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I support what Kurt Penner has submitted. It is time for parents to be heard not only at the state level but at the local level as well. Boards are supposed to be listening to the people who voted them in. And they have not been. Changes need to be made for the sake of our youth!

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Corri

Last name *

Roucka

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Nebraska State Board of Education

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Judy

Last name *

Derr

City *

Amherst

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I continue to have many concerns with the Nebraska SBOE and the lack of transparency and accountability, esp with the FOIA's! I also support Mr. Kirk Penner as he attempts to lead in the quest for local control! I support his amendments and urge the rest of the board to vote yes!! Thank you!

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Judy

Last name *

Derr

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Robert

Last name *

Derr

City *

Amherst

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I,
along with many, many other concerned taxpayers, am still very worried about the SBOE and how fractured the board appears to be. We are very grateful for Mr. Kirk Penner being the voice for countless Nebraskans. We also 100% support Mr. Penner and his amendment proposals for permanently discarding the proposed health standards and for returning to LOCAL CONTROL!!! Please listen to your constituents! Thank you for your service.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Robert

Last name *

Derr

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Jennifer

Last name *

Sand

City *

Bertrand

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Dear Nebraska State Board of Education,

I am writing to express my belief that parents should be in control of their children and what they are exposed to, especially in the area of sexuality and gender issues. Over the past year, I have been very disappointed in the Board of Education and the untruths, agenda pushing, and promoting the idea that parents are uninformed, uneducated, and have no rights to the education of their own children.

I support the complete removal of the health standards, especially those containing any sexuality issues. I support that each individual school and their board of education be in charge of the education of the children in their district. I support the withdrawal of input by the State Board and the Commissioner, that involves removing or constraining parental rights, CRT, sexuality issues.

The people of Nebraska have spoken loudly and clearly that they do not support the State Board of Education in these areas. Please listen to the people-you are only in your position because of them.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Jennifer

Last name *

Sand

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Karen

Last name *

Jamieson

City *

Grand Island

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I am writing in support of Kirk Penner's Motion #2 for the Social Studies requirements.
I agree that the discussion of Sex education , sexual orientation & gender identity are best handled by local school boards and parents.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Karen

Last name *

Jamieson

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Nancy

Last name *

Wurst

City *

Wilber

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I am writing in support of the Nebraska State Board of Education NOT deciding on curriculum for schools. This power should be left to the local school boards and parents in the community. I also believe the NSBE should not direct public schools to instruct children on sex, gender identity. Stick with mathematics, history (real history), geography, English, etc. Please stay away from political agendas. Listen to the parents in our state and hear that they and their local school boards want to decide what their children are taught.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,**First name ***

Nancy

Last name *

Wurst

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Patricia

Last name *

Bartels

City *

Upland

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I would like to inquire why Deb Neary is not being held accountable for her actions which were proved with the FOIA emails. The board stated they did not have an agenda and were not being influenced by outside people. The emails proved that she was involved with an agenda to bring CSE and CRT into the public-school curriculum. I believe she should have been asked to leave the board when she was caught doing this. There have been no consequences for her actions made public. There should be consequences for lying to the people you are supposedly representing. I am sure she would not have been elected if people thought she was only going to push her personal agenda.

These board members represent thousands of people which expect them to listen to them and represent them. The board should take action to ban CSE standards from the recommendations to be taught in our schools as other states have done. They cannot be measured as math or science or academics which the board is supposedly responsible for. There is too much room for personal opinions here. If children cannot read or do basic mathematics their future will be adversely affected. The CSE curriculum should be left to the parents. Teach kindness and respect for all. The board needs more accountability to the public. You do not uphold the standards for yourselves how can we trust what you are doing when you have already been caught being dishonest?

So far, the only one that is doing anything with board accountability is Ms. Morrison. We certainly appreciate her efforts to have accountability on the finances by putting it back to the finance committee to decide where the money should be spent. Mr. Bloomstedt should not be able to decide where the millions of dollars the state is receiving to be spent by himself. One idea would be to actually pay the teachers better for the work they are doing. Let's encourage young people to want to enter the education field.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Patricia

Last name *

Bartels

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Heather

Last name *

Russell

City *

Kearney

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Hello Board,

Please second and move forward with Board Member Kirk Penner's motions to permanently reject development of health education standards and leave such development of any non-core areas to local control.

Thank you!

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Heather

Last name *

Russell

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Valerie

Last name *

Karsjens

City *

Ogallala

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Motion #2 is a ray of common sense, intelligence, and maturity in education. Thank you Mr. Penner. I can't imagine that it is sitting well with the rest of corrupted perverse board members and definitely not with the resident child sexual exploiter and racist Matt Blomstedt. We, the people, will be bringing other intelligent adults to join you in November in order to bring back common sense and a true commitment to the benefit of all students. I have tried for over a year to dissuade the other state school board members of the errors of their ways but their souls are black, they do not have conscience, and their responses consisted of lies, manipulation, and self-righteousness. They are a lost cause and have no reason for pride or support.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Valerie

Last name *

Karsjens

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Carol

Last name *

Watson

City *

Arnold

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

SBOE members:

I would like my comments to be added to the record for the February 4th, 2022, meeting.

I continue to wait for accountability from this Board. Your website at NDE still claims resources as “ anti-racist”, but your biased view is clear!

I am continuing to watch your actions very carefully! Your blatant refusal to address member Neary’s under handed contriving of the CSE and CRT standards without including ALL interested parties is indicative of haphazard leadership.

I believe the taxpayers and children of Nebraska deserve better!

Sincerely I remain,

Carol Watson

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Carol

Last name *

Watson

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Leslie

Last name *

Nordstrom

City *

Omaha

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Please protect the health & innocence of NE children. There are numerous parents who are concerned about children’s sex education. Many parents do not want schools teaching CSE = Comprehensive Sexuality Education, gender ideology, pornography to their children. NE schools have no right or even a positive reason to implement, promote or distribute such things. Parents have the right to direct the education, healthcare & upbringing of their children.

I am still very concerned about NE’s children. The NDE has questionable resources & biased positions on subjects. The NDE needs to be accountable to Nebraskans. Before any updates or new measures are adopted, the info needs to be presented to parents openly, honestly & in their entirety. The Board should be forthright & honest re: the source of the data (where / whom the ideas come from).

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Leslie

Last name *

Nordstrom

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Jaime

Last name *

Schmidt

City *

Firth

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Parents are still appalled at the health standards that were indriduced; even with the changes. Nebraska does not need "Health" standards. Scrap them

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Jaime

Last name *

Schmidt

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Teresa

Last name *

Carey

City *

Wilcox

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

As an educational system we should be educating our children about History as it happened!! We have come a long way in our history, making a better country for those that come seeking a better life. The American Dream! Educating them in Science! Educating them in Mathematics! Introducing them to the joys of reading good literature! Teaching them how to write with instruction in penmanship!

The American Dream is becoming perverted with the Marxist ideology of CRT, SEL & CSE. The children will learn soon enough about the evils in the world. Teach them to be critical thinkers, let them make up their own minds about their life! They don't need someone in a position of authority telling them what to think or filling their heads full of nonsense, someone with their own agenda to indoctrinate our children.

Let's work on making sure that our children are reading proficiently at their grade level, as well as getting our scores up in the subjects that are on the standardized testing. It seems that we are focusing too much on the fluff in the classroom and not focusing on the children learning the subject matter, that means all students. If there is a child struggling with a subject such as math, help them to get it. No child left behind! School should be a safe place with people who care about the children and protect them from those who seek to harm them. Not be the ones doing the harming.

CRT, SEL & CSE are not in the best interest of our children!!!

#SCRAPTHESESTANDARDS

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Teresa

Last name *

Carey

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Beth

Last name *

Hiatt

City *

MINDEN

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

For the Public Record.

CASEL's Five Core Competencies listed at the beginning of the NDE website lists 'Responsible decision-making' and 'ethical standards' under the fifth point. The Nebraska students are expected to adhere to 'ethical standards', yet you do not hold yourselves to the same.

Until the 'indefinitely postponed' proposed Health Standards are dismissed and scrapped entirely, they are still proposed. Remove them from potential consideration.

I see Ms. Neary is still a member. She and some of the NDE staff should have been dismissed for deceiving the Nebraska citizens and the rest of the NDE Board when exposed for the underhanded way they worked behind the scenes with known activist to have CSE and CRT be part of the still proposed Health Standards.

I have yet to see or hear of a public apology by Commissioner Blomstedt or Member Stevens for lying in Nebraska news releases about the role of activists being part of the formation of these still proposed Health Standards.

President Koch, you are now responsible to see that the NDE Board is held to 'ethical standards' as the public's trust is still eroded to the point this board is ineffective.

As a life long Nebraska citizen and voting taxpayer, I expect dismissals and apologies are rendered.

Beth Hiatt

Minden, NE

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Beth

Last name *

Hiatt

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Nebraska State Board of Education

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Elizabeth

Last name *

Davids

City *

LINCOLN

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

The NDE should consider Deb Neary insubordinate and worthy of removal from the Board for her role in conniving to stack the deck with invested committee members who would profit financially from the proposed health standards and then disingenuously addressing the public in seeking to distance herself from her actions through broad platitudes about her good intentions which are not believable. Ms. Neary has shown that she cannot be trusted with the profound responsibility of influencing Nebraska's 300,000 children across the state and she should be removed from office. It is reprehensible that this Board should ignore 90% of the written comments by UNL's own count and at least 90% of the public testimony about the controversial proposed standards and insist on keeping them as an option. You are supposed to be representing the will of the people who elected you, not the interests of groups like Planned Parenthood. Planned Parenthood, which already profits from a ridiculous amount of our tax dollars, and which would profit greatly from grooming our children into sexual activity at even younger ages, leading Nebraska's children to need to purchase contraception and even abortion services, racking up the abortion mill's profits exponentially. Shelving these standards is not enough. They must be discarded completely. Health standards are not necessary, are outside of your job requirements, and the particular standards the committee came up with included controversial, unacademic, and unscientific. How about this Board takes on the embarrassing academic scores of our students considering my closest local high school students have a 38% proficiency score in English and Math? How about this Board address the unbelievable staffing crisis across our state? Lincoln Public Schools can't find enough bus drivers or staff members or teachers or substitute teachers. How can our children thrive in this environment? How about this Board address the disgusting books that are required reading in many of our schools? Required reading that contains graphic sex terminology and scenes that would be considered pornographic in other contexts, but for some reason is given a pass when it's in an educational setting. There is a lot of work to do to make Nebraska schools healthy and vibrant. That you would insist on keeping health standards around that 90% of your constituents don't want and not address the gaping wounds of our education system is simply irresponsible and every one of you who is not a newbie at this should be voted out in the next election. We are working toward the election of Elizabeth Tegtmeier to replace Robin Stevens in representing the good people of district 7 and supporting Sherry Jones as she replaces Maureen Nickels to represent the good people district 6. The time has come for good people who are not influenced by corrupt outside sources to actually represent their constituents and bring the best methods and strategies to the table to create thriving educational institutions in our state. Nebraskans, this is the time for grassroots efforts to oust the big business influence on our precious children. Join Protect Nebraska Children Coalition, Nebraskans for Founders Values, and any other group that focuses on our children's best and not the bureaucrats' intentions. Run for local school board, run for state school board, and protect our children from those who would seek to corrupt and prey upon them. Our children, our grandchildren, our entire future is at stake and we are the answer.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Elizabeth

Last name *

Davids

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Nebraska State Board of Education Written Public Comment February 2022

Nebraska State Board of Education

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Lora

Last name *

Rice

City *

Chapman

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

Once again, the Board is refusing to listen to the people who are standing before them and telling them they DO NOT want CSE and CRT taught in our children's classrooms! You are continuing to prove that you are untrustworthy and out of control. You continue to steer Nebraska's educational system towards a leftist, Marxist agenda and away from the rich history and Christian principles on which our country was founded! This is unacceptable and a mounting distrust of the State Board of Education will soon find many of you without a place at the table. You are self-destructing and I am not sure you even realize it. We the people have followed the paper trail and know that you are taking money from Planned Parenthood, and other Marxist organizations. You are taking our money and using it against our children through indoctrination. You are attempting to smear the newest board member, Kirk Penner, through the Omaha World Herald leaking misinformation and attempts to paint him as a "radical right winger" - your words not ours! We see Kirk as a courageous hero, and more are coming behind him! What you are doing under the cover of darkness will surely come to light!

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Lora

Last name *

Rice

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Nebraska State Board of Education Written Public Comment February 2022

Nebraska State Board of Education

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Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Brent

Last name *

Bockerman

City *

Omaha

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

This is a comment against the continued promotion and retention of Critical Race Theory (CRT) and also against Comprehensive Sex Education (CSE), the latter of which was "shelved" due to public outcry of pornographic exposure and alternative lifestyle education/promotion to our extremely young students attending public schools (however, it was only tabled, and not "eliminated from future consideration" as viable to adopt). The CSE objections pretty much go without much further saying... there's no need to expose our young children to sexual immorality and filth in public schools with teacher proxying of this, in replacement of moral and highly personal topics of this nature being left to the discretion of parents for proper education and direction of the child. As to CRT, while it's claim is that it's solely "bringing to light our nation's past history which included racism" -- the actual teaching to children is reaching far beyond that (following concepts reported as taught in our schools): 1) Insert racism into everything; 2) Every event occurring between any minority race and white people is a racist even; 3) Every decision made by a white person is a racist decision/policy against people of color; 4) Every adverse event occurring to a person of color was caused by a racist white person; 5) Every good result for a white person is designed to exclude people of color; 6) Every good thing occurring to a person of color is only due to resisting/opposing racist white people; 7) Every bad thing happening to any white person is deserved due to past/present racism against people of color; 8) All people of color are victims and oppressed by whites; 9) All white people are oppressors of people of color; 10) Poor decisions by people of color are a result of racist white oppression; and 11) Biblical tenets of brotherly love and equality are rejected.

Martin Luther King, Jr. (and his niece, who is still living) were proponents for equal treatment and justice under the law. CRT education is continuing divisive propaganda in a twisted way as observed by the above education examples found in NE public school teaching and it needs to stop, per the overwhelming opposition of the parents and taxpayers of this state for such toxic education into the minds of our state's children! Thank you.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Brent

Last name *

Bockerman

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Nebraska State Board of Education Written Public Comment February 2022

Nebraska State Board of Education

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Leslie

Last name *

Sikyta

City *

Ord

State *

Ne

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I am still concerned with the state having anything to do with CRT. This whole theory needs to be thrown out of the possibility for our States children. Our nation has a strong heritage and is based on Christian values and we need to be getting back to where we came from. There needs to be local control.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Leslie

Last name *

Sikyta

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Nebraska State Board of Education Written Public Comment February 2022

Nebraska State Board of Education

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Sally

Last name *

King

City *

Oakland

State *

NE

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

The young people and children of Nebraska deserve our best. Not to be a political pawn or an indoctrination program shoved down their throats while the state school board sits idly by. Teaching them to see people of a different color is racist in any form. These children need to be taught to respect each other not judge them. These do not belong in our schools, in our society or in Nebraska. The sex education this board is allowing to be perpetrated on children is criminal. You have no right to get involved in the teaching of anything on this subject. The state board of education needs to remove their grip of control over our children. The control needs to be in the hands of the local school boards.

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Sally

Last name *

King

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Click the "Next" button below to begin.

Identification

Please complete the following information to identify yourself. This information will appear with the text of your written public comment.

First name *

Christen

Last name *

Deming

City *

Blair/Arlington

State *

Nebraska

Written Comment

There is a limit of 750 words.

Written Comments *

There is a limit of 750 words (approximately 5000 characters with spaces.)

I support parents being involved in what their kids are learning

Signature

Please type your first and last name again. This will appear with your written comments and serves as your signature.

Signed,

First name *

Christen

Last name *

Deming

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Out-State Travel Authorization Reports - February

| <u>Name</u> | <u>Event Name</u> | <u>Date</u> | <u>Location</u> |
|--------------------|-------------------|-------------|-----------------|
| Lisa Fricke | (NONE) | | |
| Jacquelyn Morrison | (NONE) | | |
| Deborah Neary | (NONE) | | |
| Kirk Penner | (NONE) | | |

| |
|--|
| |
| Trip Request (i.e. 1st, 2nd, Other) |
| |
| |
| |
| |

Out-State Travel Authorization Reports - February

| <u>Name</u> | <u>Event Name</u> | <u>Date</u> | <u>Location</u> |
|------------------|-------------------|-------------|-----------------|
| Patsy Koch Johns | (NONE) | | |
| Patti Gubbels | (NONE) | | |
| Maureen Nickels | (NONE) | | |
| Robin Stevens | (NONE) | | |



PROPOSED AGENDA ITEM RATIONALE

DATE: January 20, 2022

TO: Matthew L. Blomstedt, Ph.D.
Commissioner of Education

FROM: Lane Carr
Administrator, Office of Policy and Strategic Initiatives

PROPOSED AGENDA ITEM: Authorize the Commissioner to contract with Beyond School Bells (Nebraska Children and Families Foundation) to continue implementation of the Expanded Learning Opportunity Innovation Network.

RATIONALE/BACKGROUND INFORMATION:

An Innovation Grant Program was initially created with the passage of Legislative Bill (LB) 519 (2015) and codified in Nebraska Revised Statute (NRS) §79-1054. The competitive grant program provided resources and opportunities to Local Education Agencies (LEAs) and consortiums to support the development, expansion, and investment in innovative best practices. The projects and efforts ranged from personalized learning, career academies, afterschool design network, and digital ecosystem development.

Building on the culmination of our successful collaboration on the NDE Innovation Grant funded Expanded Learning Opportunity (ELO) Design Challenge, Beyond School Bells together with a group of key partners, proposed a second phase Innovation grant funding to launch Nebraska's ELO Innovation Network for the two-year period from January 2020 to January 2022.

The NDE is again seeking to renew the partnership with Beyond School Bells to manage innovation-related network projects for expanded learning including after school and summer school. These projects include the continued development of incubator programs, communities of excellence, and network facilitation.

PROPOSED BOARD MEETING (MONTH/YEAR): February 2022

ESTIMATED COST: \$250,000

FOR CONTRACTS AND GRANTS:

- Indicate the Funding Source: Lottery Funds
- New or Renewal: Renewal
- If renewal, date of first approval: January 2020



NEBRASKA

DEPARTMENT OF EDUCATION

PROPOSED AGENDA ITEM RATIONALE

DATE: January 18, 2022

TO: Matthew L. Blomstedt, Ph.D.
Commissioner of Education

FROM: Zainab Rida, Ph.D.

PROPOSED AGENDA ITEM:

Grant the Commissioner the authority to contract with Dr. Barbara Buttes to serve as a liaison between the Nebraska Commission on Indian Affairs, Nebraska Department of Education (NDE), and school districts serving Native American students to provide support, technical assistance, culturally relevant training, and communication between parties.

RATIONALE/BACKGROUND INFORMATION:

Invisibility commonly surfaces as American Indian students' primary reason for dropping out of school. According to a 2018 Bureau of Indian Affairs research project, nearly 1/3 of all Native American students drops out of school between the 7th and 12th grade.

The contractor will work on the following activities to have a positive impact on the cause of American Indian invisibility in the schools:

- Serve as a key staff connection to accomplish educational goals guided by the Commission and the NDE as established by the Commissioner's Advisory Committee on Native American education.
- Design and implement professional development opportunities for schools, Educational Service Unit staff, and the NDE, who focus on enriching Nebraskans' knowledge of the diversity within the cultural and community contexts of Native American students and in culturally relevant, supportive pedagogical practices, materials, and experiences.
- Design and conduct school/district-based needs assessment to identify strengths and opportunities that align with the whole-child, school improvement, and appropriate cultural approaches.

- Investigate the potential role of tribal education agencies, and work with tribal authorities to consider implementation of community-specific strategies to improve student outcomes.

The work of AQuESTT provides a unique opportunity to build and integrate systems that support every student, every day. The work of the contract provides a critical integration opportunity among multiple agencies, programs and services. The formation of advisory and coordination boards in addition to supporting professional development among a variety of educators are a part of the outcomes associated with the contract.

PROPOSED BOARD MEETING (MONTH/YEAR):

February 2022

ESTIMATED COST:

Up to \$105,000

FOR CONTRACTS AND GRANTS:

- Indicate the Funding Source: ESSER III
- New or Renewal: New



NEBRASKA

DEPARTMENT OF EDUCATION

PROPOSED AGENDA ITEM RATIONALE

DATE: January 18, 2022

TO: Matthew L. Blomstedt, Ph.D.
Commissioner of Education

FROM: Cory Epler, Ph.D.
Academic Officer

Dorann Avey
Digital Learning Director

PROPOSED ACTION ITEM: Authorize the Commissioner to amend the current contract with Vivayic

RATIONALE/BACKGROUND INFORMATION: In their current contract, Vivayic has provided support, resources and professional learning for the Education Innovation Network for Asynchronous Professional Learning (EIN for APL). To date over 70 NDE staff, ESUC staff and district staff (3 annual cohorts) have been trained on the development of asynchronous professional learning and asynchronous development tools. The long-term goal of the EIN for APL is to build knowledge across the state to provide high quality professional learning materials and develop a systematic way to continue to develop future educators. Meeting this long-term goal is the main purpose of the contract amendment.

With this amendment, Vivayic will build out additional resources and templates to train and inform educators beyond the first 3 cohort participants across the state who want to learn methods and processes to develop asynchronous professional learning for educators use. In addition, Vivayic will develop and deliver resources that will be available within the NDE's statewide Canvas Catalog/Learning Management System to support this work long-term.

PROPOSED BOARD MEETING (MONTH/YEAR): February 2022

ESTIMATED COST: Contract is amended not to exceed \$250,000 (from current contract amount of \$514,570)

FOR CONTRACTS AND GRANTS:

- Indicate the Funding Source: General Funds: Lottery Funds



PROPOSED AGENDA ITEM RATIONALE

DATE: January 21, 2022

TO: Matthew L. Blomstedt, Ph.D.
Commissioner of Education

FROM: Zainab Rida, Ph.D.
Jessie Coffey

PROPOSED AGENDA ITEM: Grant the Commissioner authority to contract ACT to continue to support an evidenced based comprehensive curriculum inclusive of staff and student assessment tools in selected pilot districts.

RATIONALE/BACKGROUND INFORMATION: To continue to pilot and provide implementation support for an evidenced based comprehensive Social Emotional Learning (SEL) curriculum and accompanying assessment tools in five pilot districts, ensuring sites are representative of demography, rurality, and student need from across the state. Participating districts will receive support from implementation staff at ACT and professional development on curriculum and assessment tools. ACT will expand implementation support for 1-2 additional pilot schools during the 2022-2023 school year by hosting trainings for new sites with district leaders, NDE, ESU, and building administrators to introduce and align curriculum, assessment, and professional learning services designed to build foundational tier one skills in participating pilot schools.

PROPOSED BOARD MEETING (MONTH/YEAR): February 2022

ESTIMATED COST: \$140,000

FOR CONTRACTS AND GRANTS:

- Indicate the Funding Source: CARES Act funding, ESSER II
- New or Renewal: Renewal
- If renewal, date of first approval: February 2021



NEBRASKA

DEPARTMENT OF EDUCATION

PROPOSED AGENDA ITEM RATIONALE

DATE: January 28, 2022

TO: Matthew L. Blomstedt, Ph.D.
Commissioner of Education

FROM: Cory Epler, Ph.D.
Academic Officer

PROPOSED ACTION ITEM: Authorize the Commissioner to amend the current contract with Data Recognition Corporation

RATIONALE/BACKGROUND INFORMATION: In their current contract, Data Recognition Corporation (DRC) is responsible for the project management and planning, assessment development, assessment delivery, test administration, scoring, analysis, and reporting for the NSCAS Alternate test. With this amendment, DRC will develop extended indicators for the alternate assessment that are aligned to the approved *Nebraska College and Career Ready Standards for English Language Arts*.

PROPOSED BOARD MEETING (MONTH/YEAR): February 2022

ESTIMATED COST: Contract is amended not to exceed \$1,794,801 (from current contract amount of \$1,629,281).

State Board of Education Annual Orientation and Business Meeting;
Thursday-Friday January 6-7, 2022
Embassy Suites by Hilton Lincoln, Regents Ballroom A, 1040 P Street, Lincoln, NE 68508
[Link to Agenda and Attachments](#)
[Link to Video of Meeting](#)

Publicized notice of the business meeting was given by posting notice on the Department's website and emailed to news media requesting notification, which gave the date, time, and location of the meeting.

STATE BOARD ANNUAL ORIENTATION, Thursday, January 6, 2022, 9:00 a.m.

1. CALL TO ORDER

President Nickels called the meeting to order at 9:25 a.m.

1.1 Roll Call

Roll Call showed the following attendance:

Maureen Nickels
Patsy Koch Johns
Jacquelyn Morrison

Patti Gubbels
Lisa Fricke
Kirk Penner

Robin Stevens
Deborah Neary

Commissioner Blomstedt was also in attendance.

1.2. President Nickels announced the placement of the Open Meetings Act.

1.3. COVID-19 Meeting Protocol

Commissioner Blomstedt shared information on the COVID-19 Meeting Protocol.

2. ANNUAL ORIENTATION

The State Board took opportunity to meet with Linda Richards, Blane McCann, Jason Richards and Sue Presler from PRISM Advisors to discuss Building Organizational Trust.

President Nickels called for a break at 10:07 a.m. The meeting resumed at 10:17 a.m.

2.1. Recess 11:00 a.m. – 1:00 p.m.

Orientation resumed at 1:50 p.m.

President Nickels called for a break at 3:27 p.m. The meeting resumed at 3:33 p.m.

3. 2022 ORGANIZATION OF THE STATE BOARD OF EDUCATION

3.1. Election Process and Procedures

A four part motion indicating that the Commissioner, as Secretary of the State Board, will preside over the nomination and election process; that secret ballots will be used during the election; that the results of each round of voting will be announced by the Teller and recorded in the minutes after which the Commissioner will declare the result; and that the ballots and tally sheets will be

placed in the custody of the Commissioner, who will keep them under seal until the time period for a recount expires and then destroy them, passed with a motion by Patsy Koch Johns, second by Robin Stevens.

| | |
|---------------------|-----|
| Lisa Fricke: | Yea |
| Patsy Koch Johns: | Yea |
| Deborah Neary: | Yea |
| Maureen Nickels: | Yea |
| Robin Stevens: | Yea |
| Patti Gubbels: | Yea |
| Jacquelyn Morrison: | Yea |
| Kirk Penner | Yea |

Commissioner Blomstedt appointed Brian Halstead and Lora Sypal as Tellers to disseminate and count the ballots.

Commissioner Blomstedt opened nominations for President of the State Board of Education.

3.2. Election of Board President

Lisa Fricke nominated Patsy Koch Johns. There being no further nominations, the Commissioner closed the nominations.

Reporting Teller, Brian Halstead, read the vote results and delivered the tally to the Commissioner, who announced the results of 8 votes for Patsy Koch Johns as President.

3.3. Election of Board Vice President

Commissioner Blomstedt opened nominations for Vice President of the State Board of Education.

Lisa Fricke nominated Patti Gubbels.

Jacquelyn Morrison nominated Robin Stevens.

Patsy Koch Johns nominated Lisa Fricke. Lisa Fricke declined the nomination.

There being no further nominations, the Commissioner closed the nominations.

Reporting Teller, Brian Halstead, read the vote results and delivered the tally to the Commissioner, who announced the results of six votes for Robin Stevens and two votes for Patti Gubbels, declaring Robin Stevens Vice President of the State Board of Education.

4. ADJOURNMENT

President Nickels adjourned the meeting at 5:08 p.m.

The State Board of Education will reconvene Friday, January 7, 2022, at 9:00 a.m. at Embassy Suites by Hilton Lincoln, Regents Ballroom A, 1040 P Street, Lincoln, NE 68508.

STATE BOARD OF EDUCATION MEETING, Friday, January 7, 2022, 9:00 a.m.

1. CALL TO ORDER – President Patsy Koch Johns called the meeting to order at 9:01 a.m.

1.1 Roll Call

Roll Call showed the following attendance:

| | | |
|--------------------|---------------|---------------|
| Maureen Nickels | Patti Gubbels | Robin Stevens |
| Patsy Koch Johns | Lisa Fricke | Deborah Neary |
| Jacquelyn Morrison | Kirk Penner | |

Commissioner Blomstedt was also in attendance.

1.2. President Koch Johns led the Pledge of Allegiance.

1.3. President Koch Johns announced the placement of the Open Meetings Act.

1.3. COVID-19 Meeting Protocol

Commissioner Blomstedt shared information on the COVID-19 Meeting Protocol.

2. COMMISSIONER'S REPORT

2.1. Agenda Overview and Consent Agenda Process

2.1.A. Agenda Item 5.3.C. was requested to be removed from the Consent Agenda for separate vote.

2.2. Report on Rules

Title 92, Nebraska Administrative Code, Chapter 24 is with the Governor awaiting approval.

Title 92, Nebraska Administrative Code, Chapter 51 held a public hearing on proposed revisions January 4, 2022.

2.3. Board Operations Information

(NONE)

3. SPECIAL PRESENTATIONS AND DISCUSSIONS

(NONE)

4. PRESIDENT'S REPORT

President Patsy Koch Johns thanked past President Maureen Nickels and past Board Member Patricia Timm for their service.

President Koch Johns looks forward to the collective work between the Board and the NDE staff, along with teachers and citizens of Nebraska.

5. CONSENT AGENDA

Motion by Maureen Nickels, second by Patti Gubbels to approve the Consent Agenda without Agenda Item 5.3.C.

| | |
|---------------------|-----|
| Lisa Fricke: | Yea |
| Patsy Koch Johns: | Yea |
| Deborah Neary: | Yea |
| Maureen Nickels: | Yea |
| Robin Stevens: | Yea |
| Patti Gubbels: | Yea |
| Jacquelyn Morrison: | Yea |
| Kirk Penner | Yea |

The motion passed.

7.1. Consider the Hearing Officer's Recommended Decision in the Matter of the Appeal of Delores Gladbach.

Motion by Deborah Neary, second by Maureen Nickels to go into Executive Session. President Koch Johns asked Board Member Neary to withdraw her motion to go into Executive Session.

Motion by Robin Stevens, second by Maureen Nickels at 9:18 a.m. to move into Executive Session to deliberate and receive advice from legal counsel concerning item 7.1, consideration of Hearing Officers' recommended decision in the matter of appeal of Delores Gladbach.

| | |
|---------------------|-----|
| Lisa Fricke: | Yea |
| Patsy Koch Johns: | Yea |
| Deborah Neary: | Yea |
| Maureen Nickels: | Yea |
| Robin Stevens: | Yea |
| Patti Gubbels: | Yea |
| Jacquelyn Morrison: | Yea |
| Kirk Penner | Yea |

The motion passed.

At 9:18 a.m., the Board moved into Executive Session to receive legal advice from Legal Counsel on consideration of the Hearing Officer's recommended decision.

Motion by Robin Stevens, second by Maureen Nickels at 9:38 a.m. to adjourn Executive Session.

| | |
|---------------------|-----|
| Lisa Fricke: | Yea |
| Patsy Koch Johns: | Yea |
| Deborah Neary: | Yea |
| Maureen Nickels: | Yea |
| Robin Stevens: | Yea |
| Patti Gubbels: | Yea |
| Jacquelyn Morrison: | Yea |
| Kirk Penner | Yea |

The motion passed.

Motion by Maureen Nickels, second by Lisa Fricke in the *Matter of the Appeal of Delores Gladbach*, NDE Case No. 21-16, that this Board adopt the Findings of Fact, Conclusions of Law and the Recommended Decision of the Hearing officer, and to adopt the Final Order proposed by Legal Counsel.

| | |
|---------------------|---------|
| Lisa Fricke: | Yea |
| Patsy Koch Johns: | Yea |
| Deborah Neary: | Yea |
| Maureen Nickels: | Yea |
| Robin Stevens: | Yea |
| Patti Gubbels: | Yea |
| Jacquelyn Morrison: | Yea |
| Kirk Penner | Abstain |

The motion passed.

6. STANDING COMMITTEE REPORTS

6.1. Policy Committee – Maureen Nickels, Acting Chair, reported on the Committee meeting.

The Committee on Policy met throughout the month of December, and earlier this week to discuss revisions to Board bylaws B2: Board Committees, and B9: Public Participation at Board Meetings. The Committee presents recommendations on both items today.

Regarding Bylaw B2: Board Committees, the Committee reviewed information from Robert's Rules of Order and the Standard Code of Parliamentary Procedure on best practices for Committee structures. Additionally, the Committee reviewed the Committee structures of the Nebraska Board of Regents, the Nebraska State College System Board of Trustees, and the Utah State Board of Education. The Committee recommends adoption of the proposed revisions to Bylaw B2 and recommends that the Budget and Finance Committee review its position description and report back any further recommended revisions no later than the June 2022 Board meeting. This is the result of discussion on potentially expanding the scope of the Budget and Finance Committee.

Regarding bylaw B9: Public Participation at Board Meetings, the Committee considered the letter from the Nebraska Attorney General dated August 4, 2021, recent revisions by the Nebraska Legislature to the Open Meetings Act, and current practices of the State Board. The Committee recommends adoption of the proposed revisions to bylaw B9.

6.1.A. Action Item: Approve proposed revisions to State Board Bylaw B2, *Board Committees*

Motion by Maureen Nickels, second by Jacquelyn Morrison to approve proposed revisions to State Board Bylaw B2, *Board Committees*. The Budget and Finance Committee shall review its description and report back to the Board with any further recommended revisions no later than the June 2022 Board meeting.

Board Members discussed the process for the Committee structure and the reduction of the number of Committees from seven to four, but that Committees will continue to be responsible for all matters under the purview of the State Board.

| | |
|-------------------|-----|
| Lisa Fricke: | Yea |
| Patsy Koch Johns: | Yea |

| | |
|---------------------|-----|
| Deborah Neary: | Yea |
| Maureen Nickels: | Yea |
| Robin Stevens: | Yea |
| Patti Gubbels: | Yea |
| Jacquelyn Morrison: | Yea |
| Kirk Penner | Yea |

The motion passed.

6.1.B. Action Item: Approve proposed revisions to State Board Bylaw B2, *Board Committees*

Motion by Maureen Nickels, second by Patti Gubbels to approve proposed revisions to State Board Bylaw B9, *Public Participation at Board Meetings*.

The Board received a lot of public comment during the last year and a request from the Attorney General's office was received on whether the Board's public comment policy had been followed. The feedback received from the Attorney General is that the Board can develop any policy in line with the open meeting act, but the application needs to be consistent. The proposed revision to this policy is to be clear what the Board will do each meeting. The Board can still make the Public Comment time longer. There is also revised state statute requirements related to signing requirements for people in public comment and that change also needed to be made.

| | |
|---------------------|-----|
| Lisa Fricke: | Yea |
| Patsy Koch Johns: | Yea |
| Deborah Neary: | Yea |
| Maureen Nickels: | Yea |
| Robin Stevens: | Yea |
| Patti Gubbels: | Yea |
| Jacquelyn Morrison: | Yea |
| Kirk Penner | Nay |

The motion passed.

6.2. **Commissioner's Appraisal Committee** – Maureen Nickels, Chair, reported on the Committee meeting.

The Committee met on December 15, 2021, to:

1) **Review history of the Commissioner's performance appraisal tool, process, and procedures**

For performance evaluations conducted from 2014 through 2018, Board Members completed paper forms. Individual scores and comments were aggregated, and a summary report was created. The ratings scale was: exceeds requirements, meets requirements, needs improvement, and not applicable.

The performance evaluation content was revised for the 2018-19 evaluation year and an electronic process (i.e., Qualtrics) was used for the first time. The system generated an aggregate report showing average scores and verbatim respondent comments. The performance evaluation content (i.e., performance standards and indicators) first used in 2018-

19 was also used for the 2019-20 evaluation period. Only the Commissioner's goals were modified from year to year.

In the spring of 2021, the Appraisal Committee proposed a consolidation of the performance standards and essential job functions, reducing them from ten to five.

2) Discuss responsibilities of the Appraisal Committee versus those of the Board per State Board Bylaw B2

State Board Bylaw B2 (Board Committees) provides the following description for the Commissioner's Appraisal Committee:

The Appraisal Committee shall, when directed by the Board or the Board President, review or recommend policies and procedures for the review of performance of the Commissioner of Education. Proposals for procedures and instruments to review the performance of the Commissioner of Education shall be approved by the Board. Any Board Member may request a copy of the current appraisal instrument from the Commissioner's Office.

Based upon this policy, the Committee will bring to the Board for approval any changes to appraisal document content (e.g., performance standards, scoring criteria); appraisal format, process/methodology, and timelines; Commissioner's annual performance goals, and terms of the Commissioner's employment contract.

Therefore, an action item was added to the January 7, 2022, business meeting agenda for the Board to consider approval of proposed changes to the Commissioner's job description and evaluation document. Virtually all the changes reflect reorganization as opposed to deletions or additions.

3) Review contractual requirements regarding the appraisal

The Commissioner's first contract for calendar year 2014 did not require that the appraisal be attached as an appendix. Section 5 of Contract #2, which was effective on 1/2/2015, did require the appraisal to be attached to the contract as an appendix. Contract #2 was amended four times, but Section 5 itself remain unchanged. Contract #3 (effective 7/1/2018), and contract #4 (effective 7/1/2021), no longer required that the appraisal be attached as an appendix.

6.2.A. Action Item: Approve revisions to the Commissioner's job description and the 2021-22 performance appraisal instrument.

Motion by Maureen Nickels, second by Lisa Fricke to approve revisions to the Commissioner's job description and the 2021-22 performance appraisal instrument.

Board Members discussed the changes to the Commissioner's job description and the 2021-22 performance appraisal instrument and agreed that it should be approved by the full Board. An external review by a Human Resources consultant was suggested to provide feedback and input on the changes needed.

| | |
|---------------------|-----|
| Lisa Fricke: | Nay |
| Patsy Koch Johns: | Nay |
| Deborah Neary: | Nay |
| Maureen Nickels: | Yea |
| Robin Stevens: | Nay |
| Patti Gubbels: | Nay |
| Jacquelyn Morrison: | Nay |
| Kirk Penner | Nay |

The motion failed.

Patti Gubbels left at 11:14 a.m., returned 11:16 a.m.

6.3. **Budget and Finance Committee** – Maureen Nickels, Acting Chair, reported on the Committee meeting.

The Budget and Finance Committee met to discuss one item that was referred to it from the December Board meeting, to authorize the Commissioner to amend a contract with the Nebraska Children and Families Foundation. The Committee received additional information from NDE staff and recommends approval of this agenda item.

Additionally, the Committee outlined topics for the 2022 Budget and Finance Committee including inflation adjustments, length of contract requirements, and contract renewal procedures.

6.3.A. Action Item: Authorize the Commissioner to amend a contract with the Nebraska Children and Families Foundation (NCFE) to extend staff partnership contracts until December 2024 (Referred to Committee at the 12/3/2021 meeting)

Motion by Maureen Nickels, second by Patti Gubbels to amend a contract with the Nebraska Children and Families Foundation (NCFE) to extend staff partnership contracts until December 2024.

| | |
|---------------------|-----|
| Lisa Fricke: | Yea |
| Patsy Koch Johns: | Yea |
| Deborah Neary: | Yea |
| Maureen Nickels: | Yea |
| Robin Stevens: | Yea |
| Patti Gubbels: | Yea |
| Jacquelyn Morrison: | Yea |
| Kirk Penner | Nay |

The motion passed.

7. ADDITIONAL BUSINESS

7.2. Review In-State Travel Authorization Reports

There was no further discussion on this item

7.3. Review Monthly Board Travel Expense Report

There was no further discussion on this item.

Break 11:39 a.m. Meeting resumed 12:27 p.m.

7.4. Report from the Ad Hoc Committee on Content Area Standards Process

Jacquelyn Morrison, Chair, reported that the Committee has met approximately six times since November.

The Committee compiled a list of concerns that Board Members had with the standards process and discussed concerns about Committee structure and transparency.

The Committee compiled a list of questions to send to the NDE about the standards process.

The Committee is anticipating having several recommendations, identified as concerns or improvements.

The Committee feels it is beneficial for new Committee chairs to have an orientation relative to the chairing Committees.

7.5. Accept the Commissioner's Proposed Plan for Use of the Remainder of American Rescue Plan (ESSER III) Funds

Commissioner Blomstedt asked Lane Carr and Bryce Wilson, NDE Representatives, to come forward as the Commissioner presented to the Board about the proposed plan for use of the remaining funds of American Rescue Plan (ESSER III).

There were concerns that this plan should first be reviewed Budget and Finance Committee. There was no motion, and this item will go back to the Budget and Finance Committee.

7.6. Authorize the Commissioner to contract with FACTS Education Solutions, LLC for services and support for the Governor's Emergency Education Relief (GEER II) Fund to supplement nonpublic schools not fully supported by the Emergency Assistance for Nonpublic Schools program or the Paycheck Protection Program (PPP) for the period of January 8, 2021, through December 30, 2023.

Motion by Kirk Penner, second by Lisa Fricke to contract with FACTS Education Solutions, LLC for services and support for the GEER II Fund to supplement nonpublic schools not fully supported by the Emergency Assistance for Nonpublic Schools program or the Paycheck Protection Program (PPP) for the period of January 8, 2021, through December 30, 2023.

Board Member discussed accountability for the how the schools used the funds.

| | |
|---------------------|-----|
| Lisa Fricke: | Yea |
| Patsy Koch Johns: | Yea |
| Deborah Neary: | Yea |
| Maureen Nickels: | Yea |
| Robin Stevens: | Yea |
| Patti Gubbels: | Yea |
| Jacquelyn Morrison: | Yea |
| Kirk Penner | Yea |

The motion passed.

7.7. Authorize the Commissioner to contract with Tamera Miyasato, dba Ha'hanna Consulting, LLC.

Motion by Patti Gubbels, second by Lisa Fricke to contract with Tamera Miyasato, dba Ha'hanna Consulting, LLC.

| | |
|---------------------|-----|
| Lisa Fricke: | Yea |
| Patsy Koch Johns: | Yea |
| Deborah Neary: | Yea |
| Maureen Nickels: | Yea |
| Robin Stevens: | Yea |
| Patti Gubbels: | Yea |
| Jacquelyn Morrison: | Yea |
| Kirk Penner | Yea |

The motion passed.

- 7.8. Authorize the Commissioner to approve a grant to fund NDE Journey to Inclusion Project in partnership with SPED Strategies, LLC.

Motion by Lisa Fricke, second by Maureen Nickels to approve a grant to fund NDE Journey to Inclusion Project in partnership SPED Strategies, LLC.

| | |
|---------------------|-----|
| Lisa Fricke: | Yea |
| Patsy Koch Johns: | Yea |
| Deborah Neary: | Yea |
| Maureen Nickels: | Yea |
| Robin Stevens: | Yea |
| Patti Gubbels: | Yea |
| Jacquelyn Morrison: | Yea |
| Kirk Penner | Yea |

The motion passed.

- 5.3.C. Authorize the Commissioner to continue to contract with Student1 to implement NDE Central Data Repository Phase 2 ETL Development and to maintain Level 4 technical support related to integration of Ed-Fi technologies pursuant to 2019 Federal SLDS Grant terms.

Motion by Maureen Nickels, second by Patti Gubbels to continue to contract with Student1 to implement NDE Central Data Repository Phase 2 ETL Development and to maintain Level 4 technical support related to integration of Ed-Fi technologies pursuant to 2019 Federal SLDS Grant terms.

Nickels asked that this item be pulled from the Consent Agenda for a simpler understanding on the technical terms.

Kristin Yates, NDE Representative, provided information on the technical terms to the Board.

| | |
|-------------------|-----|
| Lisa Fricke: | Yea |
| Patsy Koch Johns: | Yea |
| Deborah Neary: | Yea |
| Maureen Nickels: | Yea |
| Robin Stevens: | Yea |

| | |
|---------------------|-----|
| Patti Gubbels: | Yea |
| Jacquelyn Morrison: | Yea |
| Kirk Penner | Yea |

The motion passed.

7.9. Discuss Board Committee Membership

President Koch Johns reminded Board Members to fill out the Committee appointment sheet and return to her.

8. INFORMATION ITEMS AND REPORTS

President Koch Johns referred Board Members to review information items and reports.

9. GOOD OF THE ORDER

(NONE)

10. ADJOURNMENT

President Koch Johns adjourned the meeting at 1:52 p.m.

The next regularly scheduled business meeting of the State Board of Education will be held on Friday, February 4, 2022, at 9:00 a.m. at a location to be determined.



NEBRASKA

DEPARTMENT OF EDUCATION

PROPOSED AGENDA ITEM RATIONALE

TO: Matthew L. Blomstedt, Ph.D.
Commissioner of Education

FROM: Amy Rhone

PROPOSED AGENDA ITEM: Authorize the Commissioner to continue to fund the Nebraska WORDS project (formerly titled Practice-Based Professional Development) through the University of Nebraska – Lincoln.

RATIONALE/BACKGROUND INFORMATION:

The Nebraska Reading Improvement Act is in effect (2020-2021), and many schools and teachers may be underprepared to implement and interpret the reading assessments and instruction necessary. To help prepare teachers, the Nebraska Department of Education has launched the Nebraska Reads initiative, which focuses on high quality literacy instruction for all students, as well as early identification of students who may need extra support in kindergarten through grade 3. To support this initiative, NDE is developing multiple resources for schools and districts, including: a list of approved reading assessments, guidance documents for developing Individualized Reading Improvement Plans, resources for identifying evidence-based practices (e.g., documents from the Regional Educational Laboratory), developing a Nebraska Literacy Plan, and revising their Technical Assistance Document for Dyslexia.

The current proposal is a continuation and expansion of the 2021 Nebraska WORDS project (formerly titled Practice-Based Professional Development). During 2021, the Nebraska WORDS project resulted in the development of 2 professional development modules (i.e., Reciprocal Teaching; Writing to Read) and revision of 6 other modules (i.e., the science of reading, phonological awareness, decoding, spelling, syllabication, and multi-sensory approaches to reading instruction). Nebraska WORDS partnered with one rural school to pilot the workshops during PD days throughout the year. Additionally, the project provided ongoing tutoring support for schools and initial planning support for additional schools through (1) consultation with the reading leaders in the school district and observation of teachers, and (2) observation and feedback for teachers implementing tutoring. We also provided some interpretation of assessment data for schools when requested.

WORDS addresses the needs of school districts in rural Nebraska addressing the Nebraska Reading Improvement Act, which was passed into law during the 2018 legislative session. The Dyslexia Act was passed at this same time. Both laws take a comprehensive approach to improve the early literacy skills of Nebraska's K-3 students, including those who exhibit characteristics of dyslexia. Both laws were passed without fiscal support. WORDS is also designed to fit within the Nebraska Multi-tier System of Support (NeMTSS), which is a framework that promotes an integrated system connecting all educators, along with all components of teaching and learning, into a high quality, standards-based instruction and intervention system. The

development of an MTSS framework begins by establishing a strong core of literacy for all students which provides the foundation of prevention within the entire system.

The WORDS project addresses four related needs for improving reading outcomes in Nebraska.

- 1) Need for sustained professional development opportunities for in-service teachers to learn to provide effective reading intervention across the state of Nebraska.
- 2) Need for professional development and support districts in administering and interpreting reading assessment data, and to reliably identify children who need additional instructional supports in reading.
- 3) Need for developing leadership personnel with expertise in Nebraska reading laws, policies, and approved practices, who can support and implement reading assessment and effective instruction across the state.
- 4) Need for high-quality reading tutoring options for children during after-school and summer programs that can be made available for children and families at no-cost to families.

In collaboration with NDE, UNL also submitted a grant proposal for \$2.7 million in September of 2021 to the U.S. Department of Education's Institute of Education Sciences to expand the scope of the WORDS project and evaluate the efficacy of the program. We will learn the results of that proposal in April 2022, which would have a funding period from August 2022 to July 2026.

ESTIMATED COST: \$287,527

FUNDING SOURCE: IDEA Part B

Renewal

Date of first approval – January 2020



NEBRASKA

DEPARTMENT OF EDUCATION

PROPOSED AGENDA ITEM RATIONALE

DATE: January 7, 2022

TO: Matthew L. Blomstedt, Ph.D.
Commissioner of Education

FROM: Cory Epler, Ph.D.
Academic Officer

Abby Burke, Ed.D.
Reading Specialist

PROPOSED AGENDA ITEM:

Action Item: Authorize the commissioner to make public a list of approved reading assessments for SY 2022-2023 and the threshold level of performance for each assessment.

RATIONALE/BACKGROUND INFORMATION:

The Nebraska Reading Improvement Act (Nebraska Revised Statute 79-2601 - 2607) went into effect in 2019, requiring school districts to administer a Nebraska Department of Education approved reading assessment three times each year for all students in kindergarten through 3rd grade. Pursuant to the Nebraska Reading Improvement Act, the NDE makes public the list of reading assessments that have been approved for the following academic school year and the threshold level of performance for each assessment. This must occur annually by March 1st.

The following assessments are recommended to be approved for use in SY22-23:

- Acadience Reading (Voyager Sopris Learning)
- aimswebPlus (Pearson)
- Amira (HMH)
- DRA3* (Pearson)
- FastBridge Suite: aReading, CBMreading, earlyReading (Illuminate Education)
- i-Ready (Curriculum Associates)
- ISIP Reading* (Istation)

- MAP Suite: MAP Growth Reading, MAP Reading Fluency (NWEA)
- mClass DIBELS 8th (Amplify Education)
- Star Reading Suite: Star Early Literacy, Star Reading, Star CBM Reading (Renaissance)

*Indicates assessment is new to the list of approved assessments for SY22-23.

PROPOSED BOARD MEETING (MONTH/YEAR): February 2022



2022-2023 Approved Reading Assessments

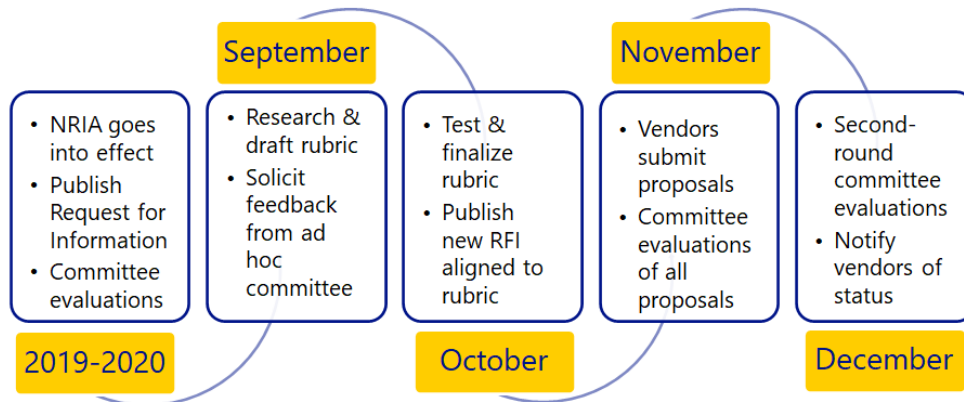


Overview

The Nebraska Reading Improvement Act ([Nebraska Revised Statute 79-2601](#)) went into effect in 2019, requiring school districts to administer a Nebraska Department of Education (NDE) approved reading assessment screener three times each year for all kindergarten through 3rd grade students. Pursuant to the Nebraska Reading Improvement Act, through the NebraskaREADS initiative, the NDE [makes public the list of reading assessments](#) that have been approved for the following academic school year by March 1st.

As the NDE embarked on approving universal screeners for the 22-23 school year, it became clear there was a need to re-evaluate previously approved assessments using a more robust set of criteria aligned to new research about the science of reading and to Nebraska's new [2021 ELA standards](#) for K-3 foundational reading.

Process



The NDE drafted a comprehensive rubric unique to Nebraska. The Nebraska rubric borrows language for indicators related to validity, reliability, administration, scoring, and diverse populations from other states' rubrics and criteria. In an effort to develop a literacy-centric and user-friendly tool, the [Nebraska rubric](#) (Appendix A) minimizes the use of highly technical language, includes literacy constructs to prioritize research-based approaches to foundational skills instruction, and leverages essential questions to drive evaluation for each indicator. The draft rubric was reviewed by a group of ad hoc committee members, revised based on stakeholder feedback, and tested using sample proposals.

In October 2021, the NDE published a [Request for Information](#) (Appendix B) with requirements for alignment to the rubric. The following vendors submitted proposals for the indicated assessments in response to the RFI:

- Amplify Education: mClass DIBELS 8th
- Curriculum Associates: i-Ready
- EarlyBird Education: EarlyBird
- Houghton Mifflin Harcourt: Amira
- Illuminate Education: FastBridge Suite (aReading, CBMreading, earlyReading)
- Istation: ISIP Reading
- NWEA: MAP Suite (MAP Growth Reading, MAP Reading Fluency)
- Pearson Clinical Assessment: DRA3 and aimswebPlus
- Renaissance: Star Reading Suite (Star Early Literacy, Star Reading, Star CBM Reading)
- Voyager Sopris Learning: Acadience Reading

In November 2021, the NDE convened an ad hoc committee of 16 Nebraska school district representatives well-versed in early literacy to norm on scoring using the rubric and evaluate each proposal. Evaluators first rated the proposal independently, then normed on ratings in small groups and submitted scores and evidence. Over 5 rounds of evaluation, each proposal was rated at least twice by different evaluator groups. Any assessments that scored inconsistently across groups were reevaluated by a smaller subset of the ad hoc committee in early December.

Approved Assessments

The NDE synthesized evaluator ratings and evidence to identify all assessments that met or exceeded a minimum threshold. The following assessments are approved for use in SY22-23 and will be published with cut scores on the NebraskaREADS website by March 1, 2022:

- Acadience Reading (Voyager Sopris Learning)
- aimswebPlus (Pearson)
- Amira (HMH)
- DRA3* (Pearson)
- FastBridge Suite: aReading, CBMreading, earlyReading (Illuminate Education)
- i-Ready (Curriculum Associates)
- ISIP Reading (Istation)*
- MAP Suite: MAP Growth Reading, MAP Reading Fluency (NWEA)
- mClass DIBELS 8th (Amplify Education)
- Star Reading Suite: Star Early Literacy, Star Reading, Star CBM Reading (Renaissance)

*Indicates assessment is new to the list of approved assessments for SY22-23.

Ad Hoc Committee

The NDE is thankful to the following Nebraska educators for sharing their expertise, time, and passion for early literacy:

- Angela Dubuc, Early Literacy Education Specialist, Nebraska Children and Families Foundation
- Ann Foster, Elementary Curriculum Coordinator, Lexington Public Schools
- Audra Haas, Title Reading Specialist, Kearney Public Schools
- Brittany Bills, Curriculum Coordinator, Grand Island Public Schools
- Kady Maresh, Instructional/MTSS Coach, Fremont Public Schools
- Kendra Ross, K-6 Reading Specialist, Walthill Public Schools
- Kristin Weaver, First Grade Teacher, Loomis Public Schools
- Lisa Oltman, K-6 Language Arts Curriculum Specialist, Lincoln Public Schools
- Lori Thomas, Literacy Facilitator, Omaha Public Schools
- Mary Jo McElhose, NeMTSS Systems Consultant, Nebraska Department of Education
- Michelle Ryan, Literacy Facilitator, Omaha Public Schools
- Michelle Schleicher, Reading Specialist, Fremont Public Schools
- Sara Robinson, Academic Support Coach, Grand Island Public Schools
- Sarah Sell, Elementary Assistant Principal, Crete Public Schools
- Troy Baker, School Psychologist, Lincoln Public Schools
- Violette Glasshoff, Assistant Director of Curriculum and Instruction, Gretna Public Schools

Contact

Please reach out to Abby Burke, Ed.D. - Reading Specialist (abby.burke@nebraska.gov) at the Nebraska Department of Education with additional questions about the selection process or specific assessments.

Appendix A: K-3 Reading Assessment Evaluative Rubric

See page 5



K-3 Reading Assessment Evaluative Rubric



| ASSESSMENT NAME | | | |
|---------------------------------------|---|-----------------|-------|
| Section | Indicators | Possible Points | Score |
| Section 1. Validity and Reliability | 1.1 Assessment Construction** | YES/NO | |
| | 1.2 Content & Equity | 4 | |
| Section 2. Literacy Constructs | 2.1 Knowledge & Skills 2.2 Progress Monitoring | 8 | |
| Section 3. Administration and Scoring | 3.1 Standardization & Efficiency 3.2 Usability | 8 | |
| Section 4. Diverse Populations | 4.1 Accommodations | 4 | |
| TOTAL POINTS | | 24 | |

****Assessment MUST meet construction validity & reliability criteria to be considered further.**

Recommendations: Assessments should score a minimum of 20 to be considered “passing”. Indicators should ideally meet the following minimum bars:

- 1.2 Content & Equity – 4
- 2.1 Knowledge & Skills – 4
- 2.2 Progress Monitoring – 4
- 3.1 Standardization & Efficiency – 4
- 3.2 Usability – 2
- 4.1 Accommodations – 2

References: The following resources from other states were leveraged to create this tool:

- [Colorado State Board of Education Interim Assessment Rubric](#)
- [Mississippi Department of Education K-3 Reading Screener Guidance](#)
- [Iowa Department of Education Literacy Assessments Meeting the Requirements of 279.68/ELI](#)
- [Texas Resource Review Foundational Literacy Grades K-2 Rubric](#)



K-3 Reading Assessment Evaluative Rubric



Section 1. Validity and Reliability

| Indicator 1.1 Assessment Construction: <i>To what extent does the assessment provide accurate and consistent results?</i> | | |
|--|---|--------------|
| Criteria | Rating | Notes |
| <ul style="list-style-type: none"> Demonstrates to what degree the instrument measures what it claims to measure Shows the extent to which inferences, conclusions, and decisions are made based on test scores and that scores are appropriate and meaningful to show validity Uses criteria, or measures, to classify students (including cut scores) that are valid and clearly described Reports results of reliability studies for each grade assessment and provides evidence for adequate reliability, including test-retest reliability and internal reliability | <p>NO <i>Evidence indicates few criteria are met; assessment cannot be adopted.</i></p> | |
| | <p>YES <i>Evidence indicates all criteria are met; assessment can be evaluated further.</i></p> | |

| Indicator 1.2 Content & Equity: <i>To what extent does the assessment appropriately measure reading ability for all learners?</i> | | |
|--|---|--------------|
| Criteria | Rating | Notes |
| <ul style="list-style-type: none"> Reading passages align to grade-level text complexity as identified by quantitative and qualitative measures Demonstrates alignment to Nebraska's 2021 College and Career Ready Standards for English Language Arts (foundations of reading, reading, and vocabulary strands) Content of test materials is culturally diverse and/or results of bias studies indicate assessment is accessible to all learners Studies that provide evidence for reliability include representative samples and include important subgroups, such as ELs, non-ELs, students with and without reading difficulties | <p>DOES NOT MEET (0) <i>Evidence indicates few or none of the criteria are met.</i></p> | |
| | <p>PARTIALLY MEETS (2) <i>Evidence indicates some of the criteria are met.</i></p> | |
| | <p>MEETS OR EXCEEDS (4) <i>Evidence indicates most or all of the criteria are met.</i></p> | |



K-3 Reading Assessment Evaluative Rubric



Section 2. Literacy Constructs

| Indicator 2.1 Knowledge & Skills: <i>To what extent does the content assess critical foundational literacy skills?</i> | | |
|---|---|-------|
| Criteria | Rating | Notes |
| <ul style="list-style-type: none"> Assesses proficiency in key areas of foundational literacy: phonological awareness, phonics, fluency, vocabulary, and comprehension Requires students to read out loud to assess proficiency with oral reading fluency (all grades) <i>By the end of the year</i>, provides data on the following priorities for Kindergarten: phonological awareness, including phoneme segmentation and blending; letter naming fluency; letter-sound association; vocabulary <i>By the end of the year</i>, provides data on the following priorities for 1st Grade: phoneme manipulation, segmentation, and blending; letter naming fluency; letter-sound association; word recognition fluency; vocabulary <i>By the end of the year</i>, provides data on the following priorities for 2nd Grade: word identification, including real and nonsense words; vocabulary; reading comprehension <i>By the end of the year</i>, provides data on the following priorities for 3rd Grade: word identification; vocabulary; reading comprehension <i>(Desirable but not required)</i> Screens or predicts students for risk of dyslexia using appropriate indicators such as Rapid Automatized Naming (RAN) | <p>DOES NOT MEET (0) <i>Evidence indicates few or none of the criteria are met.</i></p> | |
| | <p>PARTIALLY MEETS (2) <i>Evidence indicates some of the criteria are met.</i></p> | |
| | <p>MEETS OR EXCEEDS (4) <i>Evidence indicates most or all of the criteria are met.</i></p> | |



K-3 Reading Assessment Evaluative Rubric



| Indicator 2.2 Progress Monitoring: <i>To what extent does the assessment guide the response to data?</i> | | |
|---|---|-------|
| Criteria | Rating | Notes |
| <ul style="list-style-type: none">Provides clear guidance for teachers and students to monitor progress between BOY, MOY, and EOY administrations that is aligned to the initial assessmentYields meaningful information to guide teachers' planning for instruction and differentiation, such as recommended groupings for small-group instructionProvides guidance and resources (<i>desirable but not required</i>) on how to leverage different research-based strategies to respond to student dataInstructional reports are sufficiently detailed to support teachers and administrators with more deeply understanding the impact of foundational skills development on reading comprehension(<i>Desirable but not required</i>) Provide guidance for administrators to support teachers with analyzing and responding to data | <p>DOES NOT MEET (0) <i>Evidence indicates few or none of the criteria are met.</i></p> | |
| | <p>PARTIALLY MEETS (2) <i>Evidence indicates some of the criteria are met.</i></p> | |
| | <p>MEETS OR EXCEEDS (4) <i>Evidence indicates most or all of the criteria are met.</i></p> | |



K-3 Reading Assessment Evaluative Rubric



Section 3. Administration and Scoring

| Indicator 3.1 Standardization & Efficiency: <i>To what extent are assessment logistics streamlined?</i> | | |
|---|---|-------|
| Criteria | Rating | Notes |
| <ul style="list-style-type: none"> Administration guidance for benchmark and progress monitoring assessments is clear and accessible (easy to interpret and implement); may be fully scripted Provides clear logistical guidance, including required technology and staff Vendor provides or makes available initial training to staff and provides ongoing support Assessment can also be administered without technology; guidance for paper administration is provided Scoring procedures are clear and accessible Estimated time required for administration and scoring is reasonable and balanced; administration time is developmentally appropriate | <p>DOES NOT MEET (0) <i>Evidence indicates few or none of the criteria are met.</i></p> | |
| | <p>PARTIALLY MEETS (2) <i>Evidence indicates some of the criteria are met.</i></p> | |
| | <p>MEETS OR EXCEEDS (4) <i>Evidence indicates most or all of the criteria are met.</i></p> | |
| Indicator 3.2 Usability: <i>To what extent are the results useful and easy to interpret?</i> | | |
| Criteria | Rating | Notes |
| <ul style="list-style-type: none"> Assessment reports are easy to read and include a clear description of how to interpret results Provides a variety of reports and data views, including district-, school-, and classroom-level data, by student groups/sub-pops, and parent/family-facing Data on each of the components of foundational literacy (phonemic awareness, phonics, fluency, vocabulary, comprehension) is presented in an actionable way Results from screener/inventory are available immediately Data is presented in multiple forms (numerical as well as visual – ex. charts/graphs) <i>(Desirable but not required)</i> Provides access to raw data file(s) for internal use (ex. to add to data warehouse) | <p>DOES NOT MEET (0) <i>Evidence indicates few or none of the criteria are met.</i></p> | |
| | <p>PARTIALLY MEETS (2) <i>Evidence indicates some of the criteria are met.</i></p> | |
| | <p>MEETS OR EXCEEDS (4) <i>Evidence indicates most or all of the criteria are met.</i></p> | |



K-3 Reading Assessment Evaluative Rubric



Section 4. Diverse Populations

| Indicator 4.1 Accommodations: <i>To what extent does the assessment support all learners?</i> | | |
|--|---|--------------|
| Criteria | Rating | Notes |
| <ul style="list-style-type: none">• Provides research-based guidance for assessment accommodations for students with disabilities, special needs, and English Learners• Provides Spanish versions of assessments• Post-assessment instructional guidance includes recommended accommodations for students with disabilities, special needs, and English Learners• Includes resources to engage families that are available in both English, Spanish, and other languages, such as letter templates explaining the assessment & results and/or activities caregivers can implement with students at home | DOES NOT MEET (0) <i>Evidence indicates few or none of the criteria are met.</i> | |
| | PARTIALLY MEETS (2) <i>Evidence indicates some of the criteria are met.</i> | |
| | MEETS OR EXCEEDS (4) <i>Evidence indicates most or all of the criteria are met.</i> | |

Appendix B

Request for Information NDERFI2111 Nebraska Reading Improvement Act

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Request for Information NDERFI2111
Nebraska Reading Improvement Act

Statement of Need:

The purpose of this Request for Information (RFI) is to solicit reading assessments for inclusion on the approved assessment list, pursuant to Section 79-2601 - 79-2607 of the Nebraska Reading Improvement Act. The Nebraska Department of Education approved assessment list will be available to Nebraska schools and school districts via the Nebraska Department of Education's website: <https://www.education.ne.gov/nebraskareads/approved-assessments/>. Districts and schools shall voluntarily choose from the approved list. This RFI does not include a provision for expenditure of state funds to providers on the list, and there is no guarantee that providers will be selected by schools/districts. The Nebraska Department of Education may revise its criteria over time as needed.

The provider shall provide evidence that each reading assessment meets these fundamental requirements:

- Strongly aligned to [Nebraska's College and Career Ready Standards for English Language Arts 2021](#);
- Administered no less than three times each school year from Kindergarten through Grade 3;
- Provides performance "threshold levels" so as to determine if a student has a reading deficiency;
- Designed to measure changes in early reading ability across a school year and across grade-levels;
- Designed to assess key areas of foundational literacy: phonological awareness, phonics, fluency, vocabulary, and comprehension;
- Provides professional learning and instructional support in order for teachers to use the data to inform classroom instruction;
- Reviewed psychometrically by the vendor or outside evaluator.

Important Notice:

This is an RFI only and does not constitute a commitment, implied or otherwise, that the NDE will take procurement action on this request. This RFI is being used to gather information for the NDE to make decisions and does not reimburse the cost incurred in furnishing this information. Respondents are encouraged to provide information for any or all of the requested components listed in the Information Requested section below.

Organizational Context:

The Nebraska Department of Education (NDE) is tasked with supporting the implementation of the Nebraska Reading Improvement Act (NRIA). Pursuant to Section 79-2601 - 79-2607, the [Nebraska Reading Improvement Act](#), requires each school district to administer an NDE

approved reading assessment to students, three times a year, in grades Kindergarten through grade 3. During the 2018-2019 school year, the NDE identified a review criteria where the approved assessments were selected.

The NDE has since updated the review process to identify assessments that meet the minimum requirements, as well as provide feedback on the assessment's ability to accurately predict a reading deficiency via the reading assessment, and to frequently and reliably measure student improvement via progress monitoring.

The previous review, completed in Spring 2018, was based on initial review criteria; these prior assessment reviews and approvals will not be applicable after 2022. In order to be considered as an approved assessment, vendors must complete and submit an RFI.

Definitions:

Reading deficiency—a difficulty associated with reading and related processing skills that may include fluency and comprehension problems, accurate and fluent word recognition, phonological awareness, sound-symbol correspondence, and/or decoding and that preclude a child from demonstrating aptitude with reading and associated skills at the designated grade-level.

Approved reading assessment—an assessment of student reading that is administered three times during the school year to all students in grades kindergarten through grade three that measures progress toward proficiency in skills including but not limited to: fluency and comprehension, alphabetical and phonological awareness, sound-symbol correspondence, and decoding. Such assessments shall be: approved by qualified NDE personnel or its designees to be reliable and valid; align with appropriate academic content standards for reading adopted by the State Board of Education pursuant to section 79-760.01; allow teachers to access results in a reasonable period of time, and shall be commercially available and comply with requirements established by the department.

Threshold level—the minimum score or level of performance on an approved reading assessment used to determine proficiency in skills associated with grade-level reading ability.

General Submission Requirements:

The format outlined below must be followed in order to assure consistent application of the evaluation criteria.

Appendix A: Company Information Form

Appendix B: K-3 Reading Assessment Evaluation Information

Appendix A Company Information Form

| | |
|---|--|
| Name of Organization | |
| Address | |
| City, State, and Zip Code | |
| Phone | |
| Fax | |
| Email | |
| Name and Title of Authorized Contact | |
| Address (if different from above) | |
| City, State and Zip Code | |
| Phone | |
| Fax | |
| Email (REQUIRED) | |
| Name and Title of Secondary Contact | |
| Address (if different from above) | |
| City, State and Zip Code | |
| Phone | |
| Fax | |
| Email (REQUIRED) | |
| | |

| Applicant Eligibility | | |
|---|--|--|
| The Organization is (Please indicate by clicking on the appropriate boxes below) | | |
| For-Profit Corporation | <input type="checkbox"/> | <input type="checkbox"/> or <input type="checkbox"/> Foreign Corp. |
| Non-Profit Corporation | <input type="checkbox"/> | <input type="checkbox"/> or <input type="checkbox"/> Foreign Corp. |
| Limited Liability Company (LLC) | <input type="checkbox"/> | <input type="checkbox"/> or <input type="checkbox"/> Foreign Corp. |
| Other | <input type="checkbox"/> | Please Specify: |
| Has this vendor ever been approved as a vendor of assessments for any purpose in Nebraska or another state or nationally? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| If yes, please list | | |
| Has this vendor ever been denied approval as a vendor of assessment services in Nebraska or another state? | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| If yes, please explain | | |
| Please provide an overview of the company's history as it pertains to prior experience in the delivery of large-scale assessments. Include a description of the organizational structure that supports the company in this work. | | |
| Reference #1 | | |
| Reference #2 | | |
| Reference #3 | | |
| Please provide an overview of services available to support assessment administration (training/professional development, call center, reporting, etc.). | | |

Appendix B: K-3 Reading Assessment Evaluation Information

Providers must submit a detailed description outlining how the assessment meets the referenced criteria/indicators. The written submission of the proposal will be reviewed by a team of readers with experience in the area of reading assessments.

To be considered on the list of *Nebraska Reading Improvement Act List of Approved Assessments*, providers must have reading assessments that first meet the minimum threshold criteria identified in Appendix B: Part A of the general submission requirements, followed by the criteria in Part B below.

PART A:

Indicator 1.1 Assessment Construction:

- Demonstrates to what degree the instrument measures what it claims to measure
- Shows the extent to which inferences, conclusions, and decisions are made based on test scores and that scores are appropriate and meaningful to show validity
- Uses criteria, or measures, to classify students (including cut scores) that are valid and clearly described
- Reports results of reliability studies for each grade assessment and provides evidence for adequate reliability, including test-retest reliability and internal reliability

PART B:

Indicator 1.2 Content & Equity:

- Reading passages align to grade-level text complexity as identified by quantitative and qualitative measures
- Demonstrates alignment to [Nebraska's 2021 College and Career Ready Standards for English Language Arts](#) (foundations of reading, reading, and vocabulary strands)
- Content of test materials is culturally diverse and/or results of bias studies indicate assessment is accessible to all learners
- Studies that provide evidence for reliability include representative samples and include important subgroups, such as ELs, non-ELs, students with and without reading difficulties

Indicator 2.1 Knowledge & Skills:

- Assesses proficiency in key areas of foundational literacy: phonological awareness, phonics, fluency, vocabulary, and comprehension
- Requires students to read out loud to assess proficiency with oral reading fluency (all grades)

- *By the end of the year*, provides data on the following priorities for Kindergarten: phonological awareness, including phoneme segmentation and blending; letter naming fluency; letter-sound association; vocabulary
- *By the end of the year*, provides data on the following priorities for 1st Grade: phoneme manipulation, segmentation, and blending; letter naming fluency; letter-sound association; word recognition fluency; vocabulary
- *By the end of the year*, provides data on the following priorities for 2nd Grade: word identification, including real and nonsense words; vocabulary; reading comprehension
- *By the end of the year*, provides data on the following priorities for 3rd Grade: word identification; vocabulary; reading comprehension
- *(Desirable but not required)* Screens or predicts students for risk of dyslexia using appropriate indicators such as Rapid Automatized Naming (RAN)

Indicator 2.2 Progress Monitoring:

- Provides clear guidance for teachers and students to monitor progress between BOY, MOY, and EOY administrations that is aligned to the initial assessment
- Yields meaningful information to guide teachers' planning for instruction and differentiation, such as recommended groupings for small-group instruction
- Provides guidance and resources (*desirable but not required*) on how to leverage different research-based strategies to respond to student data
- Instructional reports are sufficiently detailed to deepen support teachers and administrators with more deeply understanding the impact of foundational skills development on reading comprehension
- *(Desirable but not required)* Provide guidance for administrators to support teachers with analyzing and responding to data

Indicator 3.1 Standardization & Efficiency:

- Administration guidance for benchmark and progress monitoring assessments is clear and accessible (easy to interpret and implement); may be fully scripted
- Provides clear logistical guidance, including required technology and staff
- Vendor provides or makes available initial training to staff and provides ongoing support
- Assessment can also be administered without technology; guidance for paper administration is provided
- Scoring procedures are clear and accessible
- Estimated time required for administration and scoring is reasonable and balanced; administration time is developmentally appropriate

Indicator 3.2 Usability:

- Assessment reports are easy to read and include a clear description of how to interpret results
- Provides a variety of reports and data views, including district-, school-, and classroom-level data, by student groups/sub-pops, and parent/family-facing
- Data on each of the components of foundational literacy (phonemic awareness, phonics, fluency, vocabulary, comprehension) is presented in an actionable way
- Results from screener/inventory are available immediately

- Data is presented in multiple forms (numerical as well as visual – ex. charts/graphs)
- *(Desirable but not required)* Provides access to raw data file(s) for internal use (ex. to add to data warehouse)

Indicator 4.1 Accommodations:

- Provides research-based guidance for assessment accommodations for students with disabilities, special needs, and English Learners
- Provides Spanish versions of assessments
- Post-assessment instructional guidance includes recommended accommodations for students with disabilities and English Learners
- Includes resources to engage families that are available in English, Spanish and other languages, such as letter templates explaining the assessment & results and/or activities caregivers can implement with students at home

Experience and Credibility (required):

Please provide relevant examples, in which you generated additional value for your customers in any way. Upon request, the expectation is to provide up to three customer references.

Special Considerations (optional):

Please provide insights to potential dependencies, risks, security measures and anything else to be considered.

RFI Timeline:

| Activity | Date |
|---|--------------------------------|
| Creation of RFI | October 12, 2021 |
| Release of RFI | October 15, 2021 |
| Due date for submissions | November 5, 2021 (by 3 pm CDT) |
| Evaluation committee review | Between November 5 & 20, 2021 |
| Notification of clarifying questions, demos, contract negotiations, and/or validation of responses. | On or after November 20, 2021 |
| Notification to vendors after selection | December 1, 2021 |

Submission Method:

Providers will submit their response to the NDE in a single Microsoft word document (.doc) or portable document format (.pdf) containing all the materials/supplemental attachments to the nde.nria@nebraska.gov email address with "RFI Submission NDERFI2111" in the Subject line.

Responses & materials received after the due date/time will not be accepted unless requested by the NDE.

All questions related to this RFI should be directed to nde.nria@nebraska.gov with "RFI Inquiry NDERFI2111" in the subject line.

Disclaimer:

NOTICE REGARDING PROPRIETARY INFORMATION CLAIMS AND PUBLIC RECORDS

RFI submissions are a public record in Nebraska. The NDE may withhold from public records requests responses proprietary information contained in this RFI if a submitting vendor can demonstrate to NDE that such records would be allowed to be withheld in accordance with applicable provisions of the Nebraska public records laws. Information identified by a respondent as Proprietary or confidential must be clearly and conspicuously labeled as such in an RFI order for NDE to consider the issue of withholding it in the event of public records request.



STATE BOARD OF EDUCATION EXECUTIVE COMMITTEE REPORT

Date: February 2, 2022

The Executive Committee met weekly since the January board meeting to advise the Commissioner on legislative topics. The Committee has reviewed bills introduced in the Nebraska Legislature and brings to the board recommendations for action on board positions for education-related bills. The Committee recommends board approval of the recommended board positions.

The Committee also received an update from NDE staff and the Commissioner on the Commissioner's appraisal process for the current year. The Committee will carry out the current process, previously established by the board. Changes to the Commissioner's job description, evaluation instrument, and appraisal process may be considered for the next contract period. Board members will receive more information at a future date about participating in the appraisal process for the current year.

The Committee will continue to meet weekly to advise the Commissioner on legislative topics and will keep the board informed of its advice to the Commissioner.

This concludes the Executive Committee report.

Patsy Koch Johns, Chair

*Submit a printed copy to the Committee Chair and email to the Recording Secretary.

EDUCATION-RELATED LEGISLATIVE BILLS
107th LEGISLATURE, SECOND SESSION
February 4, 2022

State Board Executive Committee Recommendation to be Proponent at Hearings

- LB690 *(Senator Blood)* – Redefine basic skills competency for purposes of teachers' and administrators' certificates or permits- **Proponent at hearing; Education Committee**
- LB754 *(Senator Bostar)* – Extend the commercial air filter pilot program of the State Department of Education – **Proponent at hearing; General File**
- LB758 *(Senator Brandt)* – Change provisions relating to the Nebraska Farm-to-School Program Act – **Proponent at hearing; General File**
- LB838 *(Senator Kolterman)* - Require the State Department of Education to create an aid program relating to the early childhood workforce - **Proponent at hearing; Education Committee**
- LB868 *(Senator Morfeld)* - Change provisions relating to a classification system administered by the State Department of Education - **Proponent at hearing; General File**
- LB902 *(Senator Aguilar)* - Adopt the Nebraska Career Scholarship Act - **Proponent at hearing; Education Committee**
- LB945 *(Senator Linehan)* - Adopt the Teach in Nebraska Today Act and provide for adjustment to income for income tax purposes for student loan repayment assistance - **Proponent at hearing; Education Committee**
- LB960 *(Senator Vargas)* - Eliminate certain basic skill and content test requirements for eligibility for teaching certificates - **Proponent at hearing; Education Committee**
- LB1087 *(Senator Stinner)* - Appropriate federal funds for Aid to Community Colleges for dual enrollment - **Proponent at hearing; Appropriations Committee**
- LB1105 *(Senator Day)* - Provide for Autism Awareness Plates - **Proponent at hearing; Transportation & Telecommunications Committee**
- LB1128 *(Senator DeBoer)* - Adopt the Student Loan Repayment Assistance for Teachers Act - **Proponent at hearing; Education Committee**
- LB1161 *(Senator Wishart)* - Appropriate federal funds to the State Department of Education for programs and interpreters that provide services to students who are deaf or hard of hearing - **Proponent at hearing; Appropriations Committee**
- LB1203 *(Senator Briese)* - Appropriate federal funds for child care programs - **Proponent at hearing; Appropriations Committee**
- LB1218 *(Education Committee Priority Bill)* - Change provisions relating to certification of school employees and student loan forgiveness - **Proponent at hearing; Education Committee**

State Board Executive Committee Recommendation to be Opponent at Hearings

- LB768** (*Senator Albrecht*) - Change provisions relating to establishment of academic content standards for school districts - **Opponent at hearing; Education Committee**
- LB1077** (*Senator B. Hansen*) - Prohibit public schools, public postsecondary institutions, and governmental entities from training or teaching certain concepts relating to race and sex and provide for withholding of state funds - **Opponent at hearing; Gov't, Military & Veterans Committee**
- LR278CA** (*Senator Linehan*) - Constitutional amendment to eliminate the State Board of Education and provide for the Governor to appoint the Commissioner of Education - **Opponent at hearing; Education Committee**

State Board Executive Committee Recommendation to Monitor

- LB696** *(Senator Blood)* – **Hearing Date: February 28, 2022 – Appropriations Committee**
Appropriate federal funds to the State Department of Education for school employee retention payments
- LB702** *(Senator Williams)* – **Hearing Date: January 28, 2022 – Revenue Committee**
Change provisions relating to the availability of tax credits under the School Readiness Tax Credit Act
- LB852** *(Senator Day)* – **Education Committee**
Require behavioral health points of contact for school districts
- LB872** *(Senator Brewer)* – **Hearing Date: January 24, 2022 – Education Committee**
Authorize the wearing of tribal regalia by certain students
- LB888** *(Senator Day)* – **Hearing Date: February 15, 2022 – Education Committee**
Redefine multicultural education for school districts
- LB890** *(Senator Walz)* – **Hearing Date: January 25, 2022 – Education Committee**
Change the Tax Equity and Educational Opportunities Support Act
- LB891** *(Senator Lindstrom)* – **Hearing Date: January 26, 2022 – Revenue Committee**
Change the distribution of sales tax revenue, school levy limitations, and other tax and school provisions
- LB912** *(Senator Morfeld)* – **Education Committee**
Provide for mental health first aid training for school districts and change provisions relating to the use of lottery funds
- LB976** *(Senator Wishart)* – **Hearing Date: January 20, 2022 – Health & Human Services Committee**
Adopt the Certified Community Behavioral Health Clinic Act
- LB982** *(Senator Hilkemann)* – **Revenue Committee**
Adopt the Education Savings Account Act and provide income tax adjustments
- LB997** *(Senator Day)* – **Hearing Date: February 8, 2022 – Education Committee**
Change school entrance requirements (Autism screenings)
- LB1001** *(Senator Erdman)* – **Hearing Date: February 8, 2022 – Education Committee**
Limit the school term for school districts and educational service units
- LB1014** *(Senator Hilgers)* – **Hearing Date: January 25, 2022 – Appropriations Committee**
Appropriate federal funds allocated to the state of Nebraska pursuant to the federal American Rescue Plan Act of 2021
- LB1027** *(Senator Hunt)* – **Education Committee**
Provide for grants to schools that discontinue use of American Indian mascots

State Board Executive Committee Recommendation to Monitor (cont.)

- LB1078** *(Senator B. Hansen)* – Education Committee
Prohibit possession of personal electronic devices by students in public school classrooms
- LB1112** *(Senator McKinney)* – Hearing Date: February 15, 2022 – Education Committee
Adopt the Computer Science and Technology Act and provide graduation requirements and academic content standards
- LB1157** *(Senator Linehan)* – Education Committee
Require the State Department of Education to submit reports on federal funds
- LB1158** *(Senator Sanders)* – Hearing Date: February 15, 2022 – Education Committee
Change provisions relating to parental involvement in and access to learning materials in schools and provide for withholding of funding from school districts
- LB1131** *(Senator Morfeld)* – Hearing Date: March 1, 2022 – Appropriations Committee
State intent to appropriate federal funds for bonus payments for teachers, child care workers, and health care workers
- LB1169** *(Senator Linehan)* – Hearing Date: February 1, 2022 – Education Committee
Require the State Department of Education to create a loan forgiveness grant program
- LB1170** *(Senator Sanders)* – Hearing Date: February 8, 2022 – Education Committee
Require schools to allow certain youth organizations to provide information, services, and activities
- LB1179** *(Senator Groene)* – Education Committee
Adopt the Classroom Safety Intervention and Behavioral Awareness Training Act
- LB1212** *(Senator Linehan)* – Education Committee
Change provisions relating to individualized education plans under the Special Education Act
- LB1213** *(Senator Albrecht)* – Hearing Date: February 9, 2022 – Judiciary Committee
Provide powers and duties for school districts, schools, and the Nebraska Library Commission relating to obscenity and access to materials obscene as to minors or harmful as to minors through digital or online resources provided to students
- LB1217** *(Senator Walz)* – Hearing Date: February 28, 2022 – Appropriations Committee
Appropriate federal funds to the Department of Administrative Services for incentive payments to eligible school employees
- LB1219** *(Senator Sanders)* – Hearing Date: February 8, 2022 – Education Committee
Adopt the Extended Learning Opportunities Act
- LB1220** *(Senator Morfeld)* – Hearing Date: February 28, 2022 – Appropriations Committee
Appropriate federal funds to the State Department of Education for premium payments for teachers working in underserved communities

State Board Executive Committee Recommendation to Monitor (cont.)

- LB1237** ***(Senator Brewer)*** – **Hearing Date: February 6, 2022** – **Revenue Committee**
Adopt the Opportunity Scholarships Act and the Nebraska Child Care Contribution Tax Credit Act
- LB1240** ***(Senator Albrecht)*** – **Hearing Date: February 28, 2022** – **Appropriations Committee**
Appropriate federal funds to the State Department of Education to provide family-directed education recovery accounts for low-income children and families
- LB1251** ***(Senator B. Hansen)*** – **Education Committee**
Adopt the Equal Opportunity Scholarship for Students with Special Needs Program Act and change provisions relating to the distribution of lottery funds



Commissioner's Plan for Use of Remaining ARP ESSER Funds

January 28, 2022

| <i>Proposed Activities</i> | <i>Description</i> | <i>Investment</i> |
|---|--|-------------------|
| NAESP Early Childhood Educator Cohort | Professional learning for elementary principals (1 year) | \$ 350,000 |
| Teacher Recruitment, Preparing, Retaining/Sustaining | Innovative strategies for addressing the educator shortage (3 years) | \$ 1,000,000 |
| Special Education Inclusion Project (Approved in January Board Meeting) | Professional learning to support inclusionary practices for students with disabilities (3 years) | \$ 215,000 |
| Rural Community Schools Initiative | Design rural community school initiative, and increase school-community collaboration (3 years) | \$ 1,000,000 |
| Latino/Native American/African American Liaisons Positions | Partnerships with Latino American Commission, Commission on Indian Affairs, and African American Commission; Planning grants and liaison to support schools and bridge commissions and the NDE (3 years) | \$ 430,000 |
| Early Childhood Regional Coaches | Partnership with ESUs to provide early childhood professional learning (3 years) | \$ 1,560,000 |
| NDE Staff Flex Position | Funding for position needed across grant life (1.5 years) | \$ 100,000 |
| NDE Educator Workforce Coordinator | Support and coordinate NDE's myriad teacher/leader workforce strategies (3 years) | \$ 300,000 |
| Modernization of Information, Data, and Technology Systems | People, processes, products to create efficiencies (3 years) | \$ 13,045,071 |
| | Total | \$ 18,000,071 |

The logo features the word "OPPORTUNITY" in large, multi-colored, outlined letters. Below it, the words "OF A LIFETIME" are written in a smaller, white, sans-serif font. A thin horizontal line separates the two parts of the text.

OPPORTUNITY
OF A LIFETIME



Plan for Use of Remaining ESSER Funds

Matthew L. Blomstedt, Ph.D.

Commissioner of Education

Objectives

- Provide a high-level overview of use of ESSER I and ESSER II
- Provide clarity on each of the proposed ESSER III investments
- Answer any questions






ESSER I & ESSER II

Opportunity of a Lifetime

| | Coronavirus Aid, Relief, and Economic Security Act (CARES) March 2020 | Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) December 2020 | American Rescue Plan March 2021 |
|--|--|--|--|
| Total Allocation | \$65 million | \$243 million | \$546 million |
| Formula-Based Direct Aid to Districts | \$59 million | \$218 million | \$492 million |
| NDE Set-Aside | \$6 million | \$24 million | \$53 million |

ESSER I (CARES Act) Planning

Matthew L. Blomstedt, Ph.D., Commissioner

 **NEBRASKA**
DEPARTMENT OF EDUCATION

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FAX: 402.471.0117

2020 CARES Act Public Feedback Survey: Executive Summary

May 15, 2020

The Coronavirus Aid, Relief, and Economic Security (CARES) Act suggests some uses for one-time, relief funds. In response to the impact of school attendance center closures due to COVID-19, the Nebraska Department of Education (NDE) recently administered a public feedback survey from April 30, 2020 through May 11, 2020 using the Qualtrics survey software. The survey, made available in English and Spanish, was designed to measure public input on how the NDE can prioritize resources in a way that most benefits Nebraska students and schools. We used our statewide accountability and school improvement framework, Accountability for a Quality Education System Today and Tomorrow (AQuESTT) to shape the survey. A total of 4,981 survey responses were received.

Some of the key survey findings are listed as follows:

- A majority of the respondents (67%) were educators or education-related professionals (n = 3,314). The next largest group was represented by parents who made up 27% of the respondents (n = 1,361).
- Respondents were from all geographic regions across Nebraska, with almost half of them hailing from Douglas and Lancaster counties (47%, n = 2,321). Douglas and Lancaster counties are the two most populous counties in Nebraska, housing Omaha Public Schools and Lincoln Public Schools, respectively.
- Respondents identified the following top five (5) student and community needs during this remote learning environment (continued learning outside of a "traditional" classroom):
 1. Enhance technology infrastructure (e.g., broadband, devices, platforms, data privacy, etc.) for students and families (16%, n = 3,434).
 2. Build supports for planning for possible interruptions upon returning to school and student and staff reentry (14%, n = 2,991).
 3. Ensure student nutritional needs are met (10%, n = 2,253).

To lead and support the preparation of all Nebraskans for learning, earning, and living.




Survey to Stakeholders:

- 4,981 respondents
- April 30 to May 11, 2020
- Identified Five Priority Areas:
 - Technology infrastructure for students and families
 - Supports for planning for possible interruptions when returning to school
 - Ensuring nutritional needs are met
 - Providing professional learning to support inclusive remote learning environment, and engagement for different student groups
 - Create or expand mental, behavioral, and social-emotional supports

Consistent communication with LHDs, districts, and other experts



November 2020 Update on CARES Expenditures

Select Lar

News Release

November 25, 2020

CARES ACT INVESTMENTS IN NEBRASKA


The Coronavirus Aid, Relief, and Economic Security (CARES) Act was passed by congress and signed into law on March 27, 2020. The relief package includes two separate funds for education – the Elementary and Secondary School Emergency Relief (ESSER) Fund and the Governor’s Emergency Education Relief (GEER) Fund.

The majority of available ESSER funds (90 percent) go directly to local school districts to address the impact that COVID-19 continues to have on elementary and secondary schools across the nation. The Nebraska Department of Education (NDE) monitors how districts are making investments locally. Districts have until September 30, 2022 to expend their allocated funds.

The ESSER Fund also provides resources for statewide investments. In response to the impact of school closures in the spring due to COVID-19, the NDE administered a public feedback survey on how state resources should be allocated in a way that most benefits Nebraska students and schools. A total of 4,981 survey responses were received and the allocation of statewide funds reflects the results.

To address equitable access challenges, GEER Funds, directed by Governor Ricketts, are being used to improve student access to education by expanding the availability of devices and systems to deliver education services remotely.

The information below outlines how money has been allocated statewide thus far, through both ESSER and GEER Funds.



Themes from ESSER I (CARES) Investments

- Digital Equity - (Canvas, Academic Advancement Plan, Career Connections, NROC, EduRoam)
- Planning for a Safe Return to School (Opportunity Labs, TNTP, NCFE and community-based messaging/supports)
- Professional Learning (Hanover Research)
- Supports for Mental Health (ACT/Mosaic)

ESSER II & III Top Priorities

- Across 14 roundtable discussions with myriad stakeholders and a survey of nearly 450 respondents yielded the following top priorities:
 - Provide access to **comprehensive mental health services** for students, staff, and communities.
 - Reimagine **family and community engagement**.
 - Develop high-quality **professional learning** opportunities and bolster the **teacher pipeline**.
 - Ensure all students have equitable access to grade-level instruction to **address unfinished learning and support learning acceleration**.
 - Comprehensively **modernize information, data, technology, and process systems**
- Results of survey posted:
<https://www.education.ne.gov/esser/esser-iii-arp/ndes-esser-iii-application/>
- Five priorities were foundational to ESSER III plan submitted in May and approved by USDOE in October 2021



ESSER II & III Investments

NEBRASKA
DEPARTMENT OF EDUCATION

Search

Menu

ESSER Home

- ESSER III (ARP) ▼
 - Commissioner's Message_ ESSER III Allocations
 - Federal Funding Requirements
 - LEA Allocations for K-12 Public School Districts
 - Allowable Uses of Funds for LEAs
 - Support Sessions and Resources
 - Budget Roadmap
- NDE's ESSER III Application and Statewide Investments***
- FAQs
- ESSER II (CRRSA) ▶
- ESSER I (CARES) ▶
- EANS Services & Assistance

Questions, Comments, or Corrections? Let us know!

NDE's ESSER III Application and Statewide Investments

NDE's Five Investment Priorities

After extensive feedback from stakeholders and reviewing preliminary data from the 2020-21 school year, the NDE developed the following five priority areas for statewide investments.

1. Access to Comprehensive Mental Health Services
2. Reimagined Family and Community Engagement
3. High-Quality Professional Learning and Bolstering the Teacher Pipeline
4. Focus on Unfinished Learning and Supporting Learning Acceleration
5. Modernize Information, Data, Technology, and Process Systems

Learn more about NDE's specific investments across these five areas here:

- [Access to Comprehensive Mental Health Services](#)
- [Reimagined Family and Community Engagement](#)
- [High-Quality Professional Learning & Bolstering the Teacher Pipeline](#)
- [Focus on Acceleration](#)



Themes from ESSER II (CRRSA) and ESSER III (ARP) Investments

- Mental Health Support Grant - \$15 million
- Professional Learning for Acceleration - \$9.7 million
- Summer & After School - \$11.8 million
- Support to YRTCs - \$500,000
- Funding Distributed to Five Districts Ineligible ESSER - \$800,000
- School-Tribal Partnerships - \$750,000
- Shared Capacity/NCFF - \$1.2 million
- BoysTown (Safe2Help) - \$1.7 million
- Evidence-Based Repository - \$840,000
- Children's Hospital and Medical Center - \$800,000
- Bolstering Systems, Investing in Efficiency - \$3.5 million

Federal Requirements for Allocation

- For ESSER II:
 - The SEA must award, either through subgrants, contracts, or retaining funds to provide direct services itself, the SEA Reserve funds (i.e., not more than 10 percent of the funds received under the ESSER II fund to address emergency needs as determined by the State) by the one-year anniversary of the ESSER II award date.
 - **The NDE must provide this by *January 2022***
- For ESSER III: Same requirement as above. ***March 2022***

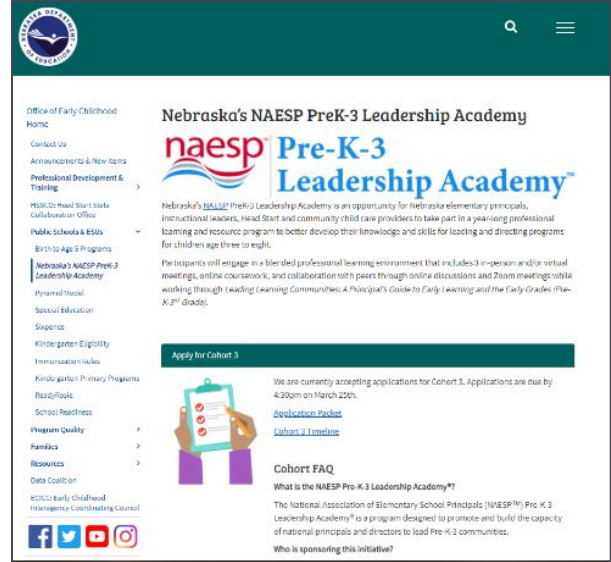


A blue-tinted photograph of an astronaut in a full spacesuit standing on the lunar surface. In the background, the lunar lander is visible, along with various pieces of equipment and a large satellite dish antenna. The scene is set against a dark, cratered lunar landscape.

Plan for Use of Remaining ESSER III Funds

NAESP Early Childhood Educator Cohort

- Current initiative of Office of Early Childhood
- Cohorts of elementary principals, instructional leaders, Head Start, and community childcare providers
- Year-long professional development
- Investment: \$350,000



The screenshot shows the website for the Nebraska's NAESP Pre-K-3 Leadership Academy. The header features the Nebraska Department of Education logo and navigation icons. The main content area is titled "Nebraska's NAESP Pre-K-3 Leadership Academy" and includes the NAESP logo. A sidebar on the left lists various links such as "Office of Early Childhood Home", "Contact Us", "Announcements & New Items", "Professional Development & Training", "Missouri Head Start State Collaboration Office", "Public Schools & ESSIs", "Birth to Age 5 Programs", "Nebraska's NAESP Pre-K-3 Leadership Academy", "Personal Social", "Special Education", "Supervise", "Kindergarten Eligibility", "Immigration Rules", "Kindergarten Primary Programs", "Ready/Raise", "School Readiness", "Program Quality", "Families", "Resources", "Data Collection", and "ICED: Early Childhood Intervention Coordinating Council". The main content area includes a "Apply for Cohort 3" button, a graphic of hands holding a clipboard, and text stating: "We are currently accepting applications for Cohort 3. Applications are due by 4:00pm on March 25th." Below this, there are links for "Application Packet" and "Cohort 3 Timeline". A "Cohort FAQ" section is also visible, with the text: "What is the NAESP Pre-K-3 Leadership Academy? The National Association of Elementary School Principals (NAESP) Pre-K-3 Leadership Academy is a program designed to promote and build the capacity of national principals and directors to lead Pre-K-3 communities. Who is sponsoring this initiative?"



Teacher Recruitment, Preparation, Retention, Elevation

- Multi-faceted approach to recruitment, preparation, retention, elevation
- Work closely with NACTE to fulfill activities proposed from Teacher Shortage Workgroups
- Consider PSA and mini-grants
- Investment: \$1 million



Teacher Shortage Summit, October 27, 2021



Rural Community Schools Initiative

- Design a rural community school initiative
- Convene community leaders and strengthen rural capacity
- Up to three communities
- Focused on increasing school and community collaboration
- Investment: \$1 million



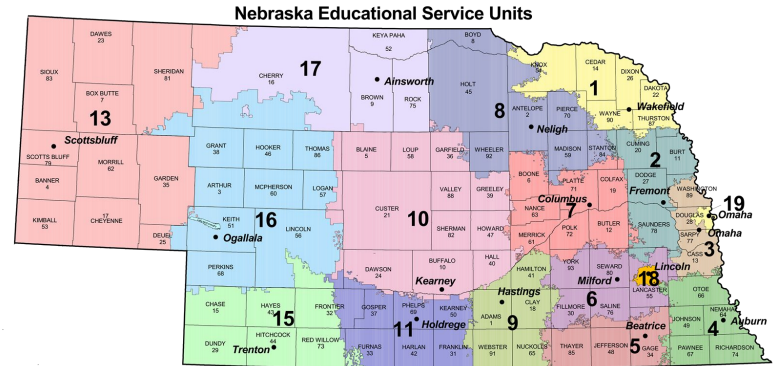
Latino, Native American, African American Liaisons and Planning Grants

- NDE provided planning grants for Latino American Commission and Nebraska Commission on Indian Affairs
- NDE will pursue a planning grant with the newly created African American Commission
- Create liaison positions to support schools, and bridge commissions and the NDE
- Investment: \$430,000



Early Childhood Regional Coaches

- Partner with ESUs to provide embedded early childhood professional learning coordinators
- Investment: \$1.56 million



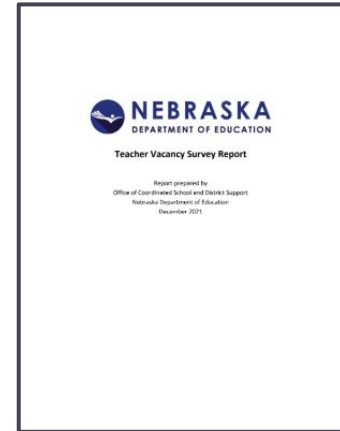
NDE Staff Flex Position

- Creates flexibility for NDE capacity
- Ensures NDE can adapt to changing needs
- Investment: \$100,000



NDE Educator Workforce Coordinator

- Coordinate NDE's efforts supporting educator pipeline activities
- Coordinate ESSER investment strategies
- Investment: \$300,000



Modernizing Systems: Building on SLDS & CARES/CRSSA Projects

- ESSER funding has allowed NDE to continue with data modernization work
 - Initiated with approx. \$3.5 million in grant funds awarded to NDE by the U.S. Department of Education during the 2019 Statewide Longitudinal Data System (SLDS) grant cycle.

Note: ESSER projects building on SLDS work or projects already underway are noted with an asterisk on the following slides.



Modernization of Information, Data, and Technology Systems



Education and Stakeholder Experience

Goal: Improve Stakeholder Access to Data and Increase Data Use for Decision Support

Key Projects and Outcomes

- Update and enhance Nebraska Education Profile, ADVISER Dashboard, ADVISER Data Warehouse, ADVISER Analytics Tools*
- Increase integration of GIS (mapping) capabilities and resources*
- Redesign and improve Exempt School filing system.



Operational Excellence I

Goal: Modernize Enterprise Infrastructure and Improve Business Processes

Key Infrastructure Modernization Projects and Outcomes

- Azure Cloud Hosting and Services*
- NDE Data Lake and Azure Synapse Analytics*
- NDE Portal Redesign
- Data Quality Support
- Increase systems interoperability and sustainability



Operational Excellence II

Goal: Modernize Enterprise Infrastructure and Improve Business Processes

Key Business Improvement Projects and Outcomes

- Manage business processes online
- Streamline workflow management*
- Eliminate duplication (e.g., service desk)
- Provide procurement support (contract, bid and document processes/management)*
- Enhance case management capacity*



Organizational Change

Goal: Increase timely and effective communication, collaboration and education

Key Organizational Change Projects and Outcomes

- Integrate communication management technology
- Improve web presence and functionality*
- Expand internal/external training and capacity building



Security and Risk Management

Goal: Increase IT security/risk management posture and provide relevant training to internal and external stakeholders

Key Security and Risk Management Projects and Outcomes

- Formalize data, privacy and technology governance
- Formalize risk management plans and procedures
- Modernize legacy applications to mitigate risk*
- Upgrade security knowledge and abilities of internal and external stakeholders



Financial Stewardship

Goal: Increase efficiency and reduce future costs

Key Financial Stewardship Projects and Outcomes

- Reduce increasing technical debt associated with maintaining outdated hardware, software and applications*
- Decrease risk profile
- Improve vendor management
- Strengthen project management capacity*
- Create benchmarks/metrics for improvement



Modernization of Information, Data, and Technology Systems



Investment: \$13 million

- Work has already commenced on about \$5 million of modernization projects and related product /service purchases using a combination of CARES, ESSER II and ESSER III federal funds.



| Proposed Activities | Description | Investment |
|---|--|---------------------|
| NAESP Early Childhood Educator Cohort | Professional learning for elementary principals (1 year) | \$350,000 |
| Teacher Recruitment, Preparing, Retaining/Sustaining | Innovative strategies for addressing the educator shortage (3 years) | \$1,000,000 |
| Special Education Inclusion Project (Approved in January Board Meeting) | Professional learning to support inclusionary practices for students with disabilities (3 years) | \$215,000 |
| Rural Community Schools Initiative | Design rural community school initiative, and increase school-community collaboration (3 years) | \$ 1,000,000 |
| Latino/Native American/African American Liaisons Positions | Partnerships with Latino American Commission, Commission on Indian Affairs, and African American Commission; Planning grants and liaison to support schools and bridge commissions and the NDE (3 years) | \$430,000 |
| Early Childhood Regional Coaches | Partnership with ESUs to provide early childhood professional learning (3 years) | \$1,560,000 |
| NDE Staff Flex Position | Funding for position needed across grant life (1.5 years) | \$100,000 |
| NDE Educator Workforce Coordinator | Support and coordinate NDE's myriad teacher/leader workforce strategies (3 years) | \$300,000 |
| Modernization of Information, Data, and Technology Systems | People, processes, products to create efficiencies (3 years) | \$13,045,071 |
| | Total | \$18,000,071 |

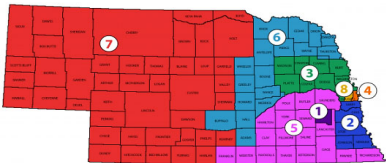


2021-2022 Board Travel

At-A-Glance

| | | | |
|---|---|---|--|
| <p>Budgeted</p> <div style="background-color: #1a3d4d; color: white; padding: 20px; border-radius: 10px; width: 150px; margin: 0 auto;"> <p style="font-size: 24px; margin: 0;">\$60,000</p> </div> | <p>Monthly Spending</p> <div style="background-color: #1a3d4d; color: white; padding: 20px; border-radius: 10px; width: 150px; margin: 0 auto;"> <p style="font-size: 24px; margin: 0;">\$1,035</p> <p style="font-size: 12px; margin: 0;">Average</p> </div> | <p>Annual Spending</p> <div style="background-color: #1a3d4d; color: white; padding: 20px; border-radius: 10px; width: 150px; margin: 0 auto;"> <p style="font-size: 24px; margin: 0;">\$12,430</p> <p style="font-size: 12px; margin: 0;">Projected</p> </div> | <p>Expenditures</p> <div style="background-color: #1a3d4d; color: white; padding: 20px; border-radius: 10px; width: 150px; margin: 0 auto;"> <p style="font-size: 14px; margin: 0;">Lodging Meals Mileage</p> </div> |
|---|---|---|--|

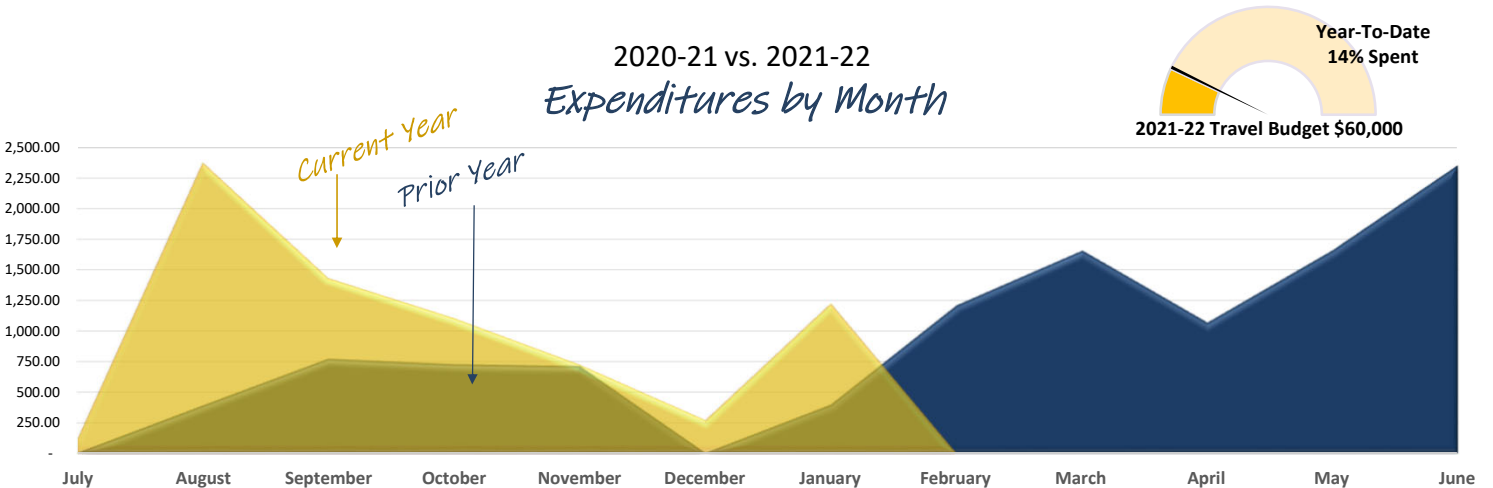
Even under pandemic conditions, the Nebraska Board of Education has retained the ability to attend meetings, conferences and conventions, sustain meaningful and dynamic work in addition to engaging in new opportunities provided through innovation and virtual technology during unexpected circumstances.



Board Member Activity

| District | Board Member | Current Year July 2021-June 2022 | | Prior Year July 2020-June 2021 | | Variance | | | |
|---------------------|---|-------------------------------------|----------------|-----------------------------------|-------------------|----------------|--------------|----------------|----------------|
| | | January | Year-To-Date | January | Year-To-Date | January | Year-To-Date | | |
| 1 | Patsy Koch Johns, President | \$0 | \$212 | \$0 | \$144 | \$0 | \$68 | | |
| 2 | Lisa Fricke | \$128 | \$1,044 | \$0 | \$924 | \$128 | \$121 | | |
| 3 | Patti Gubbels <i>Appointed Jan. 2021</i> | \$254 | \$2,342 | \$0 | \$0 | \$254 | \$2,342 | | |
| 3 | Rachel Wise <i>Outgoing Dec. 2020</i> | \$0 | \$0 | \$264 | \$1,264 | \$0 | -\$1,264 | | |
| 4 | Jacquelyn Morrison <i>Appointed Jan. 2021</i> | \$254 | \$1,047 | \$0 | \$0 | \$254 | \$1,047 | | |
| 4 | John Witzel <i>Outgoing Dec. 2020</i> | \$0 | \$0 | \$0 | \$477 | \$0 | -\$477 | | |
| 5 | Kirk Penner <i>Appointed Dec. 2021</i> | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | | |
| 5 | Patricia Timm <i>Outgoing Nov. 2021</i> | \$0 | \$239 | \$0 | \$324 | \$0 | -\$85 | | |
| 6 | Maureen Nickels | \$207 | \$1,164 | \$0 | \$946 | \$207 | \$218 | | |
| 7 | Robin Stevens, Vice President | \$254 | \$1,964 | \$132 | \$1,213 | \$122 | \$751 | | |
| 8 | Deborah Neary | \$128 | \$660 | \$0 | \$461 | \$128 | \$199 | | |
| | | \$1225 | \$8,672 | 14% | \$396 | \$5,753 | 10% | \$1,093 | \$2,919 |
| Annual Budget | | \$60,000 | | \$60,000 | | | | | |
| Over/(Under) Budget | | (\$51,328) | | 86% | (\$54,247) | | 90% | | |

2020-21 vs. 2021-22
Expenditures by Month



Historical Annual Expenditures - FY2021 (\$11,000), FY2020(\$35,000), FY2019(\$48,500)

In-State Travel Authorization Reports - February

| Name | Event Name | Date | Location | Board Bylaw B16 Code A-F |
|--------------------|-------------------|-------------|----------------------|---------------------------------|
| Lisa Fricke | 2022 CYFS Summit | 4/13/2022 | NE Innovation Campus | F |
| Jacquelyn Morrison | (NONE) | | | |
| Deborah Neary | (NONE) | | | |
| Kirk Penner | (NONE) | | | |

In-State Travel Authorization Reports - February

| Name | Event Name | Date | Location | Board Bylaw B16 Code A-F |
|------------------|-------------------|-------------|-----------------|---------------------------------|
| Patsy Koch Johns | (NONE) | | | |
| Patti Gubbels | (NONE) | | | |
| Maureen Nickels | (NONE) | | | |
| Robin Stevens | (NONE) | | | |



STATE BOARD OF EDUCATION
PLANNING AND EVALUATION COMMITTEE REPORT

Date: February 3, 2022

“The Committee on (enter committee name) reports that...

Staff members in attendance at the committee meeting introduced themselves and shared how their work responsibilities are associated with the committee.

A committee orientation included:

Setting expectations of the committee chair and committee members, Reading the B2 Board Committees description of the Planning and Evaluation Committee, Defining and exemplifying committee duties as indicated in the B2 committee description, Reviewing the draft list of regular activities (committee calendar)

Cory Epler, Marissa Payzant, and Deb Romanic provided an update on the Nebraska College and Career Ready Standards for Mathematics revision process.

Specific topics discussed:

History of math standards development and current standards revision processes/progress

Summative math assessment data 2017-2018 and 2018-2019 with noted pandemic effects on data

Instructional materials use data indicating an increasing trend of number of schools using high-quality instructional materials and professional development and materials

Roles and responsibilities of groups involved in writing and advising standards development

Key considerations for revision as of January 2022

- Identifying big math ideas to reduce number of standards
- Focus in grades 6-8 on proportional reasoning, ratios, and arithmetic of rational numbers
- Examination of high school math standards to identify skills relevant to future learning
- Strengthening the data strand across grade levels
- Strengthening process standards throughout Standards document

That concludes the Planning and Evaluation Committee report

*Submit a printed copy to the Committee Chair and email to the Recording Secretary.



NEBRASKA

DEPARTMENT OF EDUCATION

PROPOSED AGENDA ITEM RATIONALE

DATE: January 19, 2022

TO: Matthew L. Blomstedt, Ph.D.
Commissioner of Education

FROM: Cory Epler, Ph.D.
Academic Officer/Administrator for Teaching, Learning, and Assessment

Marissa Payzant, Ed.D.
Assistant Administrator for Teaching, Learning, and Assessment

Deb Romanek
Mathematics Education Specialist

PROPOSED AGENDA ITEM:

Discussion Item: Nebraska's College & Career Ready Standards for Mathematics

RATIONALE/BACKGROUND INFORMATION:

Nebraska Revised Statute 79.760.01 requires the Nebraska State Board of Education to adopt measurable academic content standards in the subject areas of reading, writing, mathematics, science, and social studies. The statute requires the State Board to review and update the standards every seven years. Pursuant to 79.760.01, and under the leadership of the Nebraska Department of Education, the process to review and revise Nebraska's College and Career Standards for Mathematics will begin in Fall 2021. The current mathematics standards were approved by the State Board of Education in 2015.

PROPOSED BOARD MEETING (MONTH/YEAR): February 2022

Nebraska's College and Career Ready Standards for Mathematics

State Board of Education Running Updates





Update: T&L Committee

October 6, 2021



Update: T&L Committee (10/6)

- 9/23/2021: Application Made Available
- 9/24/2021: Application sent to curriculum contacts and non-public admin
- 9/27/2021: Outreach made to Catholic Conference
- 9/28/2021: 2015 Math Standards Public Input Survey Opens
- 9/29/2021: Press Release: Public Input Survey
- 9/29/2021: Outreach made to postsecondary education



Update: T&L Committee (10/6)

Writer Minimum Qualifications:

- Postsecondary degree(s) in education,
- PK-16 teaching experience in mathematics, and
- Experience with mathematics standards, curricula, or instructional materials.

Writer Preferred Qualifications:

- Postsecondary degree(s) in mathematics education or related field;
- PK-16 mathematics teaching experience in a Nebraska institution;
- Experience as a director, specialist, coordinator, or administrator in a Nebraska school or ESU.



Update: T&L Committee (10/6)

Math Standards Revision Webpage:

<https://www.education.ne.gov/math/mathematics-standards-revision/>

Public Input:

Email: nde.mathstandardsinput@nebraska.gov

US Mail: Nebraska Department of Education

Public Input Survey:

https://nde.qualtrics.com/jfe/form/SV_6YI1a9ZbpkjRhkO





Update: T&L Committee

November 3, 2021



Update: T&L Committee (11/3)

- 9/23/2021: Application Made Available
- 10/5/2021: Application Window Closes
- 10/11 - 10/18: Review of Applications
 - Writer Minimum Qualifications:
 - Postsecondary degree(s) in education,
 - PK-16 teaching experience in mathematics, and
 - Experience with mathematics standards, curricula, or instructional materials.



Update: T&L Committee (11/3)

- 10/25/2021: Potential Writers and Group Facilitators Notified
- 11/20/2021: Writing Meeting #1 (virtual)
- 12/13/2021: NU Subject Matter Experts Meeting (virtual)



Update: T&L Committee (11/3)

- Coming Soon:
 - Reviewing data from Public Input Survey #1
 - Meeting with subject matter experts from state colleges and community colleges.





Thank you!



Discussion Item:
T&L Committee
and Full Board

December 2, 2021



Our mission...



To lead and support the preparation of all Nebraskans for learning, earning, and living



Nebraska Revised Statute 79-760.01

- For reading, writing, mathematics, science, and social studies, the statute requires districts to:
 - Adopt state-approved content standards
 - OR**
 - Adopt content standards deemed **equal to** or **more rigorous** than the state-approved standards



Nebraska's College & Career Ready Standards for Mathematics

- Summative Assessment Data:

| Data Year | Percent Proficient (All Grades, 3-8) |
|-----------|---|
| 2020-2021 | **Modified due to the COVID-19 pandemic |
| 2019-2020 | *Cancelled due to the COVID-19 pandemic |
| 2018-2109 | 52% |
| 2017-2018 | 51% |



Nebraska's College & Career Ready Standards for Mathematics

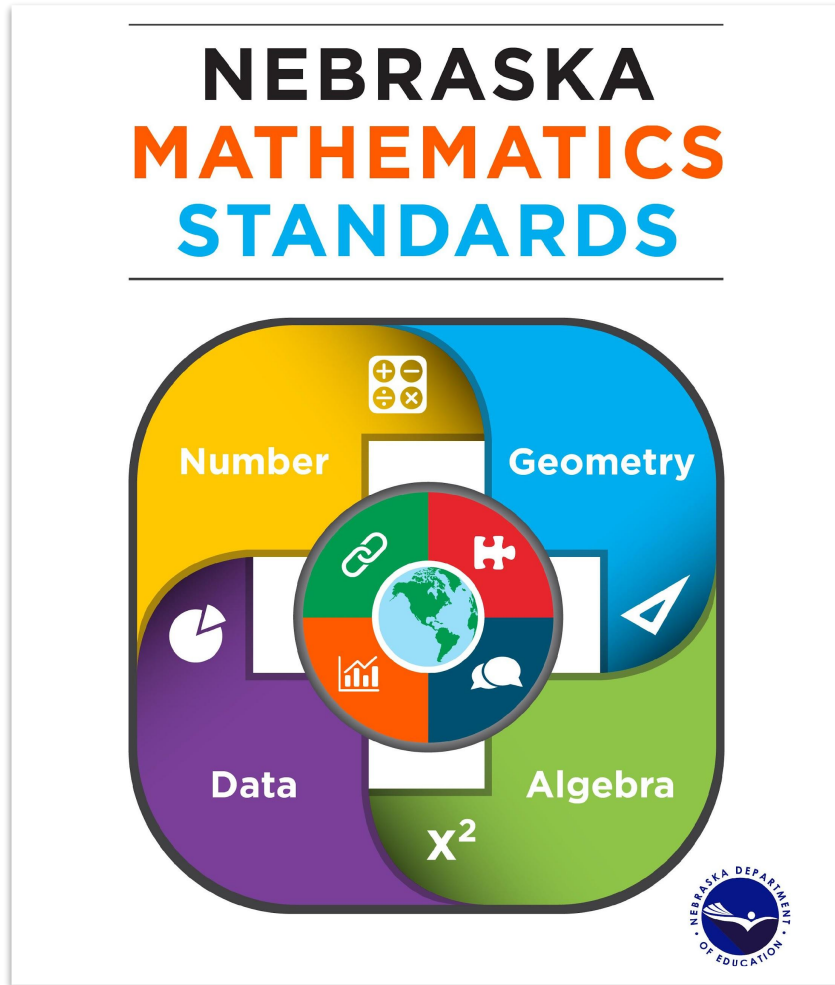
- Instructional Materials Data:

| | # of Districts | % of Districts |
|---------------|----------------|----------------|
| Elementary | | |
| 2021-2022 | 98 | 40% |
| 2020-2021 | 64 | 26% |
| 2019-2020 | 27 | 11% |
| Middle School | | |
| 2021-2022 | 49 | 20% |
| 2020-2021 | 17 | 7% |
| 2019-2020 | 11 | 5% |
| High School | | |
| 2021-2022 | 62 | 25% |
| 2020-2021 | 19 | 8% |
| 2019-2022 | 20 | 8% |

Districts using instructional materials rated as "meets" for alignment and usability as determined by EdReports.



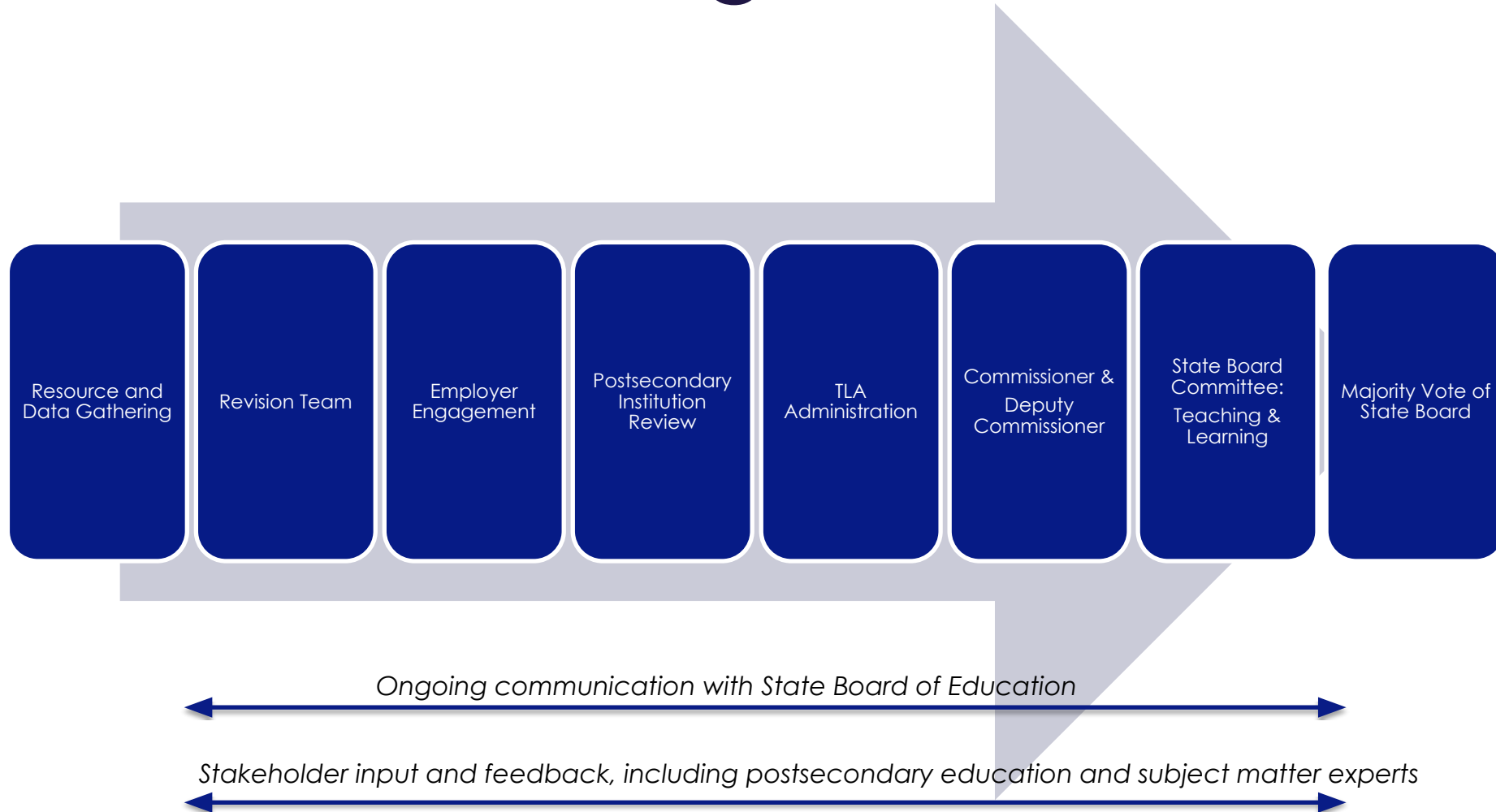
Our Charge...



- Utilize the 2015 standards as a starting point for the revision.
- Outline grade-level expectations for student learning of mathematics.
- Develops standards, that when mastered, would allow a student to be successful in postsecondary coursework without the need for remediation.
- Develop standards that allow for deep learning in mathematics.
- Consider and incorporate stakeholder input and feedback, as appropriate.



How do we get there?



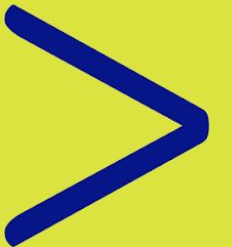
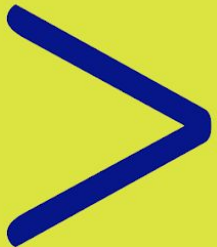
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*Nebraska's College & Career Ready
Standards for Mathematics*

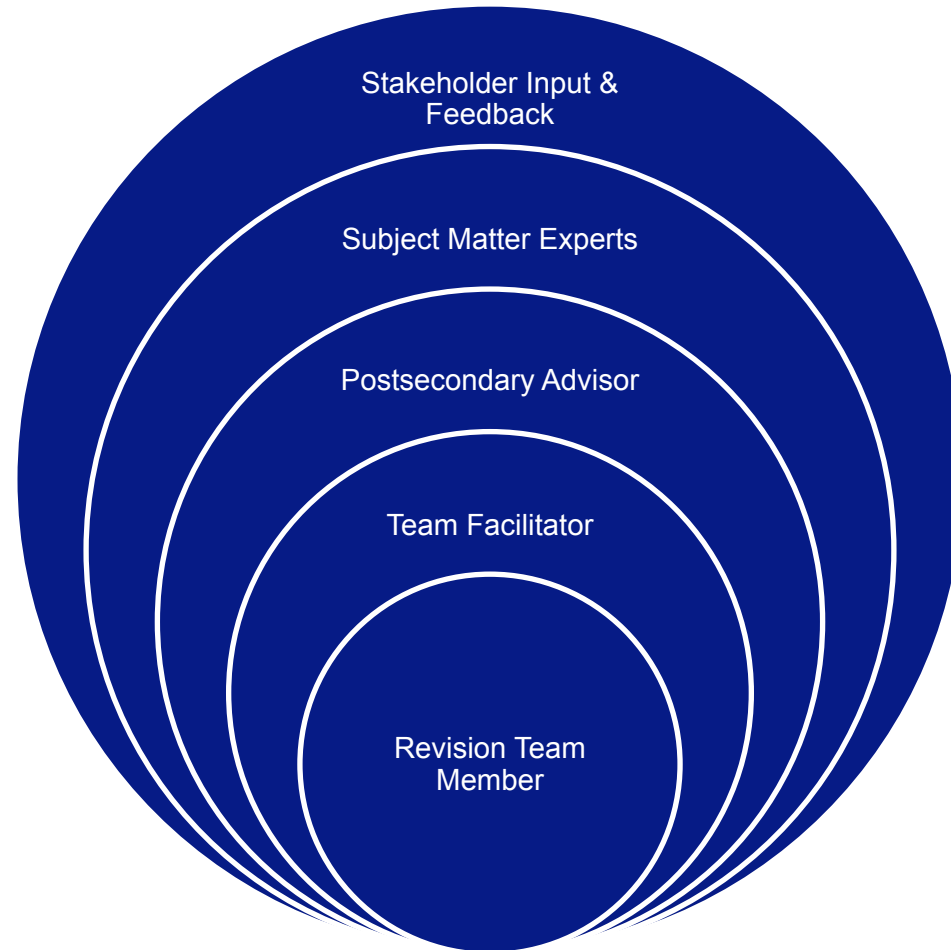


Revision Team

- Representation from public and non-public schools.
- Organized by Grade Band:
 - K-2, 3-5, 6-8
 - HS: Data, Geometry, Algebra
- Revision team members, school district, and role is posted in Sparq and on the math standards revision webpage.

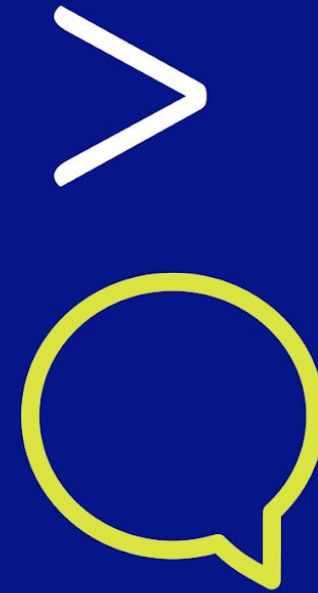


How do we get there?



Nebraska's College and Career Ready Standards for Mathematics

State Board of Education Running Updates





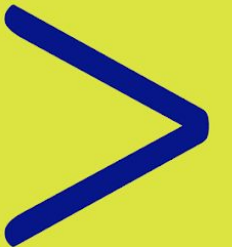
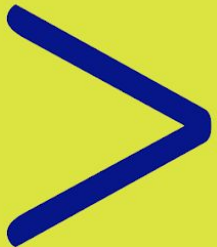
Update:
Planning & Evaluation
Committee

February 3, 2022





*Nebraska's College & Career Ready
Standards for Mathematics*



Nebraska Revised Statute 79-760.01

- Requires the State Board of Education to:
 - Adopt measurable academic content standards for at least the grade levels required for statewide assessment.
 - Cover the subject areas of reading, writing, mathematics, science, and social studies.
 - Develop a plan to review and update standards for each subject area every seven years.



Nebraska's College & Career Ready Standards for Mathematics

- Approved by the State Board of Education on September 4, 2015.
 - Designated as “college and career ready” by Nebraska’s postsecondary systems.
- Summative Assessment:
 - Grades 3-8: NSCAS
 - Grade 11: ACT



Nebraska's College & Career Ready Standards for Mathematics

- Summative Assessment Data:

| Data Year | Percent Proficient (All Grades, 3-8) |
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Nebraska's College & Career Ready Standards for Mathematics

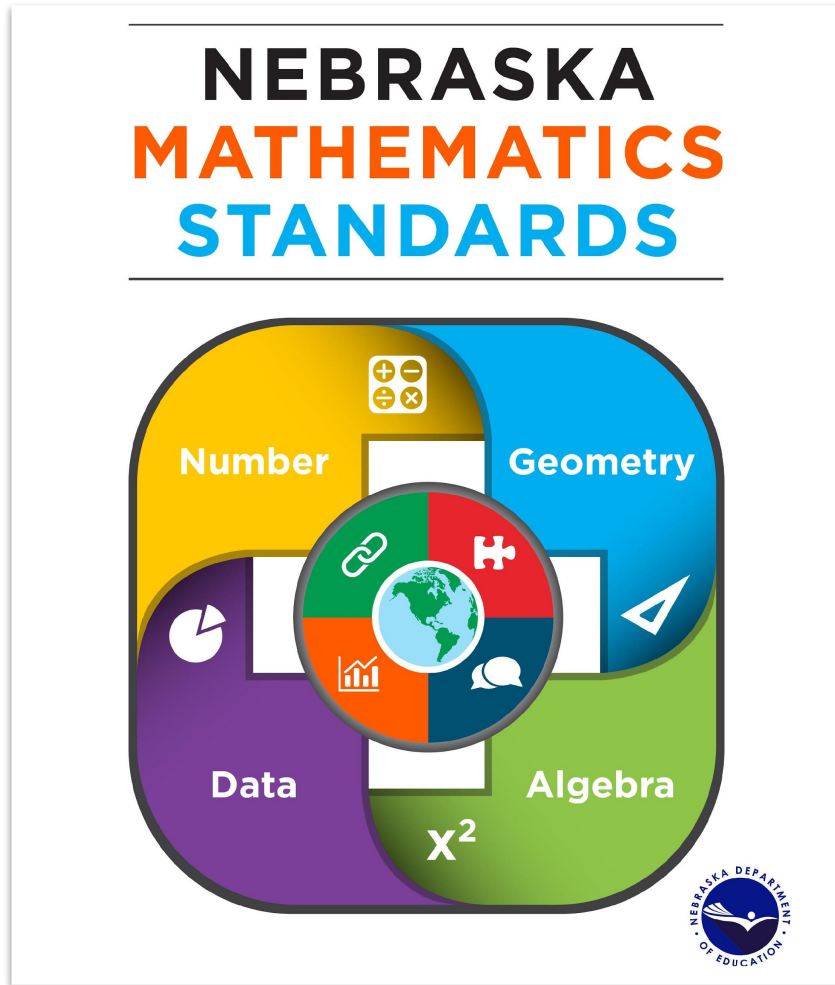
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Our Charge...



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- Outline grade-level expectations for student learning of mathematics.
- Develops standards, that when mastered, would allow a student to be successful in postsecondary coursework without the need for remediation.
- Develop standards that allow for deep learning in mathematics.
- Consider and incorporate stakeholder input and feedback, as appropriate.



Update: P & E Committee (2/3)

Revision Team:

- Representation from public and non-public schools.

- Organized by Grade Band:

- K-2, 3-5, 6-8

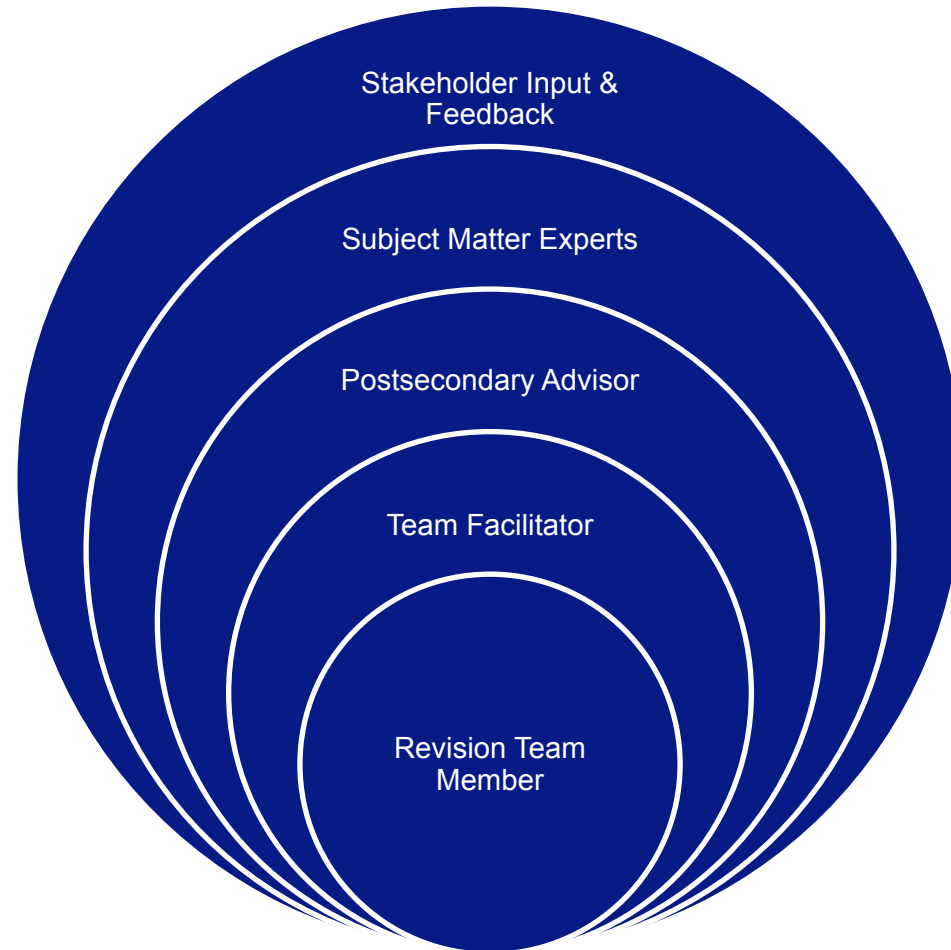
- HS: Data, Geometry, Algebra

- Revision team members, school district, and role is posted on the math standards revision webpage:

<https://www.education.ne.gov/math/mathematics-standards-revision/>



How do we get there?



Key Updates:

Revision Process Overview: Posted in Sparq

Postsecondary Meetings:

What do students need to know and be able to do in order to be successful in postsecondary mathematics coursework without the need for remediation?

What knowledge and skills are needed for students to be prepared for careers in Nebraska's growing industries?

December 2021: University System Meeting

January 2021: State Colleges Meeting



Key Considerations for Revision (As of Jan. 2022)

- Identification of “big” mathematical ideas to consider reducing number of standards.
- Grade 6-8 focus on ratios and proportional reasoning and arithmetic of rational numbers to build a strong foundation prior to high school.
- Closely examine standards found in high school math to identify skills that are relevant to future learning.
- Strengthen the data strand across the standards K-12.
- Strengthen the process standards throughout the document.



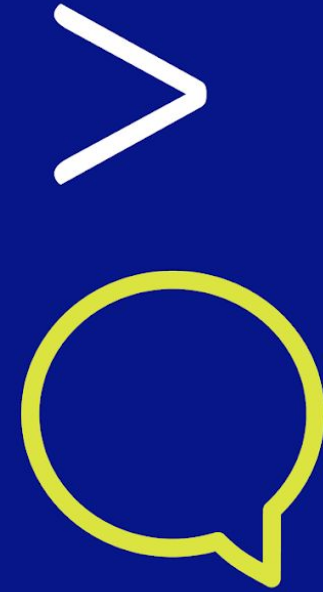
Tentative Revision Timeline

| | |
|----------------|--|
| Fall 2021 | Revision Process Announced |
| September 2021 | Public Input Survey #1 Opens |
| October 2021 | Revision Team Application Made Available |
| October 2021 | Revision Team Notified |
| November 2021 | Revision Meeting #1 |
| December 2021 | Postsecondary Education Feedback Sessions |
| Spring 2022 | Revision Team Meetings and Editing (as needed) |
| April 2022 | Target Date: Draft #1 |
| April 2022 | Public Input Survey #2 Opens |
| Summer 2022 | Revision Team Meetings and Editing (as needed) |
| Summer 2022 | Postsecondary Education Validation & Sign-off |
| August 2022 | Target Date: Final Draft |
| September 2022 | Anticipated State Board Approval |

Note: Ongoing Communication and Updates with State Board of Education



Thank you!



Nebraska's College and Career Ready Standards for Mathematics Revision Process Overview

Nebraska Revised Statute [79-760.01](#) requires the State Board of Education to “develop a plan to review and update standards for reading, writing, mathematics, science, and social studies” every seven years. Content area standards that are measurable, appropriately rigorous, and scaffolded become the framework for locally determined curricula. Guided by local and national resources, including an [evaluation of state standards](#) by the Fordham Institute (2018), a group of Nebraska educators is working to revise the 2015 Mathematics standards, [Nebraska's College- and Career-Ready Standards for Mathematics](#).”

September 2021. The standards revision process began in the Fall of 2021 with Public Input Survey #1. The survey was disseminated through the Nebraska Department of Education (NDE) website and directly to groups including the Nebraska Mathematics Cadre, the Nebraska MTSS network, District Assessment Contacts, and District Curriculum Contacts. The survey was also sent to state and national mathematics experts identified by the NDE's Mathematics staff. State mathematics experts are individuals with specialized training in mathematics and who work closely and extensively with Nebraska educators. Likewise, the identified national mathematics experts have previously collaborated with both the NDE and Nebraska educators as well as conducted and published mathematics research.

October 2021. Public Input Survey #1 sought feedback on the 2015 Mathematics standards including the content, or the knowledge and skills students are expected to learn, and the rigor, or cognitive complexity, of the standards. The questions were organized into four grade bands—K-2, 3-5, 6-8, and 9-12, respectively, and responses were made either individually or in groups (i.e. ESU staff developers, a school mathematics department, etc.). The survey was open between October 22, 2021 and November 16, 2021 and received a total of 292 responses. The majority of respondents identified as educators (e.g. Pre-K-12 educators, school or district administrators, postsecondary education representatives) followed by parents and business/industry representatives. Educators and other stakeholders were also invited to provide input to nde.mathstandardsinput@nebraska.gov.

Next, the NDE began recruiting educators for revision teams. Invitations to apply were sent to Educational Service Units (ESUs), post-secondary institutions, the Nebraska Association of Teachers of Mathematics (NATM), and the Nebraska Mathematics Cadre (a statewide collaboration between the NDE and ESU math professionals) along with a request to share with educators. The NDE received 134 applications and used a rubric to assess applicants' qualifications. The rubric utilized a 4-point scale that evaluated educators' experiences with teaching, curriculum development, standards writing, and working with diverse groups of learners, i.e. special education and EL students. In addition, the NDE math staff determined applicants' geographic locations, i.e. rural, urban, and suburban districts in various regions of the state, to ensure writing team members represented Nebraska's diverse student population

November 2021. Selection notifications were sent to applicants in early November. Revision team members will receive a stipend upon completion of the work in the amount of \$600.00. Applicants who

had indicated their willingness to lead groups were then identified as team facilitators according to their grade-level experience. The role of the team facilitators is to organize meeting times and locations, provide an agenda to writing team members, track and maintain attendance, and communicate progress with other writing team members and the NDE staff. Team facilitators will receive a stipend of \$750.00. Writing team members and team facilitators also signed an assurance document confirming their status as individual contractors.

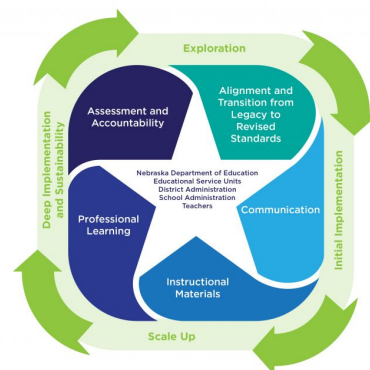
Writing team members participated in an initial, virtual meeting on November 20th, 2021 in which they received an orientation to the revision process, previewed and discussed survey data, and began coordinating future meetings.

December. Throughout December, team facilitators with their revision team members as part of the planning and preparation phase. Members of the revision also began a book study, [*Invigorating High School Math: Practical Guidance for Long-Overdue Transformation*](#) by Steven Leinwand. In December, two stakeholder engagement sessions (K-5 and 6-12) were held with mathematics leaders from districts and ESUs. Meetings with the NDE staff (Cory Epler, Marissa Payzant, Deb Romanek, and Jane Strawhecker) are ongoing and occur weekly. This time is used to discuss considerations of the revision team, coordinate revision activities, and develop agenda items for future meetings. December 13th marked the first meeting with subject matter experts from the Nebraska University system. This meeting allowed university subject matter experts to provide input relative to this guiding question: *What do students need to know and be able to do in order to be successful in postsecondary mathematics coursework without the need for remediation?*

January. The January weekly check-in meetings were also used to begin discussing possible standards rollout resources. The NDE would like to, as staff did for the revised English Language Arts standards, develop professional learning modules to support educators in the *Exploration* stage of implementation (see right). The modules would orient educators to the major revisions to structure and content, the instructional shifts, and considerations for initial implementation (SY 2022-23). A steering team, consisting of the NDE staff, ESU staff, and representation from Nebraska's MTSS, would design the professional learning series.



Nebraska Content Area Standards Implementation Framework



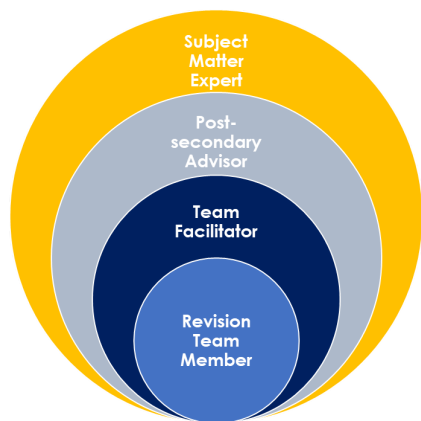
Throughout January, the revision teams continued to meet virtually. In addition, a meeting with subject matter experts from Nebraska's State Colleges took place on January 25th. This conversation allowed state college subject matter experts to provide input on this guiding question: *What do students need to know and be able to do in order to be successful in postsecondary mathematics coursework without the need for remediation?* Table 1 includes key considerations for the revision as of January 2022.

Next steps. The writing teams, working in grade band or alike-content teams, will meet regularly, both virtually and in-person, to continue reviewing and revising the mathematics standards, considering both public input survey data and supporting resources. Following a public release of a first draft in

April 2022, Public Input Survey #2 will open to collect feedback on the proposed draft. In addition, the NDE staff will identify and coordinate a series of “futuring panels.” These create an opportunity for representatives from Nebraska’s business and industry community to provide feedback on the draft. Employer engagement informs the revision team of the essential knowledge and skills employers seek from high school graduates entering the workforce.

The NDE staff will then identify members of an editing team, selected from the revision team, to prepare the next draft. These individuals will meet in the summer of 2022. Validation and sign-off from postsecondary education will also be procured in the summer months. The anticipated approval date for the revised College and Career Ready Standards for Mathematics is September, 2022.

Roles and responsibilities. NDE’s Office of Teaching, Learning, and Assessment, which oversees the development of content standards, uses principles of the [RAPID Model](#) for its revision process. This model emphasizes the importance of establishing clear roles for those involved in decision-making within an organization.



This graphic illustrates the various roles of educators involved in the revision of content area standards. *Revision team members* (see pg. 6) are directly responsible for carefully reviewing the current standards while considering recommendations from various stakeholders. This team adds, removes, or revises standards and indicators based on their grade appropriateness, measurability, specificity, and scaffolding. These decisions determine the content of the final, approved document. *Team facilitators* coordinate the revision team meetings and establish channels of communication between the NDE and other team facilitators. *Post-secondary advisors* are university faculty who

oversee mathematics education programs, and/or prepare pre-service teachers in one of Nebraska’s 16 Educator Preparation Programs. The advisors provide feedback and expertise via multiple channels including surveys and collaboration with the NDE staff and revision team members. Their feedback is critical to the development of standards, as they help determine the extent to which the standards support college and career readiness for Nebraska’s students. These individuals also share important updates to other faculty and pre-service teachers. *Subject matter experts* are engaged flexibly throughout the process. Subject matter experts provide feedback on key considerations for revision (see Table 1), review standards drafts, share content-specific research and resources, and communicate with other stakeholders during the process of revision.

Key Considerations. Writing team members have been engaged in activities and conversations that build their mathematics knowledge and help them develop a shared vision for mathematics education for Nebraska’s K-12 students. Table 1 outlines key considerations for the revision that have emerged from collaborations amongst the educators involved in the process. A goal of the next phase is to establish recommendations that will shape the content, scope, and rigor of the revision.

Table 1**Nebraska's College and Career Ready Standards for Mathematics
Key Considerations (As of January 2022)**

| Considerations | Rationale |
|---|--|
| Identification of "big" mathematical ideas to consider reducing number of standards | Teachers indicate there is insufficient time to develop students' understanding of math concepts. Fewer, but more focused, standards may allow teachers and students time to develop conceptual understanding of key math ideas. A refined distribution of concepts would allow students to understand the "why" of a math concept and how to apply it in real-world contexts. |
| Grade 6-8 focus on ratios and proportional reasoning and arithmetic of rational numbers to build a strong foundation prior to high school | A shift in focus to these foundational concepts in the middle grades would better prepare students to be successful in high school Algebra courses. |
| Closely examine standards found in high school math to identify skills that may not be relevant to future learning | Public input survey data and feedback from revision teams and subject matter experts indicates the Advanced Algebra 2 course may not be beneficial to students. The first semester is typically a repeat of the full year Algebra 1 and the second semester contains topics that, with technology, may be outdated. |
| Strengthen the data strand across the standards K-12 | A frequent theme of survey data and conversation thus far has been the need to develop standards related to understanding data and basic statistics. It is important to be able to collect, display and interpret data accurately. |
| Strengthen the process standards throughout the document | In past input from Nebraska business and industry leaders, the process standards reflected skills that were more important for their employees to have than the content of mathematics. The current format does not provide the emphasis that is desired. |

The mathematics standards revision team is represented by the following:

Districts

- Omaha Public Schools
- Grand Island Public Schools
- Millard Public Schools

Elementary and Middle Schools

- Wahoo Public Schools
- Gretna Public Schools
- Hastings Public Schools
- Kearney Public Schools
- Papillion LaVista Public Schools
- DC West Community Schools
- Lincoln Public Schools
- Grand Island Public Schools
- Omaha Public Schools

High Schools

- Harvard Public Schools
- Scottsbluff Public Schools
- Columbus Public Schools
- Umoho Nation Public Schools
- Westside Community Schools
- Cambridge Public Schools
- Cross County Community Schools
- Thayer Central Community Schools
- Lexington Public Schools
- North Platte Public Schools
- Nebraska City Public Schools
- Fremont Public Schools

Educational Service Units

- ESU 8

Non-Public Schools

- Faith Christian School
- Creighton Preparatory School
- Boys Town High School

Nebraska Department of Education

- **Cory Epler, Ph.D.**, NDE Academic Officer
- **Marissa Payzant, Ed.D.**, Director - Content Area Standards & Instruction
- **Deb Romanek**, Mathematics Education Specialist
- **Jane Strawhecker, Ph.D.**, Professor of Teacher Education, University of Nebraska Kearney

Members of the mathematics standards revision team, organized by work strand:

| | Full Name | School / District (Role) | ESU |
|--------|-------------------|---|-----|
| Gr K-2 | Judy Stukenholtz | Wahoo Public Schools (Kindergarten teacher) | 2 |
| | Andrew Boone | Gretna Public Schools (1st grade teacher) | 3 |
| | Whitney Flower | Grand Island Public Schools (K-5 building principal) | 10 |
| | Adeline Johnson | Hastings Public Schools (2nd grade teacher) | 9 |
| | Sara Kucera | Kearney Public Schools (1st grade teacher) | 10 |
| | | | |
| Gr 3-5 | Laura Melonis | Papillion-LaVista Public Schools (4th grade teacher) | 3 |
| | Janna Giles | DC West Community Schools (5th grade teacher) | 3 |
| | Jason Weseman | Grand Island Public Schools (5th grade teacher) | 10 |
| | Amy Barton | Lincoln Public Schools (3rd grade teacher) | 18 |
| | Marni Driessen | Omaha Public Schools (K-6 curriculum facilitator) | 19 |
| | | | |
| Gr 6-8 | Tami Whitted | Millard Public Schools (6-12 math curriculum facilitator) | 3 |
| | Susan Christensen | Faith Christian School (4-8 math teacher) | 10 |
| | Kevin L Pettigrew | Valentine Community Schools (7-8 math teacher) | 17 |
| | Alicia K Davis | Lincoln Public Schools (8th grade math teacher) | 18 |
| | Mallory Charvat | Elkhorn Public Schools (7th grade math teacher) | 3 |

| | | | |
|---------|-------------------|---|----|
| | Rachel Kluthe | Seward Public Schools (7th grade math teacher) | 6 |
| | | | |
| HS Data | Jenne Gregor | Creighton Preparatory School (H.S. math teacher) | 3 |
| | Audrey Smalley | Harvard Public Schools (H.S. math teacher) | 9 |
| | Shelby Aaberg | Scottsbluff Public Schools (H.S. math teacher) | 13 |
| | Julie Kreikemeier | Columbus Public Schools (H.S. math teacher, math coach) | 7 |
| | Heidi Rethmeier | Educational Service Unit 8 (Staff developer) | 8 |
| | | | |
| HS Geom | Ann Marie Scott | Umo ^{ho} Nation Public Schools (H.S. math teacher) | 1 |
| | Michelle Mika | Boys Town High school (H.S. math teacher) | 3 |
| | Angela Mosier | Westside Community Schools (H.S. math teacher) | 3 |
| | Peter Bogardus | Cambridge Public Schools (H.S. math teacher) | 11 |
| | Jennifer Lange | Cross County Community Schools (H.S. math teacher) | 7 |
| | | | |
| HS Alg. | Deb Bulin | Thayer Central Community Schools (H.S. math teacher) | 5 |
| | Peg Fisher | Lexington Public Schools (H.S. math teacher) | 10 |
| | Sasha Welch | North Platte Public Schools (H.S. math teacher) | 16 |
| | Jason Bartman | Nebraska City Public Schools (H.S. math teacher) | 4 |

| | | | |
|--|---------------|--|---|
| | Alexander Way | Fremont Public Schools (H.S. math teacher) | 2 |
|--|---------------|--|---|



STATE BOARD OF EDUCATION RULES AND REGULATION COMMITTEE REPORT

Date: February 4, 2022

“The Committee on Rules and Regulations reports that...

The Rules and Regulation Committee met on February 3, 2022, all members of the committee were present. The committee started with introductions by staff members who discussed their role in the rule and regulations process. Staff members present were Ryan Foor, Amy Rhone, Brian Halstead and Brenda Wid.

The Committee conducted an initial orientation for the committee. Brian Halstead outlined the rules and regulations process required by state statute and as outlined in the Administrative Procedures Act. The committee also discussed the purpose of rules and regulations and the delegation of authority for rules and regulations from the Legislature.

The Committee discussed the Agency’s Rules and Regulation revision process and learned that the process is currently being improved. This ongoing improvement process presents an opportunity for the committee to be included in the process. The board was also presented with the current review timeline for rules and regulations, which currently requires that each rule and regulation be reviewed every five years. The committee in its work will review this document alongside the department and see if it should be updated. Another area that the Committee will specifically need to address is where in the rule and regulation revision process will a revision proposal be presented to the committee.

The Committee also discussed with Amy Rhone those impetuses which lead to rules and regulations being reviewed outside of the five year review timeline. Those include legislative changes, federal statute changes, and recommendations from either the CEAC or NCTE advisory committees.

As the CEAC and NCTE advisory Committees are appointed by the board, the committee considered whether they should be invited to committee meetings to provide their insight, whether the committee should review appointments to those boards, and whether there should be congruency among those committees.

At the conclusion of the orientation discussion, the committee discussed board documents that relate to the committee and whether they should be reviewed and updated. Those include B4, P4, and B13.

After the Orientation Discussion, the committee reviewed an Action Item proposed by Amy Rhone regarding Rule 51 and the Rules and Regulation Standards for Special Education. This item had previously been discussed by the Students Success and Access Committee.

The committee unanimously agreed to move forward the action item to the board and recommends adopting the approved action item for Rule 51.

The next item on the Agenda was the committee update. Rules and Regulations that are upcoming include

Rule 21 – which Brad has asked Legal to review, Rule 25 – which Kim Snyder has asked Legal to review, Rule 51 and Rule 52, and possibly Rule 71 and 72. Rule 24 is also waiting for approval.

This concludes the Rules and Regulation report.

Jacquelyn Morrison, Chair



PROPOSED AGENDA ITEM RATIONALE

DATE: January 3, 2022

TO: Matthew L. Blomstedt, Ph.D.
Commissioner of Education

FROM: Amy Rhone, Office of Special Education

PROPOSED AGENDA ITEM:

Approve the proposed revisions to Title 92, Nebraska Administrative Code, Chapter 51 (Rule 51), Regulations and Standards for Special Education Programs

RATIONALE/BACKGROUND INFORMATION: With the passing of LB 527 which will be codified at Neb. Rev. Stat. § 83-1225, Nebraska statute will require transition planning to be documented in Individual Education Programs (IEPs) as required by both federal and state law and must occur in the first IEP meeting held after the student reaches the age of 14.

The Office of Special Education held a public hearing on January 4, 2022 and will move forward with the change in 92 NAC 51 to reflect Neb. Rev. State Statute.

Neb. Rev. Stat. § 83-1225 states:

- Each school district shall provide transition services for each student with a disability no later than when the student reaches fourteen years of age and until the student graduates from a special education program or no longer meets the definition of a child with a disability pursuant to section 79-1117.
- Transition services shall consist of a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment, continuing and adult education, adult services, independent living, and community participation.
- The coordinated set of activities shall be based upon the individual student's needs, taking into account, the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other postschool adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

With the above stated changes to Nebraska Revised State Statute, Title 92 *Nebraska Administrative Code* Chapter 51 (Rule 51) has been updated to state the following:

007.07A9 Beginning not later than the first IEP to be in effect when the child turns 16, or younger if deemed appropriate by the IEP team 14, and updated annually thereafter:

007.07A9a Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

007.07A9b The transition services (including courses of study) needed to assist the child in reaching those goals; and

007.07A9c If a participating agency, other than the school district or approved cooperative fails to provide the transition services described in the IEP, the school district or approved cooperative shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.

007.07A9c(i) Nothing in this Chapter relieves any participating agency, including the State Division of Vocational Rehabilitation, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility of that agency.

PROPOSED BOARD MEETING (MONTH/YEAR): January 2022

ESTIMATED COST: None

**NEBRASKA DEPARTMENT
OF EDUCATION**

RULE 51

**REGULATIONS AND STANDARDS FOR SPECIAL EDUCATION
PROGRAMS**

**TITLE 92, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER 51**

**HEARING DRAFT
NOVEMBER 12, 2021**

**State of Nebraska
Department of Education
P.O. Box 94987
Lincoln, Nebraska 68509**



TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
 CHAPTER 51 - REGULATIONS AND STANDARDS FOR SPECIAL EDUCATION PROGRAMS

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TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
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TITLE 92
CHAPTER 51

001 Declaration of Responsibility

Neb. Rev. Stat. §79-1127 declares, "The board of education of every school district shall provide or contract for special education programs and transportation for all resident children with disabilities who would benefit from such programs."

002 Statutory Authority

This Chapter is adopted pursuant to the statutory authority vested in the Nebraska Department of Education in Neb. Rev. Stat. §79-1160 which declares, "The State Department of Education shall adopt, promulgate and publish rules and regulations necessary to carry out the Special Education Act" and in Neb. Rev. Stat. §§79-318 and 79-319.

TITLE 92
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003 Definition of Terms

- 003.01 **Adjusted average per pupil cost (AAPC)** of the preceding year means the amount computed by dividing the total instructional expenditure, excluding special education expenditures, by the preceding year's average daily membership as reported in the annual finance report. The costs of sectarian instruction shall not be included in determining the adjusted average per pupil cost of the preceding year and the computation shall be subject to audit by appropriate state agencies. (See Section 011.)
- 003.02 **Assistive technology device** means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.
- 003.03 **Assistive technology service** means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes the evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment; purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with a disability; selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing of assistive technology devices; coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs; training or technical assistance for a child with a disability, or if appropriate, that child's family; and training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of the child with a disability.
- 003.04 **At no cost** means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled children or their parents as a part of the regular education program.
- 003.05 **Below age five** means those children who have not reached their fifth birthday on or before July 31 of the current school year.
- 003.06 **Categorical program** means a special education program setting in which services are provided to children with the same disability.
- 003.07 **Child find** means that all children with disabilities residing in the State, including children with disabilities who are homeless children, or are wards of the State and children with disabilities attending nonpublic schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and a practical method is developed and implemented to determine which children are currently receiving needed special education and related services (See Section 006).
- 003.08 **Child with a disability** means a child who has been verified pursuant to Section 006 as a child with autism, a behavior disorder (herein referred to as emotional disturbance), deaf-blindness, a developmental delay, a hearing impairment including deafness, an intellectual disability, multiple impairment, an orthopedic impairment, an other health impairment, a specific learning disability, a speech-language impairment, a traumatic brain injury or a visual impairment including blindness, who because of this impairment needs special education and related services. If, under 92 NAC 51-003.56, it is determined, through an appropriate evaluation under

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Section 006, that a child has one of the disabilities identified above, but only needs a related service and not special education, the child is not a child with a disability under this Chapter. If the related service required by the child is considered special education rather than a related service, the child would be determined to be a child with a disability.

- 003.09 **Consent** means that the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication; that the parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought; that the consent includes a description of the proposed activity and a list of records (if any) which will be released and to whom they will be released; and the parent understands that the granting of consent is voluntary and may be revoked at any time. If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked). If the parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the school district or approved cooperative is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.
- 003.10 **Controlled substance** means a drug or other substance identified under schedules I, II, III, IV or V in Section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).
- 003.11 **Cooperative** means two or more school districts or an Educational Service Unit (ESU) approved by the Nebraska Department of Education to jointly perform special education functions, including receipt of special education payments.
- 003.12 **Core Academic Subjects** has the meaning given the term in Section 602(4) of the Individuals with Disabilities Education Act of 2004. (See Appendix A)
- 003.13 **Day** means calendar day unless otherwise indicated as business day or school day;
- 003.13A **Business day** means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day) as in 92 NAC 51-015.02C2.
- 003.13B **School day** means any day, including a partial day, that children are in attendance at school for instructional purposes. The term school day has the same meaning for all children in school, including children with and without disabilities.
- 003.14 **Destruction** means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.
- 003.15 **Early childhood special education (ECSE) programs** means special education programs and related services designed to serve children below age five with verified disabilities.
- 003.16 **Early Intervening Services** means the development and implementation of coordinated, early intervening services, which may include interagency financing structures, for children in kindergarten through grade 12 (with a particular emphasis on children in kindergarten through grade 3) who are not currently identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment.

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- 003.17 **Education records** means those records that are directly related to a child which are maintained by an educational agency or institution or by a party acting for the agency or institution. This term parallels the definition contained in the regulations implementing the Family Educational Rights and Privacy Act (FERPA).
- 003.18 **Educational sign language interpreter** means a person who provides interpreter services for individuals with deafness or hearing impairments for special education evaluations or services pursuant to IEPs; and who is qualified to facilitate communication between people who do not share a common language or mode of communication.
- 003.19 **Equipment** means machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house the machinery, utilities, or equipment, and all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices, and books, periodicals, documents, and other related materials.
- 003.20 **Equitable services plan** means a written statement that describes the special education and related services the school district or approved cooperative will provide to a parentally-placed non-resident child with a disability enrolled in a nonpublic school in a district other than the district of residence who has been designated to receive services, including the location of the services and any transportation necessary consistent with Section 015 of this Chapter, and is developed and implemented in accordance with Section 015 of this Chapter.
- 003.21 **Evaluation** means procedures used in accordance with 92 NAC 51-006 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.
- 003.22 **Excess costs** means the difference between: (1) the total allowable cost of the special education programs excluding residential care, and (2) the number of children (full time equivalency) in the special education program multiplied by the adjusted average per pupil cost of the school district of each child for the preceding year.
- 003.23 **Extended school year services** means special education and related services that: are provided to a child with a disability, beyond the normal school year of the school district or approved cooperative, in accordance with the child's IEP, at no cost to the parents of the child, and meet the requirements of 92 NAC 51.
- 003.24 **Free appropriate public education or FAPE** means special education and related services that are provided at public expense, under public supervision, and direction, and without charge; meet the standards of the state including the requirements of this Chapter; include an appropriate preschool, elementary school, or secondary school education in Nebraska and are provided in conformity with an individualized education program (IEP) that meets the requirements of 92 NAC 51-007.
- 003.25 **Full time equivalency (FTE)** means the amount of time an individual staff member spends in his or her position assignment as it relates to the total time in the work week defined for that position by each school district.

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- 003.26 **Functional behavioral assessment** means the process of gathering information that may be used to maximize the effectiveness and efficiency of behavior support (direct observation must be included). It involves a description of the problem behavior, the identification of antecedents which occasion the behavior and consequences which maintain it, the function the behavior serves (e.g., attention, communication, task avoidance), and the selection of alternative behaviors which will provide the same function.
- 003.27 **Homeless children** has the meaning given the term homeless children and youth in Section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C.11434a).
- 003.28 **Illegal drug** means a controlled substance, but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substances Act (21 U.S.C. 812(c)) or under any other provisions of federal law.
- 003.29 **Include** means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.
- 003.30 **Independent educational evaluation** means an evaluation conducted by a qualified examiner who is not employed by the school district or approved cooperative responsible for the education of the child in question.
- 003.31 **Individualized education program (IEP)** means a written statement for a child with a verified disability that is developed, reviewed and revised in a meeting in accordance with Section 007 which specifies the special education and related services necessary to assure the child a free appropriate public education.
- 003.32 **Individualized education program team or IEP team** means a group of individuals described in Section 007 that is responsible for developing, reviewing, or revising an IEP for a child with a disability.
- 003.33 **Individualized Family Service Plan (IFSP)** means a written plan for providing early intervention services to a child with a disability age birth through the school year in which the child reaches age 3 and the child's family that is developed and implemented in accordance with 92 NAC 52.
- 003.34 **Level I Special Education Services** means those services provided to children who require an aggregate of not more than three (3) hours of such services per week. Level I special education services may be provided for or contracted for and shall include all administrative, diagnostic, consultative, vocational adjustment counselor services and support services. Administration, diagnostic services, and special education staff consultation with other staff shall not be included in the computation of hours of services provided to a child each week.
- 003.35 **Level I and Level II Combination Special Education Services** means those special education programs which serve both Level I and Level II students in a combined program.
- 003.36 **Level II Special Education Services** means those special education and related services which are provided for a period of time exceeding an aggregate of three hours per week.

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- 003.37 **Level III Special Education Contractual Services** means those special education and related services provided in an educational setting not operated by the school district or approved cooperative whose rates are approved by the Nebraska Department of Education. This shall mean special education and related services provided for a period of time exceeding an aggregate of three hours per week.
- 003.38 **Life support equipment** means equipment used to maintain or sustain life functions.
- 003.39 **Limited English Proficient** has the meaning given the term in Section 602(18) in the Individuals with Disabilities Education Act of 2004. (See Appendix A)
- 003.40 **Multicategorical program** means a special education program setting which provides services to any combination of categories of children with disabilities.
- 003.41 **Multidisciplinary evaluation team (MDT)** means a group of qualified professionals and the parent whose responsibility is to evaluate the abilities and needs of a child referred for evaluation and to determine whether or not the child meets the definition of a child with a disability.
- 003.42 **Native language**, (when used with respect to an individual of limited English proficiency), means the language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except in all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment. For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication).
- 003.43 **Notice** means written information provided to the parent of a child with a disability a reasonable time before the school district or approved cooperative proposes or refuses to initiate or change identification, evaluation, or educational placement of a child or the provision of a free appropriate public education.
- 003.44 **Parent** means a biological or adoptive parent of a child; a foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent; a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State); an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or a surrogate parent who has been appointed in accordance with 92 NAC 51-009.10B. The biological or adoptive parent, when attempting to act as the parent and when more than one party is qualified to act as a parent, must be presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child. However, if a judicial decree or order identifies a specific person or persons to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of this subsection.
- 003.45 **Personal equipment and supplies** means items necessary for daily life activities occurring outside the requirement of the IEP which are generally expected to be the responsibility of parents.

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- 003.46 **Personally identifiable** means information that contains the name of the child, the child's parent or other family member; the address of the child; a personal identifier such as the child's social security number or NDE student ID; or a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.
- 003.47 **Public agency** includes the Nebraska Department of Education, school districts and approved cooperatives and any other political subdivisions of the state that are responsible for providing education to children with disabilities.
- 003.48 **Referral** means the submission of a request by a parent, school personnel or approved agency for an individual evaluation of a child suspected of having a disability.
- 003.49 **Related services** means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training. Related services do not include a medical device that is surgically implanted (including cochlear implants), the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device. This definition does not limit the right of a child with a surgically planted device (e.g., cochlear implant) to receive related services as listed in this definition that are determined by the IEP team to be necessary for the child to receive FAPE or limits the responsibility of a school district to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly.
- 003.50 **Residential care** means food and lodging and any other related expenses which are not part of the education program, but such care shall not include expenditures for medical or dental services. (See 92 NAC 53.)
- 003.51 **School age programs** means special education programs and related services designed to serve children with verified disabilities from age five through the school year in which the children reach age twenty-one. Children who have reached their fifth birthday prior to July 31 shall be considered school age.
- 003.52 **School district** means a public school district or a cooperative approved as a Nebraska Department of Education special education service provider.
- 003.53 **Serious bodily injury** means bodily injury which involves substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
- 003.54 **Service agency** means the school district or approved cooperative, educational service unit, local or regional office of mental retardation, or some combination thereof, or such other agency approved by the Department of Education as may provide a special education program including an institution not wholly owned or controlled by the state or a political subdivision.

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- 003.55 **Service provider** means an individual or service agency, excluding a school district or approved cooperative, provisionally approved by the Nebraska Department of Education.
- 003.56 **Special education** means specially designed instruction, at no cost to the parent, to meet the unique needs of a child with a verified disability, including classroom instruction, home instruction, instruction in hospitals and institutions and in other settings and instruction in physical education. The term includes travel training, vocational education, speech-language pathology, occupational therapy and physical therapy if the service consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability.
- 003.56A **Physical Education** means the development of physical and motor fitness; fundamental motor skills and patterns; and skills in aquatics, dance and individual and group games and sports (including intramural and lifetime sports); and includes special physical education, adapted physical education, movement education and motor development.
- 003.56B **Vocational Education** means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.
- 003.57 **Specially designed instruction** means adapting as appropriate to the needs of an eligible child under this Chapter the content, methodology, or delivery of instruction to address the unique needs of the child that result from the child's disability and to ensure access to the general curriculum so that the child can meet the educational standards within the jurisdiction of the public school district or approved cooperative that apply to all children.
- 003.58 **Student assistance team (SAT)** means a group of persons utilizing problem solving and intervention strategies to assist the teacher(s) in the provision of general education.
- 003.59 **Supplementary aids and services** means, aids, services, and other supports that are provided in regular education classes or other education-related settings and in extracurricular and non-academic settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with Section 008 of this Chapter.
- 003.60 **Support services** means preventative services for students not identified or verified as having a disability as per Section 006 but who demonstrate a need for specially designed assistance in order to benefit from the school's general education curriculum and to avoid the need for potentially expensive special education placement and services.
- 003.61 **Surrogate parent** means an individual appointed by the school district or approved cooperative to act in place of a parent in safeguarding a child's rights in the special education decision making process.
- 003.62 **Teacher meeting IDEA 2004 criteria**, for any special education teacher, has the meaning given in Section 602(10) of the Individuals with Disabilities Education Act of 2004. (See Appendix A)

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- 003.63 **Transition services** means a coordinated set of activities for a child with a disability that is designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation; is based upon the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and a functional vocational evaluation. Transition services for children with disabilities may be special education, if provided as specially designed instruction, or related services, if required to assist a child with a disability to benefit from special education.
- 003.64 **Travel training** means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction to enable them to develop an awareness of the environment in which they live; and learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in the school, in the home, at work, and in the community).
- 003.65 **Universal design** has the meaning given the term in Section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).
- 003.66 **Ward of any court** means any minor child who, by virtue of a court order entered by a court of competent jurisdiction, has been adjudicated to be a ward of the court.
- 003.67 **Ward of the State** means a child who, as determined by the State where the child resides, is a foster child, is a ward of the State, or is in the custody of a public child welfare agency. The term does not include a foster child who has a foster parent who meets the definition of a parent in 92 NAC 51-003.44.
- 003.68 **Weapon** means a dangerous weapon as defined in 18 U.S.C. 930(g)(2) to mean a device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2-1/2 inches in length.

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004 Responsibility for Special Education Programs

004.01 All providers of special education services shall be under the general supervision of the Nebraska Department of Education for the purpose of meeting the standards of this Chapter. School districts and approved cooperatives shall ensure that all children with verified disabilities, from birth through the school year in which the child reaches age twenty-one, including children who have been suspended or expelled from school, have available to them a free appropriate public education (FAPE) which includes special education and related services to meet their unique needs. School districts and approved cooperatives responsibility to ensure the availability of FAPE includes ensuring the availability of FAPE for resident children in detention facilities, correctional facilities, jails, and prisons.

004.02 The school district or approved cooperative shall ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade and is advancing from grade to grade.

004.02A The determination that a child described in 92 NAC 51-004.02 is eligible under this Chapter must be made on an individual basis by the multidisciplinary evaluation team.

004.03 Exceptions to the Requirement to Provide a Free Appropriate Public Education

004.03A Children with disabilities who have graduated from high school with a regular high school diploma are not eligible to receive a FAPE.

004.03A1 The exception in 92 NAC 51-004.03A does not apply to children who have graduated but have not been awarded a regular high school diploma.

004.03A2 Graduation from high school with a regular diploma constitutes a change in placement, requiring written prior notice in accordance with 92 NAC 51-009.05.

004.03A3 As used in this section, the term *regular high school diploma* does not include an alternative degree that is not fully aligned with the state's academic standards such as a certificate or a general educational developmental credential (GED).

004.04 At the request of a parent or guardian, a school district shall issue a certificate of attendance to a student who receives special education services under 92 NAC 51, who has reached seventeen years of age, and who has not completed his or her individualized education program. A school district shall allow a student who receives a certificate of attendance under this section to participate in the high school graduation ceremony of such high school with students receiving high school diplomas. A student may receive only one certificate of attendance and may participate in only one graduation ceremony based on such certificate. The receipt of a certificate of attendance pursuant to this section shall not affect a school district's obligation to continue to provide special education services to a student receiving such certificate.

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004.04A Section 004.04 does not preclude a student from receiving a high school diploma by meeting the school district's graduation requirements established pursuant to Neb. Rev. Stat. §79-729 or in his or her individualized education program or receiving a diploma of high school equivalency under Neb. Rev. Stat. §79-730 upon completing the requirements of such section. The school district may allow a student who has previously participated in a graduation ceremony based on a certificate of attendance to participate in an additional graduation ceremony when such student receives a high school diploma.

004.05 Participation in Assessments

004.05A School districts shall include all public school children with disabilities in all general state and district-wide assessment programs, including assessments described under section 612(a)(16)(A) of the Individuals with Disabilities Education Act of 2004 (See Appendix A), with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs.

004.05B In the case of a district-wide assessment, the school district shall develop guidelines for the provision of appropriate accommodations.

004.05C In the case of a district-wide assessment, the school district shall develop and implement guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments under 92 NAC 51-004.05A with accommodations as indicated in their respective individualized education programs. The guidelines shall provide for accommodations and alternate assessments that:

004.05C1 Are aligned with the Nebraska Department of Education's challenging academic content standards and challenging student academic achievement standards; and

004.05C2 If the Nebraska Department of Education has adopted alternate academic achievement standards permitted under Section 612(a)(16)(C)(ii)(II) of the Individuals with Disabilities Education Act of 2004 (See Appendix A), measure the achievement of children with disabilities against those standards.

004.05D School districts shall make available to the public, and report to the public with the same frequency and in the same detail as they report on the assessment of nondisabled children, the following:

004.05D1 The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in these assessments.

004.05D2 The number of children with disabilities participating in alternate assessments described in 92 NAC 51-004.05C1.

004.05D3 The number of children with disabilities participating in alternate assessments described in 92 NAC 51-004.05C2.

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004.05D4 The performance results of children with disabilities on regular assessments and on alternate assessments (if the number of children with disabilities participating is sufficient to yield statistically reliable information and reporting that information will not reveal personally identifiable information about an individual child), compared with the achievement of all children, including children with disabilities, on those assessments.

004.05E In the case of a district-wide assessment, the school district or approved cooperative shall, to the extent feasible, use universal design principles in developing and administering any assessments under this Section.

004.06 Reporting of Information Regarding Children with Disabilities

004.06A Individual child information shall be reported electronically via the NDE Portal. Each school district or approved cooperative shall maintain and report the following information for children with verified disabilities receiving services according to an individualized education program.

004.06A1 Name (or identifier approved by NDE) and birthdate;

004.06A2 County, district of legal residence and building of attendance;

004.06A3 Program and instructional setting attended;

004.06A4 Type(s) of disability;

004.06A5 Race/ethnicity, gender, and limited English proficiency;

004.06A6 Type(s) of service received;

004.06A7 Indication of percent of time spent receiving special education service (for inclusive and segregated settings) and in regular education;

004.06A8 Date and reason for exiting special education;

004.06A9 State Ward Status and indication of appointment of surrogate if required;

004.06A10 Initial verification date and disability for children verified pursuant to 92 NAC 51-006.04;

004.06A11 Whether the child received a regular diploma based on the same standards as general education peers or based on the goals met in the child's IEP.

004.06B This data shall be updated at least annually to reflect change(s) in the above information.

004.06C Public special purpose school systems accredited under 92 NAC 10 and school districts or approved cooperatives shall prepare an accurate and unduplicated child count as of October 1 of each year. The October 1 child count shall be approved and submitted electronically by the portal administrator or designee via the NDE portal on or before October 31 of each year.

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- 004.06D Public special purpose school systems accredited under 92 NAC 10 and school districts or approved cooperatives shall prepare an accurate and unduplicated year-end child count as of June 30 of each year. The June 30 year-end child count shall be approved and submitted electronically by the portal administrator or designee via the NDE portal on or before June 30 of each year.
- 004.06E School districts and approved cooperatives shall report their incidences, duration, and count of removals, suspensions, and expulsions of children receiving special education services by June 30 of each year. The report must be disaggregated by race/ethnicity, gender, LEP status and disability category.
- 004.07 A school district or approved cooperative shall submit a single district plan, participate in a plan submitted by a cooperative approved by the Department of Education, or any combination thereof. The State Board of Education shall approve or disapprove cooperatives for direct receipt of payment based on the following criteria:
- 004.07A The cooperative must be administered by a school district or an Educational Service Unit;
- 004.07B The participating school districts have certified that the cooperative is authorized to receive special education payments due the districts;
- 004.07C The cooperative provides evidence of agreements and procedures which provide for long term operation;
- 004.07D The cooperative proposes to operate programs which can be expected to increase program and financial efficiency and effectiveness; and
- 004.07E The cooperative provides evidence that the proportionate financial share as determined by the provisions of Sections 011 and 012 of each participating school district can be determined and documented.
- 004.08 School District or Approved Cooperative Special Education Policies and Procedures
- 004.08A The school district or approved cooperative shall develop, adopt and have on file with the Nebraska Department of Education current policies, procedures and forms for special education programs for all resident public and nonpublic school children with disabilities, in accordance with all applicable state and federal requirements. Policies and procedures shall govern identification, evaluation and verification, individualized education program, placement (least restrictive environment), confidentiality, procedural safeguards, comprehensive system of personnel development, transportation, and surrogate parents within the school district or approved cooperative. Additionally, policies and procedures shall govern free appropriate public education, child find, transition from Part C of the IDEA to preschool programs, children in nonpublic schools, personnel standards, performance goals and indicators, participation in assessments, reporting related to assessment results, and suspension and expulsion.

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004.09 Notice and Opportunity for Hearing Before Withholding Funds

004.09A A school district or an approved cooperative shall be notified by certified mail to the head administrator whenever the Office of Special Education intends to recommend to the State Board of Education that funds be withheld from the school district or approved cooperative.

004.09B Within 21 calendar days of the school district's or approved cooperative's receipt of the notice of the Office of Special Education's intention to recommend withholding funds to the State Board of Education, the school district or approved cooperative may request in writing a review by the Commissioner or designee. Following the review, the Commissioner or designee shall:

004.09B1 Notify the school district or approved cooperative by certified mail that, based upon the review, (s)he will recommend to the State Board of Education that funds be withheld from the school district or approved cooperative, or

004.09B2 Notify the school district or approved cooperative that funds will not be withheld.

004.09C Within 30 calendar days of receipt of the notice of the Commissioner's intention to withhold funds, the school district or approved cooperative may request in writing a hearing before the State Board of Education. The hearing shall be conducted in accordance with the hearing procedures of 92 NAC 61, including provisions of that Chapter relating to evidence.

004.10 Children with Disabilities who are Wards of the State or Court

004.10A Responsibility for the provision and payment of a free appropriate public education for wards of the state or court is determined pursuant to Neb. Rev. Stat. §79-215.

004.11 Special Requirements

004.11A Each school district or approved cooperative shall take steps to ensure that its children with verified disabilities have available to them the variety of educational programs and services available to children without disabilities in the areas served by the school district including art, music, industrial arts, family consumer science education, and vocational education.

004.11B Each school district or approved cooperative shall comply with any federal health or safety requirements that apply to the facilities that the school district or approved cooperative uses to provide a free appropriate public education for children with verified disabilities.

004.11C Each school district or approved cooperative shall administer or supervise the administration of all educational programs for children with verified disabilities.

004.11D Prohibition on mandatory medication:

004.11D1 The school districts, approved cooperatives and special education and related services providers are prohibited from requiring parents to obtain a prescription for substances identified under Schedules I, II, III, IV or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) for the child as a condition of attending school, receiving an evaluation under Section 006 of this Chapter, or receiving services under 92 NAC 51.

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004.11D2 Nothing in 92 NAC 51-004.11D1 shall be construed to create a prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a child's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services.

004.12 Innovative Educational Projects

004.12A School districts and approved cooperatives wishing to conduct innovative educational projects for the purpose of improving instruction or increasing educational opportunities for children with disabilities that would result in deviating from the standards in this Chapter, shall submit a detailed written plan to the Commissioner of Education.

004.12A1 The length of the project must be specified in the plan, not to exceed three years, and must provide for an annual review of the progress of the program.

004.12A2 If the submitted project requires a waiver of any of the provisions of this Chapter which are not required by State statute and Federal law or regulation, the Commissioner shall submit the plan to the State Board of Education with recommendations.

004.12A3 The State Board of Education may approve the requested plan if the plan demonstrates that it promotes quality learning, equity, accountability, and that the Commissioner of Education will be informed annually of the progress and the project results.

004.12A4 The State Board of Education shall reject the plan if, in its opinion, the plan would not promote quality learning, equity, accountability or if it does not provide that the Commissioner of Education will be informed annually of the progress of the plan. The State Board of Education shall also reject the plan if, in the State Board of Education's opinion, the plan results in a deviation of standards contained in this Chapter which are specifically required by statute or federal law or regulation.

004.13 All school districts or approved cooperatives shall participate in an ongoing review of their special education programs for purposes of improving outcomes utilizing the Improving Learning for Children with Disabilities self assessment process (ILCD).

004.14 All special education programs shall comply with the requirements of state and federal law and regulation concerning the education of children with disabilities and shall be monitored at least once every five years for compliance with state and federal special education law and regulation.

004.14A Failure to comply with the provisions of state and federal statute and administrative rules concerning education of children with disabilities shall result in notification of school districts or approved cooperatives of the specific program deficiencies by the Office of Special Education.

004.14B School districts or approved cooperatives shall be afforded 45 days to respond to the initial notification with a report of the resolution of the deficiencies or a plan for resolution.

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004.14C School districts or approved cooperatives failing to respond as set forth in 92 NAC 51-004.14B shall be afforded an additional 30 days following contact from the Administrator of the Office of Special Education or the designee of the Administrator to submit a plan for resolution of the deficiencies.

004.14D Deficiencies must be corrected as soon as possible, and in no case later than one year after the school district or approved cooperative has been notified of the noncompliance. Deficiencies not corrected according to the timelines set forth in 92 NAC 51-004.14 shall be subject to the procedures outlined in 92 NAC 51-004.09.

004.14E Any school district or approved cooperative not meeting the requirements of this Chapter shall be in violation of the law. No state or federal funds shall be paid to any school district or approved cooperative as long as such violation exists, but no deduction shall be made from any funds required by the Constitution of the State of Nebraska to be paid to such district or approved cooperative.

004.14F The Nebraska Department of Education will monitor school districts and approved cooperatives on the implementation of IDEA as amended in 2004 as required by 34 CFR 300.600 including the enforcement provision contained in 34 CFR 300.604(a)(1) and (a)(3), (b)(2)(i) and (b)(2)(v) and (c)(2) and annually report on the districts' and cooperatives' performance.

004.15 Access to Instructional Materials

004.15A A school district or approved cooperative that chooses to coordinate with the National Instructional Materials Access Center (NIMAC) when purchasing print instructional materials shall enter into a written contract with the publisher of the print instructional materials to:

004.15A1 Require the publisher to prepare and, on or before the delivery of the print instructional materials, provide to the National Instructional Materials Access Center, electronic files containing the contents of the print instructional materials using the Instructional Materials Accessibility Standard (NIMAS); or

004.15A2 Purchase instructional materials from a publisher that are produced in or may be rendered in specialized formats.

004.15B Nothing in this section shall be construed to require a school district or approved cooperative to coordinate with the National Instructional Materials Access Center. If a school district or approved cooperative chooses not to coordinate with the National Instructional Materials Access Center, the school district or approved cooperative shall provide an assurance to the Nebraska Department of Education that the school district or approved cooperative will provide instructional materials to children with blindness or other children with print disabilities at the same time as other children.

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005 Early Childhood Services for Children with Disabilities Birth to Age Five

005.01 Each school district or approved cooperative shall demonstrate participation in a plan of services for children with disabilities who are less than five years of age. Such plans shall be prepared by each planning region and be updated annually and shall address:

005.01A Gaps and barriers in service delivery;

005.01B Child Find;

005.01C Training and technical assistance;

005.01D Parent involvement; and

005.01E Resources.

005.02 Annual Meetings

005.02A The annual meeting must be conducted prior to July 1 of each year.

005.02B The date and place of the annual meeting shall be disseminated within the region so that all school districts, approved cooperatives, service providers, parents, and nonpublic agencies serving children below age five have access to the information.

005.02C A written report of the annual meeting shall be prepared, which includes a list of participants and identified gaps and barriers. The written report shall be submitted to the Nebraska Department of Education on a date specified by the Department.

005.03 Transition of Children from the early intervention programs to preschool programs

005.03A The school district or approved cooperative shall have in effect policies and procedures to ensure that:

005.03A1 Children participating in early intervention programs assisted under Part C of the IDEA, and who will participate in preschool programs assisted under Part B of the IDEA, shall experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9) of the IDEA;

005.03A2 By the third birthday of a child described in 92 NAC 51-005.03A1, an IEP or an IFSP, has been developed and is being implemented for the child; and

005.03A3 The school district or approved cooperative will participate in transition planning conferences.

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006 Identification of Children with Disabilities, Multidisciplinary Teams and Reporting of Diagnostic Data

006.01 Child Find

006.01A All children with disabilities residing in the state, including children with disabilities who are homeless children or wards of the State and children with disabilities attending nonpublic schools, regardless of the severity of their disabilities, and who are in need of special education and related services, shall be identified, located, and evaluated and a practical method shall be developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

006.01A1 The child find requirements apply to highly mobile children including migrant children.

006.01A2 The child find requirements also apply to a child who is suspected of being a child with a disability under 92 NAC 51-003.08 and in need of special education, even though the child is advancing from grade to grade.

006.01B Student Assistance Team (SAT) or Comparable Problem Solving Team

006.01B1 For a school age student, a general education student assistance team or a comparable problem solving team shall be used prior to referral for multidisciplinary team evaluation.

006.01B2 The SAT or comparable problem solving team shall utilize and document problem solving and intervention strategies to assist the teacher in the provision of general education.

006.01B3 If the student assistance team or comparable problem solving team feels that all viable alternatives have been explored, a referral for multidisciplinary evaluation shall be completed. A referral shall include information from the SAT or comparable problem solving team, meeting the requirements of 92 NAC 51-006.01B and a listing of the members of the SAT or comparable problem solving team.

006.02 General Evaluation Requirements

006.02A The screening of a child by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

006.02B Consistent with the consent requirements in 92 NAC 51-009.08A, a parent of a child, the Nebraska Department of Education, another State agency or a local school district or approved cooperative or nonpublic school may initiate a request for an initial evaluation to determine if the child is a child with a disability.

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006.02B1 The resident school district or approved cooperative shall conduct a full and individual initial evaluation for each child being considered for special education and related services before the initial provision of special education and related services to a child with a disability. The initial evaluation shall determine whether a child is a child with a disability, and the educational needs of the child.

006.02B1a In implementing the requirements of 92 NAC 51-006.02B the school district or approved cooperative shall ensure that:

006.02B1a(1) The evaluation is conducted in accordance with the procedures described in Section 006 of this Chapter.

006.02B1a(2) The results of the evaluation are used by the child's IEP team in meeting the requirements of Section 007 of this Chapter.

006.02C Verification criteria and procedures:

006.02C1 School districts and approved cooperatives must ensure assessments and other evaluation materials used to assess a child under this Chapter;

006.02C1a Are selected and administered so as not to be discriminatory on a racial or cultural basis; and

006.02C1b Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally, unless it is clearly not feasible to so provide or administer;

006.02C2 Are used for purposes for which the assessments or measures are valid and reliable.

006.02C3 School districts and approved cooperatives must ensure assessments of children with disabilities who transfer from one school or approved cooperative to another school or approved cooperative in the same academic year are coordinated with such children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

006.02C4 School districts and approved cooperatives must ensure materials and procedures used to assess a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills.

006.02C5 School districts and approved cooperatives must ensure a variety of assessment tools and strategies are used to gather relevant functional, developmental and academic information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities), that may assist in determining:

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- 006.02C5a Whether the child is a child with a disability under 92 NAC 51-003.08; and
- 006.02C5b The content of the child's IEP.
- 006.02C6 School districts and approved cooperatives must ensure any standardized tests that are given to a child:
- 006.02C6a Have been validated for the specific purpose for which they are used; and
- 006.02C6b Are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the assessments.
- 006.02C6b(i) If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of the test administration) must be included in the evaluation report.
- 006.02C7 School districts and approved cooperatives must ensure tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
- 006.02C8 School districts and approved cooperatives must ensure tests are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
- 006.02C9 School districts and approved cooperatives must ensure no single measure or assessment is used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.
- 006.02C10 School districts and approved cooperatives must ensure the child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.
- 006.02C11 School districts and approved cooperatives must ensure in evaluating each child with a disability under Section 006, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.
- 006.02C12 The school district or approved cooperative must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

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006.02C13 The school district or approved cooperative must use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.

006.02C14 In interpreting evaluation data for the purpose of determining if a child is a child with a disability and the educational needs of the child, each school district or approved cooperative shall:

006.02C14a Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and

006.02C14b Ensure that information obtained from all of these sources is documented and carefully considered.

006.03 Multidisciplinary Evaluation Team (MDT) Requirements

006.03A The multidisciplinary evaluation team (including the child's parents) shall be responsible for the analysis, assessment, and documentation of educational and developmental abilities and needs of each child referred for the purpose of individual evaluation. Using the documentation collected and the verification criteria found in Section 006 of this Chapter and the definitions found in 92 NAC 51-006.04, the MDT shall make all verification decisions. Documented information shall be collected to facilitate the development of a statement of present level of development and educational performance on the IEP.

006.03B For children attending nonpublic schools, an administrator of the nonpublic school or a designated representative of the nonpublic school shall be a member of the MDT.

006.03C In making a determination of eligibility, a child shall not be determined to be a child with a disability if the determining factor is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in Section 614(a)(5)(A) of the Individuals with Disabilities Education Act of 2004 (See Appendix A), lack of instruction in math, or limited English proficiency.

006.03D If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with Section 007 of this Chapter.

006.03E Multidisciplinary Evaluation Team Written Report (for all suspected disabilities except specific learning disabilities)

006.03E1 The team shall prepare a written report of the results of the evaluation.

006.03E2 The report shall include a statement of:

006.03E2a Whether the child qualifies as a child with a disability based on the criteria and definition contained in 92 NAC 51-006.04;

006.03E2b The child's educational needs;

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- 006.03E2c The basis for making the determination; and
- 006.03E2d A listing of the team members.
- 006.03E3 Each team member shall certify in writing if the report reflects his or her conclusion. If it does not reflect his or her conclusions, the team member shall submit a separate statement presenting his or her conclusion.
- 006.03E4 A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent at no cost.
- 006.03F Multidisciplinary Evaluation Team Written Report for a Child with a Suspected Specific Learning Disability
- 006.03F1 The MDT shall prepare a written report of the results of the evaluation.
- 006.03F2 The report shall include a statement of:
- 006.03F2a Whether the child has a specific learning disability based on the criteria and definition contained in 92 NAC 51-006.04K.
- 006.03F2b The child's educational needs;
- 006.03F2c The basis for making the determination including an assurance that the determination was made in accordance with 92 NAC 51-006.02C14;
- 006.03F2d The relevant behavior if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;
- 006.03F2e The educationally relevant medical findings, if any;
- 006.03F2f Whether the child does not achieve adequately for the child's age or to meet state-approved grade level standards consistent with 92 NAC 51-006.04K3a and the child does not make sufficient progress to meet age or state approved grade level standards consistent with 92 NAC 51-006.04K3b; or whether the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state approved grade level standards or intellectual development consistent with 92 NAC 51-006.04K3b(1);
- 006.03F2g The determination of the team concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and
- 006.03F2h If the child has participated in a process that assesses the child's response to scientific, research-based intervention, then the instructional strategies used and the student-centered data collected; and the documentation that the child's parents were notified about:

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006.03F2h(1) The school district's or approved cooperative's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;

006.03F2h(2) Strategies for increasing the child's rate of learning; and

006.03F2h(3) The parent's right to request an evaluation.

006.03F2i A listing of the team members.

006.03F3 Each team member shall certify in writing whether the report reflects his or her conclusion. If the report does not reflect his or her conclusions, the team member shall submit a separate statement presenting his or her conclusion.

006.03F4 A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent at no cost.

006.03G For a school age child who after initial MDT evaluation does not qualify for special education services or for a child with a verified disability who upon reevaluation no longer qualifies for special education services, a problem solving team shall document a plan to assist the teacher(s) in the provision of regular education.

006.04 Eligibility for Special Education

006.04A School districts or approved cooperatives shall provide special education services only to children with verified disabilities.

006.04B Autism

006.04B1 To qualify for special education services in the category of Autism, the child must have a developmental disability which:

006.04B1a Significantly affects verbal and nonverbal communication and social interaction;

006.04B1b Is generally evident before age three; and

006.04B1c That adversely affects the child's educational performance.

006.04B1d Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routine, and unusual responses to sensory experiences.

006.04B2 Autism does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance as defined in 92 NAC 51-006.04E.

006.04B3 A child who manifests the characteristics of autism after age 3 could be verified as having autism if the other criteria in 92 NAC 51-006.04B1 are met.

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006.04C Deaf-Blindness

006.04C1 To qualify for special education services in the category of Deaf-Blindness, the child must have concomitant hearing and visual impairments, the combination of which causes:

006.04C1a Severe communication needs; and

006.04C1b Other developmental and educational needs.

006.04C1c The severity of these needs is such that they cannot be accommodated in special education programs solely for children with deafness or blindness.

006.04D Developmental Delay

006.04D1 To qualify for special education services in the category of developmental delay, the child shall have a significant delay as measured by appropriate diagnostic instruments and procedures in one or more of the following areas and, by reason thereof needs special education and related services:

006.04D1a Cognitive development,

006.04D1b Physical development,

006.04D1c Communication development,

006.04D1d Social or emotional development,

006.04D1e Adaptive behavior or skills development, or

006.04D1f A diagnosed physical or mental condition that has a high probability of resulting in a substantial delay in function in one or more of such areas.

006.04D2 Developmental delay may be considered as one possible eligibility category for children age three through the school year in which the child reaches age eight.

006.04E Emotional Disturbance

006.04E1 To qualify for special education services in the category of emotional disturbance, the child must have a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects the child's educational performance:

006.04E1a An inability to learn that cannot be explained by intellectual, sensory, or health factors;

006.04E1b An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

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006.04E1c Inappropriate types of behavior or feelings under normal circumstances;

006.04E1d A general pervasive mood of unhappiness or depression; or

006.04E1e A tendency to develop physical symptoms or fears associated with personal or school problems.

006.04E2 The term includes schizophrenia. The term does not apply to children with social maladjustments, unless it is determined that they have an emotional disturbance.

006.04F Hearing Impairment

006.04F1 To qualify for special education services in the category of Hearing Impairment, a child must have an impairment in hearing which:

006.04F1a Is so severe that the child is impaired in processing linguistic information through hearing with or without amplification, or

006.04F1b Is permanent or fluctuating, and

006.04F1c Adversely affects the child's educational performance.

006.04F2 This term combines the state definition of "deaf" contained in Neb. Rev. Stat. §79-1118.01(4), the state definition of "hard of hearing" in Neb. Rev. Stat. §79-1118.01(7), the federal definition of "deafness" in 34 CFR 300.8(c)(3), and the federal definition of "hearing impairment" in 34 CFR 300.8(c)(5).

006.04G Intellectual Disability

006.04G1 To qualify for special education services in the category of Intellectual Disability, the child must demonstrate:

006.04G1a Significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

006.04H Multiple Impairments

006.04H1 To qualify for special education services in the category of Multiple Impairments, the child must have concomitant impairments (such as intellectual disability-visual impairment, intellectual disability-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments.

006.04H2 This classification does not include children with deaf-blindness.

006.04I Orthopedic Impairment

006.04I1 To qualify for services in the category of Orthopedic Impairment, the child must have a severe orthopedic impairment that adversely affects the child's educational performance.

006.04I2 The category includes children with impairments caused by:

006.04I2a Congenital anomaly,

006.04I2b Impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and

006.04I2c Impairments from other causes (e.g., cerebral palsy, amputations and fractures or burns that cause contractures).

006.04J Other Health Impairment

006.04J1 To qualify for special education services in the category of Other Health Impairment, the child must have:

006.04J1a Limited strength, vitality or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment that is due to chronic or acute health problems which adversely affects the child's educational performance such as:

006.04J1a(1) Asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome.

006.04K Specific Learning Disability

006.04K1 To qualify for special education services in the category of specific learning disability the child must have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations. The category includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The category does not include children who have learning problems that are primarily the result of visual, hearing, or motor disabilities; of intellectual disabilities; of emotional disturbance; or of environmental, cultural, or economic disadvantage.

006.04K2 The MDT of a child suspected of having a specific learning disability shall include at least:

006.04K2a The child's parents;

006.04K2b For a school age child, the child's regular teacher(s) or if a child does not have a regular teacher, a regular classroom teacher qualified to teach a child of that age;

006.04K2c For a child below age 5, a teacher qualified to teach a child below age 5;

006.04K2d Special educator with knowledge in the area of specific learning disabilities;

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- 006.04K2e At least one person qualified to conduct initial individual diagnostic examinations of children, such as a school psychologist, speech language pathologist, or remedial reading teacher; and
- 006.04K2f A school district administrator, or a designated representative.
- 006.04K3 The MDT may determine that a child has a specific learning disability if:
- 006.04K3a The child does not achieve adequately for the child's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards: oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, mathematics problem solving.
- 006.04K3b The child does not make sufficient progress to meet age or State approved grade-level standards in one or more of the areas identified in 92 NAC 51-006.04K3a when using a process based on the child's response to scientific, research-based intervention; or
- 006.04K3b(1) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the team to be relevant to the identification of a specific learning disability, using appropriate assessments consistent with 92 NAC 51-006.02.
- 006.04K4 The team determines that its findings under 92 NAC 51-006.04K3a and 006.04K3b are not primarily the result of:
- 006.04K4a A visual, hearing, or motor disability;
- 006.04K4b Intellectual disability;
- 006.04K4c Emotional disturbance;
- 006.04K4d Cultural factors,
- 006.04K4e Environmental or economic disadvantage; or
- 006.04K4f Limited English proficiency.
- 006.04K5 To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in 92 NAC 51-006.02:
- 006.04K5a Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and

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- 006.04K5b Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.
- 006.04K6 The school district or approved cooperative must promptly request parental consent to evaluate the child to determine if the child needs special education and related services and must adhere to the timeframes described in 92 NAC 51-009.04A1, unless extended by mutual written agreement of the child's parents and a team of qualified professionals, as described in 92 NAC 51-006.04K2.
- 006.04K6a If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction as described in 92 NAC 51-006.04K5a and b; and
- 006.04K6b Whenever a child is referred for an evaluation.
- 006.04K7 The school district or approved cooperative must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.
- 006.04K8 The MDT, in determining whether a child has a specific learning disability, must decide to:
- 006.04K8a Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation; or
- 006.04K8b Have at least one member of the MDT described in 92 NAC 51-006.04K2 conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with 92 NAC 51-009.08 is obtained.
- 006.04K8c In the case of a child of less than school age or out of school, an MDT member must observe the child in an environment appropriate for a child of that age.

006.04L Speech-Language Impairment

- 006.04L1 To qualify for special education services in the category of Speech-Language Impairment, the child must have:
- 006.04L1a A communication disorder such as:
- 006.04L1a(1) Stuttering;
- 006.04L1a(2) Impaired articulation;
- 006.04L1a(3) Language impairment; or
- 006.04L1a(4) A voice impairment.
- 006.04L2 This disorder must adversely affect the child's educational performance.

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006.04M Traumatic Brain Injury

006.04M1 To qualify for special education services in the category of Traumatic Brain Injury, the child must have:

006.04M1a An acquired injury to the brain caused by external physical force resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects the child's educational performance.

006.04M1b The category includes open or closed head injuries resulting in impairments in one or more areas such as:

006.04M1b(1) Cognition;

006.04M1b(2) Language;

006.04M1b(3) Memory;

006.04M1b(4) Attention;

006.04M1b(5) Reasoning;

006.04M1b(6) Abstract thinking;

006.04M1b(7) Judgment;

006.04M1b(8) Problem solving;

006.04M1b(9) Sensory, perceptual and motor abilities;

006.04M1b(10) Psychosocial behavior;

006.04M1b(11) Physical functions;

006.04M1b(12) Information processing; and

006.04M1b(13) Speech.

006.04M2 The category does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

006.04N Visual Impairment including Blindness

006.04N1 To qualify for special education services in the category of Visual Impairment, including blindness, the child must have;

006.04N1a An impairment in vision that, even with correction, adversely affects the child's educational performance.

006.04N2 This category includes children who have partial sight or blindness.

006.05 Reevaluations

006.05A A school district or approved cooperative shall ensure that a reevaluation of each child with a disability is conducted in accordance with the verification procedures in Section 006 of this Chapter:

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006.05A1 If the school district or approved cooperative determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant, a reevaluation; or

006.05A2 If the child's parents or teacher requests a reevaluation.

006.05B A reevaluation conducted under subsection 006.05 of this Chapter:

006.05B1 May occur not more than once a year, unless the parent and the school district or approved cooperative agree otherwise; and

006.05B2 Must occur at least once every three years, unless the parent and the school district or approved cooperative agree that a reevaluation is unnecessary.

006.06 Review of Existing Evaluation Data

006.06A As part of an initial evaluation (if appropriate) and as part of any reevaluation, the IEP team and other qualified professionals as appropriate, shall:

006.06A1 Review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based local or State assessments and classroom-based observations, and observations by teachers and related services providers; and

006.06A2 On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine:

006.06A2a Whether the child is a child with a disability, as described in 92 NAC 51-003.08, and the educational needs of the child, or, in case of a reevaluation of a child, whether the child continues to have such a disability and such educational needs;

006.06A2b The present levels of academic achievement and related developmental needs of the child;

006.06A2c Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

006.06A2d Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general education curriculum.

006.06B The school district or approved cooperative shall administer such assessments and other evaluation measures as may be needed to produce the data identified by the IEP team under 92 NAC 51-006.06A2.

006.06C The IEP team and other qualified professionals may conduct its review without a meeting.

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006.06D If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs the school district or approved cooperative:

006.06D1 Shall notify the child's parents of:

006.06D1a That determination and the reasons for the determination; and

006.06D1b The right of the parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs.

006.06D2 The school district or approved cooperative shall not be required to conduct such an assessment unless requested to by the child's parents.

006.06E A school district or approved cooperative shall evaluate a child with a disability in accordance with this section before determining that the child is no longer a child with a disability.

006.06E1 The evaluation described in 92 NAC 51-006.06E is not required before the termination of a student's eligibility under this Chapter due to graduation from secondary school with a regular high school diploma, or to exceeding the age eligibility for a free appropriate public education under Neb. Rev. Stat. §79-1126. For a child whose eligibility terminates under these circumstances, a school district or approved cooperative shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

006.07 Independent Educational Evaluation

006.07A A parent of a child with a disability has the right to obtain an independent educational evaluation of the child at public expense if the parent disagrees with the evaluation obtained by the school district or approved cooperative, subject to the provisions of 92 NAC 51-006.07.

006.07B Each school district or approved cooperative shall provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the school district's or approved cooperative's criteria applicable for independent educational evaluations.

006.07C A parent is entitled to only one independent educational evaluation at public expense each time the school district or approved cooperative conducts an evaluation with which the parent disagrees.

006.07C1 Public expense means that the school district or approved cooperative either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

006.07D If a parent requests an independent educational evaluation at public expense, the school district or approved cooperative must, without unnecessary delay, either:

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- 006.07D1 Initiate a hearing under 92 NAC 55 to show that its evaluation is appropriate; or
- 006.07D2 Ensure that an independent educational evaluation is provided at public expense, unless the school district or approved cooperative demonstrates at a hearing under 92 NAC 55 that the evaluation obtained by the parent did not meet school district or approved cooperative criteria.
- 006.07E If the school district or approved cooperative initiates a hearing and the final decision is that the school district's or approved cooperative's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.
- 006.07F If a parent requests an independent educational evaluation, the school district or approved cooperative may ask for the parent's reason why he or she objects to the public evaluation. However, the school district or approved agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the public evaluation.
- 006.07G If the parent obtains an independent educational evaluation at public expense or shares with the school district or approved cooperative an evaluation obtained at private expense, the results of the evaluation:
- 006.07G1 Must be considered by the school district or approved cooperative, if it meets school district or approved cooperative criteria, in any decision made with respect to the provision of a free appropriate public education to the child; and
- 006.07G2 May be presented by any party as evidence at a hearing under 92 NAC 55 regarding that child.
- 006.07H If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.
- 006.07I If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the school district or approved cooperative uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.
- 006.07J Except for the criteria described in 92 NAC 51-006.07I, a school district or approved cooperative may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

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007 Individualized Education Program (IEP)

007.01 An IEP shall be developed, reviewed, revised, and implemented for each child who receives special education and related services. In order to fulfill the requirements of 92 NAC 51-007.01 for infants and toddlers, school districts or approved cooperatives shall meet the requirements of 92 NAC 52. FAPE is provided to infants and toddlers with a disability in accordance with an IFSP rather than an IEP. The requirements for contents of the IFSP apply rather than the requirements for the contents of an IEP. All other substantive rights and protections established under special education laws apply to infants and toddlers with disabilities receiving FAPE in accordance with an IFSP.

007.02 School districts or approved cooperatives must provide special education and related services to a child with a disability in accordance with the child's IEP.

007.02A At the beginning of each school year, each school district or approved cooperative shall have an IEP in effect for each child with a verified disability within its jurisdiction.

007.02A1 From the end of the school year in which a child reaches age 3, until the child's sixth birthday, the IEP team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in 92 NAC 52 (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with an IFSP who are at least three years of age), and that is developed in accordance with the IEP procedures. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is agreed to by the school district or approved cooperative and the child's parents.

007.02B Each school district or approved cooperative shall ensure that an IEP is in effect before special education and related services are provided to a child with a verified disability under this Chapter.

007.02C The child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation; and

007.02D Each teacher and provider described in 92 NAC 51-007.02C must be informed of his or her specific responsibilities related to implementing the child's IEP; and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

007.03 IEP Team Participants

007.03A The school district or approved cooperative shall ensure and document that each IEP team includes the following:

007.03A1 The parents of a child with a disability or documentation of 92 NAC 51-007.06D;

007.03A2 Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);

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- 007.03A2a The regular education teacher of the child, as a member of the IEP team, shall, to the extent appropriate, participate in the development, review and revision of the IEP of the child, including assisting in the determination of appropriate positive behavioral interventions and supports, and other strategies, and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with 92 NAC 51-007.07A5.
- 007.03A3 Not less than one special education teacher, or where appropriate, not less than one special education provider of the child;
- 007.03A4 A representative of the school district or approved cooperative who:
- 007.03A4a Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
- 007.03A4b Is knowledgeable about the general education curriculum; and
- 007.03A4c Is knowledgeable about the availability of resources of the school district or approved cooperative;
- 007.03A4c(1) A school district or approved cooperative may designate another member of the IEP team to also serve as the school district or approved cooperative representative, if the criteria in 92 NAC 51-007.03A4 are satisfied.
- 007.03A5 An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in 92 NAC 51-007.03A2 through 007.03A6;
- 007.03A6 At the discretion of the parent or the school district or approved cooperative, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate;
- 007.03A6a The determination of the knowledge or special expertise of any individual described in 92 NAC 51-007.03A6 shall be made by the party (parents or school district or approved cooperative) who invited the individual to be a member of the IEP.
- 007.03A7 Whenever appropriate, the child with a disability;
- 007.03A8 For a child attending a nonpublic school, a representative of the nonpublic school the child attends. If the representative cannot attend, other methods shall be used to ensure participation by the nonpublic school, including individual or conference telephone calls;
- 007.03A9 For children receiving services from an approved service agency, a representative of the service agency. If the representative is not in attendance, other methods shall be used to ensure participation by the approved service agency, including written communication, or individual or conference telephone calls;

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007.03A10 If the purpose of the meeting is to consider postsecondary goals for the child and the transition services needed to assist the child in reaching those goals:

007.03A10a The school district or approved cooperative must invite the child;

007.03A10a(1) If the child does not attend the IEP meeting, the school district or approved cooperative shall take other steps to ensure that the child's preferences and interests are considered.

007.03A10b To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, the school district or approved cooperative must invite a representative of any participating agency that is likely to be responsible for providing or paying for the transition services.

007.03A11 For a child verified in the category of hearing impairment, an educator endorsed to teach a child with hearing impairments.

007.03A12 For a child verified in the category of visual impairment, an educator endorsed to teach a child with visual impairments.

007.04 IEP Team Attendance

007.04A A member of the IEP team described in 92 NAC 51-007.03A2 through 007.03A5 shall not be required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the school district or approved cooperative agree, in writing, that the attendance of such member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

007.04B A member of the IEP team in 92 NAC 51-007.04A may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if:

007.04B1 The parent, in writing, and the school district or approved cooperative consent to the excusal; and

007.04B2 The member submits, in writing, to the parent and the IEP team, input into the development of the IEP prior to the meeting.

007.05 In the case of a child who was previously served as an infant or toddler under Part C of the Individuals with Disabilities Education Act, an invitation to the initial IEP meeting shall, at the request of the parent, be sent to the Part C services coordinator or other representatives of the Part C system to assist with the smooth transition of services.

007.06 Parent Participation

007.06A The school district or approved cooperative shall take steps to ensure that one or both of the parents of the child with a disability are present at the IEP conference or are afforded the opportunity to participate, including:

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- 007.06A1 Notifying parents of the IEP conference early enough to ensure that they will have an opportunity to attend; and
- 007.06A2 Scheduling the meeting at a mutually agreed on time and place.
- 007.06B The notification under 92 NAC 51-007.06A1 must indicate the purpose, time and location of the meeting and who will be in attendance and inform the parents of the provisions of 92 NAC 51-007.03A6, 007.03A6a, and 007.05.
 - 007.06B1 For a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP team, the notice also must:
 - 007.06B1a Indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child in accordance with 92 NAC 51-007.07A9; and
 - 007.06B1b Indicate that the school district or approved cooperative will invite the child to the meeting; and
 - 007.06B1c Identify any other agency that will be invited to send a representative.
 - 007.06C If neither parent can attend the IEP meeting, the school district or approved cooperative shall use other methods to ensure parent participation, including individual or conference telephone calls consistent with 92 NAC 51-007.09H (related to alternate means of meeting participation).
 - 007.06D A meeting may be conducted without a parent in attendance if the school district or approved cooperative is unable to convince the parents they should attend. In this case, the school district must keep a record of its attempts to arrange a mutually agreed on time and place such as:
 - 007.06D1 Detailed records of telephone calls made or attempted and the results of the calls;
 - 007.06D2 Copies of correspondence sent to the parents and any responses received; and
 - 007.06D3 Detailed records of visits made to the parent's home or place of employment and the results of those visits.
 - 007.06E The school district or approved cooperative shall take whatever action is necessary to ensure that the parent understands the proceedings of an IEP conference, including arranging for an interpreter for parents who are deaf or whose native language is other than English.
- 007.07 IEP Development
 - 007.07A The IEP shall include:
 - 007.07A1 A statement of the child's present levels of academic achievement and functional performance, including:

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- 007.07A1a How the child's disability affects the child's involvement in and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or
- 007.07A1b For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities.
- 007.07A2 A statement of measurable annual goals, including academic and functional goals, designed to:
- 007.07A2a Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; or for preschool children, as appropriate, to participate in appropriate activities, and
- 007.07A2b Meet each of the child's other educational needs that result from the child's disability;
- 007.07A3 For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;
- 007.07A4 A description of how the child's progress toward meeting the annual goals described in 92 NAC 51-007.07A2 will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;
- 007.07A5 A statement of the special education and related services and supplementary aids and services based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child:
- 007.07A5a To advance appropriately toward attaining the annual goals;
- 007.07A5b To be involved in and progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and
- 007.07A5c To be educated and participate with other children with disabilities and nondisabled children in the activities described in 92 NAC 51-007.07A5;
- 007.07A6 An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in 92 NAC 51-007.07A5;
- 007.07A7 A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and district-wide assessments; and if the IEP team determines that the child must take an alternate assessment instead of a particular regular state or district-wide assessment of student achievement, a statement of why:

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- 007.07A7a The child cannot participate in the regular assessment; and
- 007.07A7b The particular alternate assessment selected is appropriate for the child; and
- 007.07A8 The projected date for the beginning of the services and modifications described in 92 NAC 51-007.07A5 and the anticipated frequency, location, and duration of those services and modifications;
- 007.07A9 Beginning not later than the first IEP to be in effect when the child turns ~~16~~ 14, ~~or younger if deemed appropriate by the IEP team,~~ and updated annually thereafter
- 007.07A9a Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
- 007.07A9b The transition services (including courses of study) needed to assist the child in reaching those goals; and
- 007.07A9c If a participating agency, other than the school district or approved cooperative fails to provide the transition services described in the IEP, the school district or approved cooperative shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.
- 007.07A9c(i) Nothing in this Chapter relieves any participating agency, including the State Division of Vocational Rehabilitation, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility of that agency.
- 007.07A10 Nothing in this section shall be construed to require that additional information be included in a child's IEP beyond what is explicitly required in 92 NAC 51-007.07A, or to require the IEP team to include information under one component of a child's IEP that is already contained in another component of such IEP.
- 007.07B In developing, reviewing or revising each child's IEP:
- 007.07B1 The IEP team shall consider the strengths of the child and the concerns of the parents for enhancing the education of their child.
- 007.07B2 The IEP team shall consider the results of the initial evaluation or most recent evaluation of the child, and the academic, developmental, and functional needs of the child.
- 007.07B3 In the case of a child whose behavior impedes his or her learning or that of others, the IEP team shall consider the use of positive behavioral interventions, and supports and other strategies to address that behavior.

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- 007.07B4 In the case of a child with limited English proficiency, the IEP team shall consider the language needs of the child as those needs relate to the child's IEP.
- 007.07B5 In the case of a child who is blind or visually impaired, the IEP team shall provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child.
- 007.07B6 The IEP team shall consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, shall consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.
- 007.07B7 The IEP team shall consider whether the child needs assistive technology devices and services.

007.07C Services

- 007.07C1 Routine checking of hearing aids and external components of surgically implanted medical devices.
- 007.07C1a Each school district and approved cooperative must ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.
- 007.07C1b Subject to 92 NAC 51-007.07C1b(1) each school district and approved cooperative must ensure that the external components of surgically implanted medical devices are functioning properly.
- 007.07C1b(1) For a child with a surgically implanted medical device who is receiving special education and related services under this Chapter, a school district and approved cooperative is not responsible for the post-surgical maintenance, programming, or replacement of the medical device that has been surgically implanted (or of an external component of the surgically implanted medical device).
- 007.07C2 Physical education services, specially designed if necessary, must be made available to every child with a verified disability receiving a free, appropriate public education, unless the school district or approved cooperative enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.
- 007.07C2a Each child with a verified disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless:

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- 007.07C2a(1) The child is enrolled full time in a separate facility; or
- 007.07C2a(2) The child needs specially designed physical education as prescribed in the child's individualized education program.
- 007.07C2b If specially designed physical education is prescribed in a child's individualized education program, the school district or approved cooperative responsible for the education of that child shall provide the services directly or make arrangements for it to be provided through other public or nonpublic programs.
- 007.07C2c The school district or approved cooperative responsible for the education of a child with a verified disability who is enrolled in a separate facility shall ensure that the child receives appropriate physical education services.
- 007.07C3 Each school district or approved cooperative shall ensure assistive technology devices or assistive technology services, or both, as defined in 92 NAC 51-003.02 and 003.03 are made available to any child with a disability if required, as part of the child's:
- 007.07C3a Special education under 92 NAC 51-003.56;
- 007.07C3b Related services under 92 NAC 51-003.49; or
- 007.07C3c Supplementary aids and services under 92 NAC 51-003.59 and 008.01A.
- 007.07C3d On a case by case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP team determines that the child needs access to those devices in order to receive a free appropriate public education.
- 007.07C4 The school district or approved cooperative shall take steps including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team to provide nonacademic and extracurricular services and activities in the manner necessary to afford each school age child with a verified disability an equal opportunity for participation in those services and activities.
- 007.07C4a Nonacademic and extra-curricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school district or approved cooperative, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the school district or approved cooperative and assistance in making outside employment available.
- 007.07C5 Extended School Year Services (ESYS)
- 007.07C5a Each school district or approved cooperative shall ensure that extended school year services are available as necessary to provide a free appropriate public education consistent with 92 NAC 51-007.07C5b.

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007.07C5b Extended School Year (ESY) services must be provided only if a child's IEP team determines, on an individual basis, in accordance with Section 007, that the services are necessary for the provision of a free appropriate public education.

007.07C5c In implementing the requirements of this section, a school district or approved cooperative may not limit extended school year services to particular categories of disability or unilaterally limit the type, amount, or duration of those services.

007.07C6 The need for related services of an instructional nature shall be documented on the IEP present level of performance, goals, and objectives, and shall be based on documented diagnostic evidence. Determination of the need for a related service for a child with a verified disability does not require the additional verification of a secondary disability.

007.08 Programs for Children who Transfer School Districts or Approved Cooperatives

007.08A Transfer within the same state – If a child with a disability (who had an IEP that was in effect in a previous school district or approved cooperative in Nebraska) transfers to a new school district or approved cooperative in Nebraska, and enrolls in a new school within the same school year, the new school district or approved cooperative (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous school district or approved cooperative), until the new school district or approved cooperative either:

007.08A1 Adopts the child's IEP from the previous school district or approved cooperative; or

007.08A2 Develops, adopts, and implements a new IEP that meets the applicable requirements of 92 NAC 51-007.

007.08B Transfer from outside the state – If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a school district or approved cooperative in Nebraska, and enrolls in a new school within the same school year, the new school district or approved cooperative (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous school district or approved cooperative), until the new school district or approved cooperative:

007.08B1 Conducts an evaluation pursuant to Section 006 of this Chapter (determined to be necessary by the new school district or approved cooperative); and

007.08B2 Develops, adopts, and implements a new IEP, if appropriate that meets the requirements of 92 NAC 51-007.

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007.08C Transmittal of records

007.08C1 To facilitate the transition for a child who transfers schools the new school in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous school in which the child was enrolled, pursuant to Section 99.31(a)(2) of Title 34, Code of Federal Regulations.

007.08C2 The previous school in which the child was enrolled shall take reasonable steps to promptly respond to such request from the new school.

007.08C3 Neb. Rev. Stat. §79-2,105 requires that a copy of a public or private school's files or records concerning a student shall be provided at no charge, upon request, to any public or private school to which the student transfers.

007.09 IEP Meeting

007.09A A meeting to develop an IEP for a child must be held within thirty (30) calendar days of a determination that the child needs special education and related services.

007.09B After the initial IEP meeting, IEPs must be in effect at the beginning of each school year.

007.09C The IEP team shall review the child's IEP periodically, but not less frequently than annually, to determine whether the annual goals for the child are being achieved.

007.09D The school district or approved cooperative shall provide a copy of the IEP to parents at no cost.

007.09E In making changes to a child's IEP after the annual IEP meeting for a school year, the parent of a child with a disability and the school district or approved cooperative may agree not to convene an IEP meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP.

007.09E1 If changes are made to the child's IEP in accordance with 92 NAC 51-007.09E, the school district or approved cooperative must ensure that the child's IEP team is informed of those changes.

007.09F Changes to the IEP may be made either by the entire IEP team at an IEP team meeting, or as provided in 92 NAC 51-007.09E of this section, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

007.09G To the extent possible, the school district or approved cooperative shall encourage the consolidation of reevaluation meetings for the child and other IEP team meetings for the child.

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007.09H When conducting IEP team meetings and placement meetings and carrying out administrative matters (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and a school district or approved cooperative may agree to use alternative means of meeting participation, such as video conferences and conference calls.

007.10 The IEP team shall revise the IEP as appropriate to address:

007.10A Any lack of expected progress toward the annual goals described in 92 NAC 51-007.07 and in the general education curriculum, if appropriate;

007.10B The results of any reevaluation conducted under 92 NAC 51-006.05A;

007.10C The information about the child provided to, or by, the parents, as described in 92 NAC 51-006.06A1;

007.10D The child's anticipated needs; or

007.10E Other matters.

007.11 Children with Disabilities in Adult Prisons

007.11A The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

007.11A1 The requirements of 92 NAC 51-007.07A7 (relating to participation of children with disabilities in general assessments); and

007.11A2 The requirements of 92 NAC 51-007.07A9 (relating to transition and planning and transition services) do not apply with respect to such children who will reach age 21 before they will be eligible to be released from prison, based on consideration of their sentence and eligibility of early release.

007.11B Subject to 92 NAC 51-007.11B1, the IEP team of a child with a disability who is convicted as an adult under State law and incarcerated in an adult prison may modify the child's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

007.11B1 The requirements of 92 NAC 51-003.31 and 007.07 (relating to IEPs), and 92 NAC 51- 008.01A (relating to LRE), do not apply with respect to the modifications described in 92 NAC 51-007.11B.

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008 Placement of Children With Disabilities

008.01 Least Restrictive Environment (LRE) Requirements

008.01A The school district or approved cooperative shall establish policies and procedures to assure that, to the maximum extent appropriate, children with disabilities, including children in public or nonpublic schools and approved service agencies, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

008.01B Before any action is taken with respect to the initial placement of a child with disabilities, the school district or approved cooperative shall be responsible for the provision of a comprehensive individual multidisciplinary evaluation of the child's development and educational needs.

008.01C In determining the educational placement of a child with a disability, including a preschool child with a disability, school districts and approved cooperatives must ensure that:

008.01C1 The placement decision is made by a group of persons, including the parents and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and

008.01C2 The placement decision is made in conformity with the least restrictive environment requirements in 92 NAC 51-008.01 and based on the child's unique needs and not on the child's disability.

008.01D Each school district or approved cooperative must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

008.01D1 The continuum must:

008.01D1a Include instruction in regular classes, special classes, special schools, home instruction and instruction in hospitals and institutions; and

008.01D1b Make provision for supplementary services (such as resource or itinerant instruction) to be provided in conjunction with regular class placement.

008.01E The school district or approved cooperative shall ensure that the educational placement of a child with a verified disability:

008.01E1 Is determined at least annually;

008.01E2 Is based on his or her individualized education program (IEP); and

008.01E3 Is as close as possible to the child's home.

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008.01F The various array of placement options included under 92 NAC 51-008.01D must be available to the extent necessary to implement the individualized education program for each child with a verified disability.

008.01G Unless a child's IEP requires some other arrangement, the child must be educated in the school which he or she would attend if not disabled.

008.01H In selecting the least restrictive environment, consideration must be given to any potential harmful effect on the child or on the quality of services which he or she needs.

008.01I A child with a disability must not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

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009 Procedural Safeguards

009.01 Parent Participation in Meetings

009.01A The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child.

009.01B Each school district or approved cooperative must provide notice consistent with 92 NAC 51-007.06A1 and 007.06B to ensure that parents of children with disabilities have the opportunity to participate in meetings described in 92 NAC 51-009.01A.

009.01C A meeting does not include informal or unscheduled conversations involving school district or approved cooperative's personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that school district or approved cooperative's personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

009.02 Parent Involvement in Placement Decisions

009.02A The school district or approved cooperative shall ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of their child.

009.02B In implementing the requirements of 92 NAC 51-009.02A, the school district or approved cooperative shall use procedures consistent with the procedures described in 92 NAC 51-007.06A, 007.06B, and 009.01A.

009.02C If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the school district or approved cooperative shall use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.

009.02D A placement decision may be made by a team without the involvement of the parents if the school district or approved cooperative is unable to obtain the parents' participation in the decision. In this case, the school district or approved cooperative must have a record of its attempt to ensure their involvement including information that is consistent with the requirements of 92 NAC 51-007.06D.

009.03 Opportunity to Examine Records

009.03A The parents of a child with a disability must be afforded, in accordance with the procedures of 92 NAC 51-009.03, an opportunity to inspect and review all education records with respect to: the identification, evaluation, and educational placement of the child; and the provision of FAPE to the child.

009.03B Each participating agency shall permit parents to inspect and review any education records relating to their children which are collected, maintained or used by the participating agency. The participating agency shall comply with such a request without unnecessary delay and before any meeting regarding an individualized education program or hearing pursuant to 92 NAC 55 or resolution session and in no case more than 45 days after the request has been made.

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009.03B1 As used in 92 NAC 51-009.03B, participating agency means any agency or institution that collects, maintains or uses personally identifiable information or from which information is obtained under this Chapter.

009.03B2 The right to inspect and review education records includes:

009.03B2a The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records; and

009.03B2b The right to request that the participating agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

009.03B2c The right to have a representative of the parent inspect and review the records.

009.03B3 A participating agency may presume that the parent has authority to inspect and review records relating to his or her child unless the service agency has been advised that the parent does not have the authority under applicable Nebraska law governing such matters as guardianship, separation and divorce.

009.03C Record of Access

009.03C1 Each participating agency shall keep a record of parties obtaining access to education records collected, maintained, or used (except access by parents and authorized employees of the participating service agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

009.03D Records On More Than One Child

009.03D1 If any education record includes information on more than one child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

009.03E List of Types and Locations of Information

009.03E1 Each participating agency shall provide parents on request a list of the types and locations of education records collected, maintained, or used by the participating agency.

009.03F Fees

009.03F1 A participating agency may charge a fee for copies of records which are made for parents if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

009.03F2 A participating agency may not charge a fee to search for or to retrieve information.

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009.03G Amendment of Records at Parent's Request

009.03G1 A parent who believes that information in education records collected, maintained, or used is inaccurate or misleading, or violates the privacy or other rights of the child may request the participating agency which maintains the information to amend the information.

009.03G2 The participating agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

009.03G3 If the participating agency decides to refuse to amend the information in accordance with the request, it shall inform the parents of the refusal and advise the parent of the right to a local administrative review to be conducted in accordance with 34 CFR 99.22.

009.03H Opportunity for a Local Administrative Review

009.03H1 The participating agency shall, on request, provide an opportunity for a local administrative review to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

009.03I Result of Local Administrative Review

009.03I1 If, as a result of the local administrative review, the participating agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing.

009.03I2 If, as a result of the local administrative review, the participating agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, the participating agency shall inform the parent of the right to place in the records the participating agency maintains on the child, a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the participating agency.

009.03I3 Any explanation placed in the records of the child must:

009.03I3a Be maintained by the participating agency as part of the records of the child as long as the record or contested portion is maintained by the participating agency; and

009.03I3b If the records of the child or the contested portion is disclosed by the participating agency to any party, the explanation must also be disclosed to the party.

009.03J Consent for Release of Records

009.03J1 Parental consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies in accordance with 92 NAC 51-009.03H1 unless the information is contained in education records and the disclosure is authorized without parental consent under 34 CFR Part 99.

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009.03J2 Except as provided in 92 NAC 51-009.03J3 and 009.03J4, parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this Chapter.

009.03J3 Parental consent, or the consent of an eligible child who has reached the age of majority, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with 92 NAC 51-007.03A10b.

009.03J4 If a child is enrolled, or is going to enroll in a nonpublic school that is not located in the school district of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the school district where the nonpublic school is located and officials in the school district of the parent's residence.

009.03K Safeguards

009.03K1 Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

009.03K2 One official at each participating agency shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

009.03K3 All persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures.

009.03K4 Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the participating agency who may have access to personally identifiable information.

009.03L Records Regarding Migratory Children with Disabilities

009.03L1 The school district or approved cooperative shall cooperate in the Federal Secretary of Education's efforts under section 1413(a)(9) of the Individuals with Disabilities Education Act of 2004 (See Appendix A) to ensure the linkage of records pertaining to migratory children with a disability for the purpose of electronically exchanging among the States, health and education information regarding such children.

009.03M Retention and Destruction of Information and Records

009.03M1 The school district or approved cooperative shall retain special education records for five (5) years after the completion of the activities for which special education funds were used.

009.03M2 The school district or approved cooperative shall inform parents when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the child.

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009.03M3 The information which is no longer necessary to provide educational services to the child, must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

009.04 Procedural Timelines

009.04A Each of the procedural steps necessary to provide a free appropriate public education shall be carried out within the specified time periods.

009.04A1 Referral, notice to parents (See 92 NAC 51-009.05), and parental consent, shall be completed within a reasonable period of time. The initial multidisciplinary team evaluation shall be completed within 45 school days of receiving parental consent for the evaluation.

009.04A1a The 45 school day timeline shall not apply to a school district or approved cooperative if:

009.04A1a(1) A child enrolls in a school served by the school district or approved cooperative after the relevant timeline in 92 NAC 51-009.04A1 has begun and prior to a determination by the child's previous school district or approved cooperative as to whether the child is a child with a disability, but only if the subsequent school district or approved cooperative is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent school district or approved cooperative agree to a specific time when the evaluation will be completed; or

009.04A1a(2) The parent of a child repeatedly fails or refuses to produce the child for the evaluation.

009.04A2 Upon completion of a multidisciplinary team verification decision, school districts or approved cooperatives shall provide a reasonable notification and conduct an individualized education program conference within 30 calendar days.

009.04A3 As soon as possible following development of the IEP, special education and related services must be made available to the child in accordance with the child's IEP.

009.05 Prior Written Notice

009.05A Prior written notice shall be given to the parents of a child with a disability a reasonable time before a school district or approved cooperative:

009.05A1 Proposes to initiate or change the identification, evaluation, or educational placement of a child or the provision of a free appropriate public education; or

009.05A2 Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.

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009.05B Such prior written notice shall include:

- 009.05B1 A description of the action proposed or refused by the school district or approved cooperative;
- 009.05B2 An explanation of why the school district or approved cooperative proposes or refuses to take the action;
- 009.05B3 A description of other options the IEP team considered and the reasons why those options were rejected;
- 009.05B4 A description of each evaluation procedure, assessment, record, or report the school district or approved cooperative uses as a basis for the proposal or refusal;
- 009.05B5 A description of any other factors which are relevant to the school district's or approved cooperative's proposal or refusal;
- 009.05B6 A statement that the parents of a child with a disability have protection under the procedural safeguards of this Chapter and, if this notice is not an initial referral for evaluation, the means by which a copy or description of the procedural safeguards can be obtained; and
- 009.05B7 Sources for parents to contact to obtain assistance in understanding the provisions of this Chapter.

009.05C The notice must be written in language understandable to the general public, and provided in the native language of the parents or other mode of communication used by the parents unless it is clearly not feasible to do so.

009.05D If the native language or other mode of communication of the parents is not a written language, the school district or approved cooperative shall take steps to ensure:

- 009.05D1 That the notice is translated orally or by other means to the parents in his or her native language or other mode of communication;
- 009.05D2 That the parents understand the content of the notice; and
- 009.05D3 That there is written evidence that the requirements of this section have been met.

009.06 Procedural Safeguards Notice

009.06A A copy of the procedural safeguards available to the parents of a child with a disability shall be given by the school district or approved cooperative to the parents only one time a school year, except that a copy shall also be given to the parents:

- 009.06A1 Upon initial referral or parental request for evaluation;
- 009.06A2 Upon request by a parent;

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- 009.06A3 Upon receipt by the school district or approved cooperative of the first occurrence of the filing of a complaint under 92 NAC 51-009.11 and the first occurrence of filing a special education due process case under 92 NAC 55; and
- 009.06A4 In accordance with the discipline procedures in 92 NAC 51-016.
- 009.06B The procedural safeguards notice shall include a full explanation of all of the procedural safeguards relating to:
 - 009.06B1 Independent educational evaluation;
 - 009.06B2 Prior written notice;
 - 009.06B3 Parental consent;
 - 009.06B4 Access to educational records;
 - 009.06B5 Opportunity to present and resolve disputes through the due process hearings and the state complaint procedures including:
 - 009.06B5a The time period in which to file a state complaint or petition for a due process hearing;
 - 009.06B5b The opportunity for the school district or approved cooperative to resolve the dispute; and
 - 009.06B5c The difference between the due process system and the state complaint procedures; including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.
 - 009.06B6 The child's placement during pendency of due process proceedings;
 - 009.06B7 Procedures for students subject to placement in an interim alternative educational setting;
 - 009.06B8 Requirements for unilateral placement by parents of children in nonpublic schools at public expense;
 - 009.06B9 The availability of mediation;
 - 009.06B10 Due process hearings, including requirements for disclosure of evaluation results and recommendations;
 - 009.06B11 Civil actions, including the time period in which to file such actions; and
 - 009.06B12 Attorney's fees.
- 009.06C The notice of the procedural safeguards provided to the parent must be written in language understandable to the general public and provided in the native language of the parent as required by 92 NAC 51-009.05C and 009.05D.

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009.06D The school district or approved cooperative may place a current copy of the procedural safeguards notice on its Internet website if such website exists.

009.07 A parent of a child with a disability may elect to receive notices required under this section by an electronic mail (e-mail) communication, if the school district or approved cooperative makes such option available.

009.08 Parental Consent

009.08A Parental Consent for Initial Evaluations

009.08A1 The school district or approved cooperative proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under 92 NAC 51-003.08 must obtain informed consent, consistent with 92 NAC 51-003.09, from the parent of the child before conducting the evaluation.

009.08A2 Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services.

009.08A3 The school district or approved cooperative must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.

009.08A4 For initial evaluations only, if the child is a ward of the State and is not residing with the child's parent, the school district or approved cooperative is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if:

009.08A4a Despite reasonable efforts to do so, the school district or approved cooperative cannot discover the whereabouts of the parent of the child;

009.08A4b The rights of the parents of the child have been terminated in accordance with the State law; or

009.08A4c The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

009.08A5 If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation under 92 NAC 51-009.08A1 or the parent fails to respond to a request to provide consent, the school district or approved cooperative may, but is not required to, pursue the initial evaluation of the child by utilizing the procedural safeguards in 92 NAC 51-009 (including the mediation procedures or the due process procedures), if appropriate.

009.08A5a The school district or approved cooperative does not violate its obligation under 92 NAC 51-006 to locate and identify the child as a child with a disability if it declines to pursue the evaluation.

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009.08B Consent for Services

009.08B1 A school district or approved cooperative that is responsible for making FAPE available to a child with a disability must obtain informed consent from the parent of the child before the initial provision of special education and related services to the child.

009.08B1a Participation in or attendance at programs by children with verified disabilities from date of diagnosis to age five shall be voluntary as specified by the parent.

009.08B2 The school district or approved cooperative must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child.

009.08B3 If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services the school district or approved cooperative:

009.08B3a May not use the procedures in 92 NAC 51-009 (including the mediation procedures or the due process procedures) in order to obtain agreement or a ruling that the services may be provided to the child.

009.08B3b Will not be considered to be in violation of the requirement to make a Free Appropriate Public Education (FAPE) available to the child because of the failure to provide the child with the special education and related services for which the parent refuses to or fails to provide consent; and

009.08B3c Is not required to convene an IEP team meeting or develop an IEP under 92 NAC 51-007 for the child.

009.08B4 If at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the school district or approved cooperative:

009.08B4a May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with 92 NAC 51-009.05 before ceasing the provision of special education and related services.

009.08B4b May not use the procedures in 92 NAC 51-009 (including the mediation procedures and due process procedures) in order to obtain agreement or a ruling that the services may be provided to the child.

009.08B4c Will not be considered to be in violation of the requirement to make a Free Appropriate Public Education (FAPE) available to the child because of the failure to provide the child with further special education and related services; and

009.08B4d Is not required to convene an IEP team meeting or develop an IEP under 92 NAC 51-007 for the child for further provision of special education and related services.

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009.08C Consent for Reevaluations

009.08C1 Subject to 92 NAC 51-009.08C2, each school district or approved cooperative must obtain informed parental consent, in accordance with 92 NAC 51-009.08A1, prior to conducting any reevaluation of a child with a disability.

009.08C1a If the parent refuses to consent to the reevaluation, the school district or approved cooperative may, but is not required to, pursue the reevaluation by using the consent override procedures described in 92 NAC 51-009.08A5. The school district or approved cooperative does not violate its obligation to locate and identify the child as a child with a disability if it declines to pursue the evaluation or reevaluation.

009.08C2 The informed parental consent described in 92 NAC 51-009.08C1 need not be obtained if the school district or approved cooperative can demonstrate that:

009.08C2a It made reasonable efforts to obtain such consent; and

009.08C2b The child's parent has failed to respond.

009.08D Other Consent Requirements

009.08D1 Parental consent is not required before:

009.08D1a Reviewing existing data as part of an evaluation or a reevaluation; or

009.08D1b Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.

009.08D2 A school district or approved cooperative may not use a parent's refusal to consent to one service or activity under 92 NAC 51-009.08A, 92 NAC 51-009.08B or 92 NAC 51-009.08C to deny the parent or child any other service, benefit, or activity of the school district or approved cooperative, except as required by this Chapter.

009.08D3 If a parent of a child who is home schooled or placed in a nonpublic school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the school district or approved cooperative may not use the consent override procedures (described in 92 NAC 51-009.08A5 and 009.08C1); and

009.08D3a The school district or approved cooperative is not required to consider the child as eligible for services under 92 NAC 51-015.

009.08D4 To meet the reasonable efforts requirement in 92 NAC 51-009.08A3, 009.08A4a, 009.08B2, and 009.08C2a, the school district or approved cooperative must document its attempts to obtain parental consent using the procedures in 92 NAC 51-007.06.

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009.09 Consent and Insurance (see Section 012.09 for Use of Public Benefits or Insurance)

009.09A Children with Disabilities covered by Public Benefits or Insurance

009.09A1 Prior to accessing a child's or parent's public benefits or insurance for the first time, and after providing notification to the child's parents consistent with 92 NAC 51-009.09A2, school districts or approved cooperatives must obtain written, parental consent that:

009.09A1a Meets the requirements of 34 CFR §99.30 (FERPA) and 34 CFR §300.622, which consent must specify the personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided to a particular child), the purpose of the disclosure (e.g., billing for services under 34 CFR 300), and the agency to which the disclosure may be made (e.g., the State's public benefits or insurance programs (e.g., Medicaid)); and

009.09A1b Specifies that the parent understands and agrees that the school district or approved cooperative may access the parent's or child's public benefits or insurance to pay for services under this Chapter.

009.09A2 Prior to accessing a child's or parent's public benefits or insurance for the first time, and annually thereafter, the school district or approved cooperative must provide written notification, consistent with 92 NAC 51-009.05C and 009.05D, to the child's parents, that includes:

009.09A2a A statement of the parental consent provisions in 92 NAC 51-009.09A1a and 009.09A1b of this section;

009.09A2b A statement of the "no cost" provisions in paragraphs 92 NAC 51-012.09B1 through 012.09B3;

009.09A2c A statement that the parents have the right under 34 CFR Part 99 and Part 300 to withdraw their consent to disclosure of their child's personally identifiable information to the agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) at any time; and

009.09A2d A statement that the withdrawal of consent or refusal to provide consent under 34 CFR Part 99 and Part 300 to disclose personally identifiable information to the agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) does not relieve the school district or approved cooperative of its responsibility to ensure that all required services are provided at no cost to the parents.

009.09B Children with Disabilities covered by Private Insurance

009.09B1 With regard to services required to provide FAPE to an eligible child under this Chapter, a school district or approved cooperative may access the parents' private insurance proceeds only if the parents provide consent consistent with 92 NAC 51-003.09.

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009.09B2 Each time the school district or approved cooperative proposes to access the parent's private insurance proceeds, the school district or approved cooperative must:

009.09B2a Obtain parental consent in accordance with 92 NAC 51-009.09B1; and

009.09B2b Inform the parents that their refusal to permit the school district or approved cooperative to access their private insurance does not relieve the school district or approved cooperative of its responsibility to ensure that all required services are provided at no cost to the parents.

009.10 Appointment of Surrogates

009.10A Each school district or approved cooperative shall ensure that the rights of a child with a disability are protected if:

009.10A1 No parent can be identified;

009.10A2 The school district or approved cooperative, after reasonable efforts, cannot locate a parent;

009.10A3 The child is an unaccompanied homeless youth; or

009.10A4 The child is a ward of the State or court.

009.10A4a In the case of a child who is a ward of the State, such surrogate may alternatively be appointed by the judge overseeing the child's care provided that the surrogate meets the requirements in 92 NAC 51-009.10D3.

009.10B The duty of the school district or approved cooperative under 92 NAC 51-009.10A includes the assignment of an individual to act as a surrogate for the parents. This must include a method;

009.10B1 For determining whether a child needs a surrogate parent and,

009.10B2 For assigning a surrogate parent to the child.

009.10C The school district or approved cooperative may select a surrogate parent in any way permitted under State law and the district or approved cooperative shall make reasonable efforts to ensure the assignment of a surrogate not more than 30 calendar days after there is a determination that the child needs a surrogate.

009.10D In order to qualify, a surrogate must be a person who:

009.10D1 Has no personal or professional interest that conflicts with the interest of the child he or she represents;

009.10D2 Has knowledge and skills that ensure adequate representation of the child; and

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009.10D3 Is not an employee of any public agency which is involved in the education or care of the child. A person who otherwise qualifies to be a surrogate parent is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

009.10D3a In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to 92 NAC 51-009.10D3, until a surrogate parent can be appointed that meets all the requirements of 92 NAC 51-009.10D.

009.10E The surrogate may represent the child in all matters relating to:

009.10E1 The identification, evaluation, and educational placement of a child; and

009.10E2 The provision of a free appropriate public education to the child.

009.10F The services of the surrogate parent shall be terminated when:

009.10F1 The child is no longer eligible for a surrogate parent under 92 NAC 51-009.10A;

009.10F2 A conflict of interest develops between the interest of the child and the interest of the surrogate parent; or

009.10F3 The surrogate parent fails to fulfill his or her duties as a surrogate parent.

009.10G Issues arising from the selection, appointment, or removal of a surrogate parent shall be resolved through hearings established under 92 NAC 55.

009.10H The surrogate parent and the school district or approved cooperative which appointed the surrogate parent shall not be liable in civil actions for damages for acts of the surrogate parent unless such acts constitute willful and wanton misconduct.

009.11 State Complaint Procedures

009.11A An organization or individual may file a signed written complaint under the procedures described in 92 NAC 51-009.11B.

009.11B The complaint must include:

009.11B1 A statement that the public agency has violated a requirement of 92 NAC 51, 34 CFR 300 or Part B of the IDEA;

009.11B2 The facts on which the statement is based;

009.11B3 The signature and contact information for the complainant; and

009.11B4 If alleging violations with respect to a specific child –

009.11B4a The name and address of the residence of the child;

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- 009.11B4b The name of the school the child is attending;
- 009.11B4c In the case of a homeless child or youth within the meaning of section 725(2C) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the school the child is attending;
- 009.11B4d A description of the nature of the problem of the child, including facts relating to the problem; and
- 009.11B4e A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
- 009.11B5 The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with 92 NAC 51-009.11.
- 009.11B6 The party filing the complaint must forward a copy of the complaint to the school district or approved cooperative serving the child at the same time the party files the complaint with Nebraska Department of Education Office of Special Education.
- 009.11C If a complaint meeting the requirements of 92 NAC 51-009.11B is received, the following procedures will be carried out:
 - 009.11C1 Within fourteen (14) calendar days of receipt of the written, signed complaint, an assigned Office of Special Education official shall notify in writing each complainant and the school district or approved cooperative against which the violation has been alleged, that the complaint has been received. This written notification shall include a copy of the complaint and the substance of the alleged violation. The school district or approved cooperative shall have fourteen (14) calendar days to submit a written response.
 - 009.11C2 Office of Special Education officials will provide the school district or approved cooperative with the opportunity to respond to the complaint, including, at a minimum:
 - 009.11C2a At the discretion of the school district or approved cooperative, a proposal to resolve the complaint; and
 - 009.11C2b An opportunity for a parent who has filed a complaint and the school district or approved cooperative to voluntarily engage in mediation consistent with 92 NAC 51-009.12.
 - 009.11C3 Office of Special Education officials will investigate each complaint received from an individual or organization (including an individual or organization from another state) to determine whether there has been a failure to comply with this Chapter and may require further written or oral submission of information by all parties and may conduct an independent on-site investigation if necessary. The complainant will have the opportunity to submit additional information either orally or in writing, about the allegation.

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- 009.11C4 Within sixty (60) calendar days of receipt of a signed written complaint, the Department of Education Office of Special Education will review all relevant information and provide written notification of findings of facts and conclusions and the basis for such findings to all parties involved.
- 009.11C5 An extension of the time limit in 92 NAC 51-009.11C4 will be permitted only if:
- 009.11C5a Exceptional circumstances exist with respect to a particular complaint; or
- 009.11C5b The parent and the school district or approved cooperative involved agree to extend the time to engage in mediation or to engage in other alternative means of dispute resolution.
- 009.11C6 If it is determined there has been a failure to comply, there will be included in the notification of findings the specific steps which must be taken by the school district or approved cooperative to bring the school district or approved cooperative into compliance, including technical assistance, negotiations and corrective actions necessary to achieve compliance. The notification shall also set forth a reasonable period of time to voluntarily comply.
- 009.11C7 If the school district or approved cooperative does not demonstrate compliance within the period of time set forth in the notice of findings, the matter will be subject to the procedures outlined in 92 NAC 51-004.09.
- 009.11C8 If a written complaint is received that is also the subject of a due process hearing under 92 NAC 55, or contains multiple issues of which one or more are part of that hearing, the Office of Special Education officials shall set aside any part of the state complaint that is being addressed in the due process hearing, until the conclusion of the hearing. However, any issue in the state complaint that is not a part of the due process action must be resolved using the time limit and procedures described in 92 NAC 51-009.11.
- 009.11C9 If an issue is raised in a complaint filed under 92 NAC 51-009.11 that has previously been decided in a due process hearing involving the same parties:
- 009.11C9a The hearing decision is binding; and
- 009.11C9b The Nebraska Department of Education must inform the complainant to that effect.
- 009.11C10 A complaint alleging a school district's or approved cooperative's failure to implement a due process decision must be resolved by the Nebraska Department of Education.

009.12 Mediation

- 009.12A School districts or approved cooperatives shall implement the procedures established in Section 009 to allow parties to resolve disputes involving any matter described in 92 NAC 51-009.05A1 and 009.05A2 including matters arising prior to the filing of a due process hearing petition through a mediation process which, at a minimum, shall be available whenever a hearing is requested under 92 NAC 55.

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- 009.12A1 The procedures for seeking mediation initiated by either the parent(s) or school district or approved cooperative include:
- 009.12A1a Contacting the Nebraska Office of Dispute Resolution who will
 - 009.12A1b Arrange a meeting, invite both parties and conduct the mediation in an attempt to resolve the dispute.
- 009.12B The procedures shall ensure that the mediation process:
- 009.12B1 Is voluntary on the part of the parties;
 - 009.12B2 Is not used to deny or delay a parent's right to a due process hearing under 92 NAC 55, or to deny any other rights afforded under this Chapter; and
 - 009.12B3 Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
- 009.12C The school district or approved cooperative may implement the procedures in Section 009 to offer parents and schools or approved cooperatives that choose not to use the mediation process an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with:
- 009.12C1 A parent training and information center or community parent resource center in this State established under Section 671 or 672 of the IDEA, or
 - 009.12C2 An appropriate alternative dispute resolution entity to encourage the use, and explain the benefits of the mediation process to the parents.
- 009.12D The Nebraska Department of Education shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services for use by school districts, approved cooperatives, and parents.
- 009.12E The Nebraska Department of Education shall bear the cost of the mediation process, including the costs of meetings described in 92 NAC 51-009.12C.
- 009.12F Each session in a mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.
- 009.12G In the case that a resolution is reached to resolve the complaint through the mediation process, the parties shall execute a legally binding agreement that sets forth such resolution and that:
- 009.12G1 States that all discussions that occurred during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding;
 - 009.12G2 Is signed by both the parent and a representative of the agency who has the authority to bind such agency; and
 - 009.12G3 Is enforceable in any State court of competent jurisdiction or in a district court of the United States.

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009.12H Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings of any federal court or state court of a state receiving assistance under Part B of the IDEA as amended in 2004.

009.12I An individual who serves as a mediator under this Chapter:

009.12I1 May not be an employee of:

009.12I1a The Nebraska Department of Education or of the school district or approved cooperative that is involved in the education or care of the child; or

009.12I1b An agency that is providing direct services to a child who is the subject of the mediation process; and

009.12I1c Must not have a personal or professional interest that conflicts with the person's objectivity.

009.12I2 A person who otherwise qualifies as a mediator is not an employee of a school district or approved cooperative or the Nebraska Department of Education solely because he or she is paid by the agency to serve as a mediator.

009.13 Resolution Process

009.13A Resolution Meeting

009.13A1 Within 15 days of receiving notice of the parent's due process complaint, and prior to the initiation of a due process hearing under 92 NAC 55, the school district or approved cooperative must convene a meeting with the parent and the relevant member or members of the IEP team who have specific knowledge of the facts identified in the due process complaint that:

009.13A1a Includes a representative of the school district or approved cooperative who has decision-making authority on behalf of that school district or approved cooperative; and

009.13A1b May not include an attorney to the school district or approved cooperative unless the parent is accompanied by an attorney.

009.13A2 The purpose of the meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the school district or approved cooperative has the opportunity to resolve the dispute that is the basis for the due process complaint.

009.13A3 The meeting described in 92 NAC 51-009.13A1 and 009.13A2 need not be held if:

009.13A3a The parent and the school district or approved cooperative agree in writing to waive the meeting; or

009.13A3b The parent and the school district or approved cooperative agree to use the mediation process described in 92 NAC 51-009.12.

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009.13A4 The parent and the school district or approved cooperative determine the relevant members of the IEP team to attend the meetings.

009.13B Resolution Period

009.13B1 If the school district or approved cooperative has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur.

009.13B2 Except as provided in this section, the timeline for issuing a final decision begins at the expiration of this 30-day period.

009.13B3 Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding 92 NAC 51-009.13B1 and 009.13B2, the failure of the parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.

009.13B4 If the school district or approved cooperative is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made (and documented using the procedures in 92 NAC 51-007.06D), the school district or approved cooperative may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's due process complaint.

009.13B5 If the school district or approved cooperative fails to hold the resolution meeting specified in 92 NAC 51-009.13A within 15 days of receiving notice of a parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline.

009.13C Adjustments to the 30-day Resolution Period

009.13C1 The 45-day timeline for the due process hearing starts the day after one of the following events:

009.13C1a Both parties agree in writing to waive the resolution meeting;

009.13C1b After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible.

009.13C1c If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or the school district or approved cooperative withdraws from the mediation process.

009.13D Written Settlement Agreement

009.13D1 If a resolution to the dispute is reached at the meeting described in 92 NAC 51-009.13A1 and 009.13A2, the parties must execute a legally binding agreement that is:

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009.13D1a Signed by both the parent and a representative of the school district or approved cooperative who has the authority to bind the school district or approved cooperative; and

009.13D1b Enforceable in any State court of competent jurisdiction or in a district court of the United States.

009.13E Agreement Review Period

009.13E1 If the parties execute an agreement pursuant to 92 NAC 51-009.13D, a party may void the agreement within 3 business days of the agreement's execution.

009.14 Special Education Due Process Hearings

009.14A Whenever a due process complaint has been received under 92 NAC 55 or Section 016 of this Chapter, the parents or the school district or approved cooperative shall have an opportunity for an impartial due process hearing consistent with the procedures in 92 NAC 55 and 92 NAC 51-009.13.

009.14B A parent or a school district or approved cooperative may initiate a hearing on any of the matters described in 92 NAC 51-009.05A relating to the identification, evaluation or educational placement of the child with a disability, or the provision of FAPE to the child by filing a petition pursuant to 92 NAC 55.

009.14C When a hearing is initiated under 92 NAC 55, the school district or approved cooperative shall inform the parents of the availability of mediation described in 92 NAC 51-009.12.

009.14D The school district or approved cooperative shall inform the parent of any free or low-cost legal and other relevant services available in the area if the parent requests the information or if the parent or the school district or approved cooperative initiates a hearing under 92 NAC 55.

009.14E Any party to a due process hearing has the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities.

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010 Qualifications of Special Education Personnel for Program Approval and Reimbursement

010.01 School districts and approved cooperatives shall ensure that all personnel necessary to carry out this Chapter are appropriately and adequately prepared and trained including that those personnel have the content knowledge and skills to serve children with disabilities, subject to the requirements of Section 2122 of the Elementary and Secondary Education Act of 1965.

010.01A Instructional personnel shall hold valid Nebraska Department of Education certification, be endorsed in the assigned area. Instructional personnel may serve children with visual impairments and children with hearing impairments in a multicategorical program if the instructional personnel have attended training approved by the Department of Education or have received consultation from an individual endorsed in the area of visual hearing impairments. This section does not apply to individuals providing inservice.

010.01B Each person employed as a special education teacher who teaches elementary school, middle school, or secondary school shall be a teacher meeting IDEA 2004 criteria as defined in 92 NAC 51-003.62.

010.01C School districts or approved cooperatives shall take measurable steps to recruit, hire, train, and retain teachers meeting IDEA 2004 criteria to provide special education and related services.

010.01C1 School districts and approved cooperatives shall make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted under Part B of the IDEA.

010.01D Approvable endorsements for program approval and reimbursement shall include:

| | Categorical Assignment | NDE Approvable Endorsement |
|-----------------|-----------------------------------|--|
| <u>010.01D1</u> | Adaptive Physical Education | Adaptive Physical Education |
| <u>010.01D2</u> | Autism | Special Education Functional Academic Skills and Independent Living Specialist Special Education Special Education Inclusion and Collaboration Specialist Special Education Behavior Intervention Specialist Speech-Language Pathologist |
| <u>010.01D3</u> | Emotional Disturbance | Special Education Behavior Intervention Specialist Special Education |
| <u>010.01D4</u> | Deaf-Blindness | Special Education Visual Impairment Special Education Functional Academic Skills and Independent Living Specialist |

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| | Categorical Assignment | NDE Approvable Endorsement |
|------------------|--|--|
| <u>010.01D5</u> | Diagnostic Services | School Psychologist Audiologist Speech-Language Pathologist or any special education endorsement |
| <u>010.01D6</u> | Early Childhood Special Education in Home and Centerbased Programs for Children Birth-Age Five | Early Childhood plus any Special Education Early Childhood Inclusive Special Education Special Education Early Intervention Specialist |
| <u>010.01D7</u> | Hearing Impairments | Deaf or Hard of Hearing |
| <u>010.01D8</u> | Home (School Age) and Hospital (Birth to 21) Services | Any Teaching endorsement |
| <u>010.01D9</u> | Home-School Liaison | Any special education endorsement School Counselor |
| <u>010.01D10</u> | Intellectual Disability | Special Education |
| <u>010.01D11</u> | Multicategorical Programs | Instructional personnel serving students in a multicategorical program shall be considered to be endorsed in the assigned area if an endorsement is held in at least one of the disability categories served |
| <u>010.01D12</u> | Multiple Disabilities | Special Education Functional Academic Skills and Independent Living Specialist |
| <u>010.01D13</u> | Orthopedic Impairments | Special Education |
| <u>010.01D14</u> | Program Supervision | Administrative or Supervisory certificate and at least one Special Education endorsement or any Special Education Administrative or Supervisory certificate |
| <u>010.01D15</u> | Learning Disabilities | Special Education Inclusion and Collaboration Specialist Special Education |
| <u>010.01D16</u> | Speech-Language Impairments | Speech-Language Pathologist |

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| | Categorical Assignment | NDE Approvable Endorsement |
|----------------|---|--|
| | <u>010.01D17</u> Substitute Teacher | Any Teaching certificate |
| | <u>010.01D18</u> Traumatic Brain Injury | Special Education Functional Academic Skills and Independent Living Specialist Special Education Special Education Behavior Intervention Specialist Speech-Language Pathologist Special Education Inclusion and Collaboration Specialist |
| | <u>010.01D19</u> Visual Impairment | Special Education Visual Impairment |
| | <u>010.01D20</u> Work Study Program or Transition Program | Any special education endorsement School Counselor Vocational Special Needs Cooperative Education – Diversified Occupations Secondary Transition Specialist |
| <u>010.02</u> | For purposes of 92 NAC 51-010.01D5, 010.01D14 and 010.01D20 “special education endorsement” shall include any approvable endorsement under 92 NAC 51-010.01D except 010.01D8, 010.01D17 and excluding the specific endorsements of guidance and counseling, educational audiologist, vocational special needs, cooperative education diversified occupations and special services certificate for school transition specialist. | |
| <u>010.03</u> | Related Services Personnel and Paraprofessionals | |
| <u>010.03A</u> | Related services personnel and paraprofessionals shall hold any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services. | |
| <u>010.03B</u> | Related services personnel who deliver services in their discipline or profession shall not have had certification or licensure requirements waived on an emergency, temporary, or provisional basis. | |
| <u>010.03C</u> | Paraprofessionals shall be appropriately trained and supervised by qualified special education personnel to be used to assist in the provision of special education and related services under this Chapter. | |
| <u>010.03D</u> | A paraprofessional shall not teach, as defined in <u>Neb. Rev. Stat. §79-101.12</u> . | |
| <u>010.04</u> | Personnel providing special education services who do not hold Department of Education certification and endorsement, shall be licensed by the appropriate State of Nebraska Board of Examiners. | |
| <u>010.05</u> | Personnel employed by approved service agencies shall be certified by the Department of Education or shall hold the credential or training required by the licensing standard under which the service providers operate. | |

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010.06 Qualified Educational Sign Language Interpreters

010.06A In order to be a qualified educational sign language interpreter for the purposes of 92 NAC 51-010.06, an individual must have a high school diploma, high school equivalency diploma or higher, and meet the requirements of 92 NAC 51-010.06A1 or 010.06A2:

010.06A1 Receive a passing score on the EIPA written exam, and attain and maintain one or more of the following competency levels as measured by the following assessments:

010.06A1a Educational Interpreter Performance Assessment (EIPA), Competency level 4.0 or above

010.06A1b Registry of Interpreters of the Deaf Certification (RID)

010.06A1c National Association of the Deaf (NAD) Competency level 4.0 or above

010.06A1d National Interpreter Certification (NIC)

010.06A1e Quality Assurance Screening Test (QAST) Competency level 4.0

010.06A2 Educational interpreters providing sign language interpreter services in a school district or approved cooperative for two consecutive school years immediately prior to the effective date of this Rule shall be considered qualified educational sign language interpreters if:

010.06A2a the individual has attained a competency level of 3.5 or higher on the EIPA, and

010.06A2b the individual has met the requirements of 92 NAC 51-010.06F.

010.06B Subject to the exceptions in 92 NAC 51-010.06C, and 010.06D, school districts and approved cooperatives shall ensure that all sign language interpreters employed by such school districts or approved cooperatives to provide special education services are qualified educational sign language interpreters who meet the competency requirements in 92 NAC 51-010.06A.

010.06C If the school district or approved cooperative is unable to find a qualified educational sign language interpreter who meets the requirements of 92 NAC 51-010.06A, the school district or approved cooperative may employ for up to one year an interpreter who has received a "Skills at or above the required level" or a "Hire with Caution" on the EIPA pre-hire screening.

010.06D If a school district or approved cooperative is unable to find a qualified educational sign language interpreter who meets the requirements of 92 NAC 51-010.06A, the school district or approved cooperative may employ for up to two school years, an interpreter who demonstrates the minimum competency level of 3.0 on the EIPA, NAD or QAST. The school district or approved cooperative must require that the interpreter participate in a professional development plan designed to improve his or her skills and enable him or her to become a qualified educational sign language interpreter within two school years. The plan shall include at least 40 clock hours of training in interpreting per year (August 1 to July 31). The plan shall be approved by the school district or approved cooperative. The

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school district or approved cooperative must require that the interpreter attain one or more of the competency levels in 92 NAC 51-010.06A within two school years of employment.

010.06E If an interpreter does not achieve the required competency levels within the time periods as specified in 92 NAC 51-010.06D, the school district or approved cooperative must reopen the position and seek a qualified educational sign language interpreter.

010.06F School districts and approved cooperatives shall require that all sign language interpreters employed by the school districts or approved cooperatives to deliver special education services submit evidence to the school district or approved cooperative of having obtained 24 clock hours of professional development every two years (August 1-July 31). This should include at least 18 hours of training related to sign language interpreting. The remaining six hours of training can be in any of the following areas: history, psychology and sociology of the Deaf and hard of hearing; child development; language development; curriculum development; methods of instruction; interpreting for students who are deaf-blind; legal and ethical issues for educational interpreters.

010.06G If a sign language interpreter cannot provide the evidence required in 92 NAC 51-010.06F of the professional development, the school district or approved cooperative shall require that the sign language interpreter be retested and achieve the applicable competency level specified in 92 NAC 51-010.06A, 010.06C, or 010.06D.

010.07 Notwithstanding any other individual right of action that a parent or student may maintain under this Chapter, nothing in this section or Chapter shall be construed to create a right of action on behalf of an individual student or class of students for the failure of a school district or approved cooperative employee to meet IDEA 2004 criteria or to prevent a parent from filing a complaint about staff qualification pursuant to Section 009 of this Chapter.

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011 School District Budget Development and Reimbursement Process for School Age Programs

011.01 General Information

011.01A The special education assurances and flexible funding application of a school district and approved cooperative shall be submitted electronically via the NDE website to the Office of Special Education. Any amendment to the assurances and flexible funding application shall be subject to the same review as the initial assurances and flexible funding application.

011.01A1 The fiscal year for school age special education programs shall be September 1 to August 31.

011.01B The allowable and reimbursable costs for special education services are restricted to the following items, which shall be documented and are subject to audit;

011.01B1 Salaries of special education personnel as per 92 NAC 51-010 and clerical personnel directly associated with special education services;

011.01B2 School district or approved cooperative share of fringe benefits for the special education staff:

011.01B2a Fringe benefits shall be limited to social security, retirement programs, workers' compensation, health, life, long term disability, and unemployment insurance.

011.01B3 Inservice costs directly related to the special education programs provided that:

011.01B3a Allowable inservice expenditures are costs directly related to special education programs. Allowable activities must be designed to contribute to the professional growth and competence of staff serving children with a disability and their parents through workshops, demonstrations, and school visits. Tuition and expenses of attending special education courses for college credit are not allowed.

011.01B3b Allowable costs include: presenter fees and expenses; mileage; board and room of staff to attend inservice programs; costs of substitutes for staff attending inservice programs; cost of inservice programs which directly assist special and regular educators in providing appropriate programs for children with a verified disability in their classrooms; and costs of special education workshop attendance.

011.01B3c Costs of attending meetings conducted by organizations where only organizational business is conducted is not an allowable reimbursable expense.

011.01B4 Travel costs incurred by the school district or approved cooperative in delivering the special education programs including costs for:

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- 011.01B4a Children attending nonpublic schools who are required to leave the nonpublic school to receive special education and related services; and
- 011.01B4b Children who are assigned to more than one attendance center to receive special education.
- 011.01B5 Travel costs incurred by parents to attend educational planning meetings held outside the resident district which are necessary to provide a free appropriate public education or to visit their child who is assigned to a residential program outside the district as agreed upon through the IEP process.
- 011.01B6 Costs of transporting children with a disability which are authorized under Neb. Rev. Stat. §79-1129 and Section 014 are budgeted and claimed separately;
- 011.01B7 Instructional equipment including assistive technology devices and equipment, supplies and publications necessary to aid the child in accomplishing the goals and objectives of the individual education program (IEP) are allowable reimbursable costs under this Chapter. The equipment, supplies, and publications shall be used by the child in association with the implementation of the child's IEP or evaluation. This shall also include equipment, supplies, and publications used by staff when instructing a child with a verified disability; when evaluating a child who is suspected of having a disability; or when reevaluating a child with a verified disability. Allowable and reimbursable costs shall include printing, publication and postage costs that are necessary to carry out the provisions of this Chapter. This shall not include equipment, supplies, and publications used by staff for administrative purposes. This shall not include personal equipment and supplies or life support equipment. When equipment is used for purposes other than for special education, the school district or approved cooperative shall only claim the applicable prorated portion for special education payment.
- 011.01B8 Those contracted special education services in which children with a disability are served by a service agency whose special education programs and rates have been approved by the Department of Education; and
- 011.01B9 Costs of acquisition (purchase, lease, lease-purchase), renovation and operation of a mobile unit(s) (i.e., trailers, mobile homes, vans, or any combination thereof) used, or to be used, as mobile learning centers for delivery of special education services to any eligible children with a disability. Reimbursement shall be subject to approval by the Nebraska Department of Education and shall be based on allowable depreciation and reimbursement as per Section 014.
- 011.01B9a The maximum number of mobile units a school district or approved cooperative may purchase shall be based on the total enrollment of both public and nonpublic schools as per the following schedule:

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- 011.01B9a(1) 1 to 10,000 total enrollment for the maximum purchase of one (1) mobile unit;
- 011.01B9a(2) 10,001 to 20,000 total enrollment for the maximum purchase of two (2) mobile units;
- 011.01B9a(3) 20,001 to 30,000 total enrollment for the maximum purchase of three (3) mobile units;
- 011.01B9a(4) 30,001 to 40,000 total enrollment for the maximum purchase of four (4) mobile units;
- 011.01B9a(5) 40,001 to 50,000 total enrollment for the maximum purchase of five (5) mobile units; and
- 011.01B9a(6) all districts with an enrollment exceeding 50,001 for the maximum purchase of six (6) mobile units.
- 011.01B10 Costs for support services, as defined in Neb. Rev. Stat. §79-1125.01 and 92 NAC 51-003.60, identified in 92 NAC 51-011.05 as the Flexible Funding Option.
- 011.01C The adjusted average per pupil cost of the preceding year or a portion of that cost shall be calculated according to the following criteria:
- 011.01C1 For Level I special education services the school district is considered to have expended its adjusted average per pupil cost for each child with a disability who participates in a special education support service(s) for an aggregate of not more than three hours per week.
- 011.01C2 For Level II special education classroom services in which a child with a disability participates more than an aggregate of three hours per week, the school district shall pay that portion of the adjusted average per pupil cost for that portion of the instructional time devoted to the special education activity;
- 011.01C3 For Level III special education contractual services the school district shall pay an amount equal to the average per pupil cost (program per pupil cost) of the service agency of the preceding year to the agency providing the educational program for each child with a disability. In deriving allowable excess cost, the district shall deduct its adjusted average per pupil cost from the cost of the program contracted from the service agency;
- 011.01C4 When a school district or approved cooperative provides or contracts for a summer school special education program for a child with a verified disability, the cost of such program will be considered for allowable excess cost reimbursement if the child's needs for such program can be verified by review of the IEP.
- 011.01D Student Special Education Full Time Equivalency (FTE) shall be determined by calculating the percent of aggregate time a child receives special education and related services. In calculating student special education full-time equivalency, time spent in transportation, extended school day and extended school year services are excluded from the aggregate time.

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- 011.01D1 The aggregate amount of a child's special education FTE includes:
- 011.01D1a The amount of time the child spends in a separate setting other than the regular classroom; and
 - 011.01D1b The amount of time the child with a disability spends in the regular classroom receiving instruction as indicated in the child's IEP from special education staff.
- 011.01D2 Full-time equivalency (FTE) is calculated each year.

011.02 General Limitation in Budget Development

011.02A Only children with verified disabilities shall receive special education services. This shall include the initial evaluation of a child with a suspected disability, regardless of the outcome of the verification decision. (See Section 006.) Budget development may also include those children receiving support services as defined in 92 NAC 51-003.60.

011.02B Age limits

011.02B1 School age budgets shall be limited to those children with disabilities from age five through the school year in which the child reaches age twenty-one and those children receiving support services as defined in 92 NAC 51-003.60.

011.02B2 A child is age five if that child has reached the age of five years or will reach such an age on or before July 31 of the current school year.

011.02B3 A school district or approved cooperative is eligible for reimbursement for a child's special education program until the end of the school year in which his or her twenty-first birthday occurs.

011.02C Administration and Supervision

011.02C1 Supervision of special education programs is an allowable expenditure for up to an amount not to exceed 8% of the school district's or approved cooperative's allowable school age program costs, minus the cost of program supervision. Administration and supervision includes clerical costs directly associated with the supervision of special education programs.

011.02C2 The cost of a superintendent or principal, hired for the purpose of supervising general education, shall not be included in allowable excess cost for special education.

011.02D Related services for a child with a verified disability are reimbursable if the services are listed in the IEP and are necessary for the achievement of educational goals as stated in the IEP.

011.02E Any program that provides residential care shall show the costs of such care separately from the costs of the education program. (See 92 NAC 53.)

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011.03 Budget Development for Levels I, II, III

011.03A Level I Special Education Services

011.03A1 The expenditures for Level I (not more than an aggregate of three hours per child per week) special education service programs shall be considered for allowable excess cost reimbursement under the following conditions:

011.03A1a The programs are owned and operated by the school district or approved cooperative and the expenditures are within the allowable categories as stated in Section 011; and

011.03A1b The reimbursement to a school district or approved cooperative contracting for Level I services shall be limited to the rates approved by Commissioner or designee.

011.03B Level II Special Education Services

011.03B1 The expenditures for Level II (more than an aggregate of three hours per child per week) special education services shall be considered for allowable excess cost reimbursement under the following conditions:

011.03B1a The school district or approved cooperative has documented and contributed the portion (total or prorated amount for a full day program) of the adjusted average per pupil cost into the program; and

011.03B1b The expenditures are within the allowable categories as stated in Section 011.

011.03C Level III Special Education Contractual Services

011.03C1 The school district or approved cooperative may contract for any or all special education programs with approved service agencies.

011.03C1a Those school districts or approved cooperatives contracting for services shall have the service agency specify the cost for each service being provided by the service agency. Reimbursement to such school districts or approved cooperatives shall be limited to the NDE approved rates and the amount of time such services were provided to children with verified disabilities.

011.04 Final Financial Reports

011.04A General Procedures

011.04A1 Excess cost shall mean the difference between (1) the total allowable cost of the special education programs excluding residential care, and (2) the number of children (full time equivalency) in the special education program multiplied by the adjusted average per pupil cost of the resident school district of each child for the preceding year.

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011.04A2 Each school district shall determine an adjusted average per pupil cost.

011.04A2a The adjusted average per pupil cost is to be determined by subtracting those eligible special education expenditures which were included as costs from the total instructional expenditures shown on the Total Instruction line of the district's Annual Financial Report for the previous school year. Divide the result by the total ADM (Average Daily Membership) as reported in the Annual Financial Report for the same year.

011.04B Payments

011.04B1 Payments shall be made by the Nebraska Department of Education to the school district of residence, cooperative of school districts, or educational service unit each year in a minimum of seven payments between the fifth and twentieth day of each month beginning in December. Additional payments may be made based upon additional valid claims submitted. Such payments will be based upon the final financial reports submitted on forms or in a manner prescribed by the Office of Special Education which shall include the following:

011.04B1a Allowable expenditures for the preceding school fiscal year including any costs for the Flexible Funding Option.

011.04B1b A list of all special education personnel and their FTE;

011.04B1c Tuition received from contracts and other sources;

011.04B1d Certification of authorized officer of the school board or authorized official of an approved cooperative that the reported expenditures have been paid;

011.04B1e A copy of the billings from the service agencies for contracted programs; and

011.04B1f Student Special Education Full Time Equivalency as defined by 92 NAC 51-011.01D for Level II and Level III students.

011.04B2 Such final financial reports shall be submitted electronically via the NDE website to the Department of Education on or before October 31 of each year for the preceding school fiscal year.

011.04B3 A school district or approved cooperative reimbursed for ineligible expenditures, shall be required to return to the Department of Education the amount determined to be ineligible or the amount shall be deducted from subsequent special education payments.

011.04B4 The Department of Education shall withhold any reimbursement provided under Neb. Rev. Stat. §79-1142, to school districts or approved cooperatives which, after final determination by the Department of Education, received funds in excess of the determined allocation for the previous year. Payments which are withheld shall be no greater than the amount of overpayment. The Department of Education shall maintain an accurate account and a record of the reasons for such overpayments and the manner in which adjustments were made.

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011.04B5 Supplementary amendments to any school age final financial report previously approved by the Office of Special Education may be submitted to the Office of Special Education for review and approval within three years of the original due date. Approved amendments may be submitted by the Department of Education to the Legislature for consideration of a supplemental appropriation.

011.04C Determination and Scheduling of Payments

011.04C1 For special education and support services provided, the Nebraska Department of Education shall reimburse each school district in the following school fiscal year a pro rata amount determined by the State Board of Education from appropriations for special education approved by the Legislature and based on allowable excess costs for all special education programs and support services. Cooperatives of school districts or educational service units shall also be eligible for reimbursement for cooperative programs pursuant to this subsection if such cooperatives or educational service units have complied with the reporting and approval requirements of Neb. Rev. Stat. §79-1155 for cooperative programs which were offered the preceding year.

011.04C2 The amount appropriated by the Legislature for special education programs including support services (Flexible Funding Option) shall be the basis for reimbursement. Payments authorized by Neb. Rev. Stat. §79-1142 shall be made only to a school district or approved cooperative.

011.04C3 Whenever there are due dates specified in this Chapter for submission of required documents, the appropriate items shall be submitted to the Department of Education, Office of Special Education on those dates.

011.04C4 All reports required by this Chapter for submission by school districts and approved cooperatives shall be made in accordance with 92 NAC 51-011.04C3. Failure to do so will result in the implementation of the procedures specified in 92 NAC 51-004.14.

011.05 Flexible Funding projects are optional for school districts or approved cooperatives and are intended for students not identified or verified for special education services but who demonstrate a need in the general curriculum. A school district or approved cooperative choosing to exercise the Flexible Funding Option must submit an application containing a narrative and proposed budget. Proposals shall be submitted electronically via the NDE website to the Nebraska Department of Education, Office of Special Education.

011.05A As part of the Flexible Funding Option Application, the narrative shall describe the support services designed for the targeted student subgroup who would benefit from preventative support services within the context of the general curriculum. The narrative must include:

011.05A1 An estimate of the annual number of students to be served;

011.05A2 The process(es) used in identifying the intended target student subgroup;

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011.05A3 Methodology to be used including but not limited to:

011.05A3a The strategies and interventions to be applied;

011.05A3b The staff development activities to be funded for carrying out activities described in the proposal;

011.05A3c The intended student outcomes resulting from implementation;

011.05A3d How the proposed services are different from services currently available to the targeted student subgroup;

011.05A3e The proposed annual measurements that will be used to document changes in student performance; and

011.05A3f If the proposal is linked to school district or building level school improvement activities, information describing the relationship to the School Improvement Action Plan; and

011.05A4 The name of the person(s) responsible for proposal implementation as well as a mailing address, e-mail, fax and phone number.

011.05B Flexible Funding Option Reimbursement

011.05B1 Reimbursement for support services as defined in 92 NAC 51-003.60 shall be limited to a percentage established by the State Board of Education not to exceed ten percent of the school district's or approved cooperative's total allowable reimbursable cost for all special education programs and support services.

011.05B2 Costs shall be limited to allowable costs as defined in Section 011 and the cost of salary and fringe benefits of general education staff providing support services.

011.05B3 Payments will be based upon the costs reported in the Final Financial Report and contingent upon completion and approval of a final report containing actual project costs and a report of student progress including the requirements of 92 NAC 51-012.07D. Payments will be made at the same percentage rate as for all special education reimbursement.

011.05C The fiscal year for the Flex Funding Option shall be September 1 to August 31.

011.06 Ward of the State or Court With a Disability

011.06A When a ward of the state or court has been placed in a school district other than the district in which he or she resided at the time he or she became a ward and such ward does not reside in a foster family home licensed or approved by the Department of Health and Human Services or a foster home maintained or used by the Department of Correctional Services pursuant to Neb. Rev. Stat. §83-108.04 or has been placed in any institution which maintains a special education program which has been approved by the Nebraska Department of Education and such institution is not owned or operated by the district in which the student resided at the time the student became a ward, the cost of his or her education and the required transportation costs associated with the child's education shall be

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paid by the Nebraska Department of Health and Human Services under rules and regulations prescribed by the Department of Health and Human Services and the student remains a resident of the district in which the student resided at the time he or she became a ward. Any student who is a ward of the state or court who resides in a foster family home licensed or approved by the Department of Health and Human Services or a foster home maintained or used by the Department of Correctional Services pursuant to Neb. Rev. Stat. §83-108.04 is a resident of the district in which the student resided at the time the student became a foster child, unless it is determined under Neb. Rev. Stat. §§43-1311 or 43-1312 that the student will not attend such district in which case the student shall be deemed a resident of the district in which the foster family home or foster family is located and shall be claimed in the final financial report of the school district or approved cooperative in which the foster family home or foster home is located.

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012 School District or Approved Cooperative Application and Payment Process for IDEA Flow-Through Allocations

012.01 General Information

012.01A Except for purposes specified in 92 NAC 51-012.07A and 92 NAC 51-015.03C1b, IDEA allocations are to be used by school districts or approved cooperatives in accordance with state requirements necessary to provide a free appropriate public education to children with disabilities.

012.01B The Special Education Assurances and IDEA Consolidated Application of a school district and approved cooperative shall be submitted electronically via the NDE website to the Office of Special Education. Any amendments in the Assurances and Application shall be subject to the same review as the initial Assurances and Application.

012.01C Maintenance of Effort

012.01C1 A school district or approved cooperative may not use IDEA flow-through funds to reduce the level of expenditures below the preceding year's special education expenditures.

012.01C2 A school district or approved cooperative may use up to 50% of the amount received under IDEA that exceeds the amount received under IDEA the previous year to assist with meeting maintenance of effort.

012.01C3 Exceptions for a school district or approved cooperative not meeting IDEA maintenance of efforts requirements as per federal regulations are:

012.01C3a The school district or approved cooperative has reduced special education personnel costs because staff has been replaced with qualified staff earning lower salaries;

012.01C3b The school district or approved cooperative has a decrease in enrollment of children with disabilities;

012.01C3c The school district or approved cooperative is no longer responsible for a high cost needs child(ren) with a disability; and

012.01C3d The school district or approved cooperative has terminated a long-term special education purchase(s).

012.01D Notice and Opportunity for a Hearing Before Disapproval of an Application for IDEA Flow-through Allocations

012.01D1 The Nebraska Department of Education will provide an opportunity for a hearing prior to disapproving an application for special education funds for failure of the application to meet the requirements of the Individuals with Disabilities Education Act and its implementing regulations.

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012.01D2 The school district or approved cooperative shall request a hearing in writing within 30 calendar days of receipt of the notice provided indicating that the Office of Special Education intends to recommend disapproval of the school district's or approved cooperative's application. Within 30 days after it receives a request, the Nebraska Department of Education shall hold a hearing on the record and shall review its decision.

012.01D3 Not later than 10 days after the hearing, the Nebraska Department of Education shall issue a written ruling, including the findings of fact and reasons for the ruling.

012.01D4 If the Nebraska Department of Education finds the proposed disapproval of the school district's or approved cooperative's application was contrary to the Individuals with Disabilities Education Act and its implementing regulations or the Nebraska Special Education Act and its implementing regulations, the Department shall approve the application.

012.01D5 If the Nebraska Department of Education disapproves the school district's or approved cooperative's application, the school district or approved cooperative may appeal to the U.S. Secretary of Education. The school district or approved cooperative shall file a notice for appeal within 20 days after the school district or approved cooperative has been notified by the Nebraska Department of Education of the results of the hearing. If supported by substantial evidence, the findings of the Nebraska Department of Education shall be final.

012.01D6 The Nebraska Department of Education will make available at reasonable times and places all records of the Department pertaining to any review or appeal the school district is conducting under 34 CFR 76.401 including records of other school districts or approved cooperatives.

012.02 IDEA Base Flow-through Allocation

012.02A First priority for use of the school district or approved cooperative IDEA base flow-through allocation is early childhood special education (Below Age Five programs and transportation).

012.02A1 IDEA base flow-through allocation can be considered in calculating the maximum amount of funds available under 92 NAC 51-012.07A.

012.02B The IDEA base flow-through allocation is distributed to school districts or approved cooperatives based on federal regulations implementing Part B of the IDEA.

012.02C The fiscal year for early childhood special education programs shall be September 1 to August 31.

012.03 The following additional reports shall be submitted to the Nebraska Department of Education for early childhood special education (Below Age Five):

012.03A Final Financial Reports

012.03A1 The Nebraska Department of Education shall make payments to school districts and approved cooperatives based on an approved IDEA Application and requests for payments submitted and supported with documentation. If applicable, a supplemental final grant payment will be made to qualifying school districts based on the Below Age Five final financial reports submitted to the Nebraska Department of Education which shall include the following:

012.03A1a Allowable expenditures for the appropriate school fiscal year;

012.03A1b A list of all special education staff and their FTE;

012.03A1c Tuition received from contracts and other sources;

012.03A1d Certification of authorized officer of the school board or authorized official of an approved cooperative that the reported expenditures have been paid; and

012.03A1e A copy of the billings from the service agencies for contracted programs.

012.03A2 Final financial reports shall be submitted to the Nebraska Department of Education on or before October 1 of each year for the preceding fiscal year.

012.03A3 A school district or approved cooperative paid for ineligible expenditures shall be required to return to the Nebraska Department of Education the amount determined to be ineligible; repayment of funds equal to the amount determined to be ineligible shall be made with non-federal funds and in no case may federal funds be used to refund the amount found to be misspent or misapplied.

012.03A4 The Nebraska Department of Education shall withhold any payments provided under Neb. Rev. Stat. §79-1132 to school districts or approved cooperatives which, after final determination, received funds in excess of the appropriate allocation for the previous year(s). Payments which are withheld shall be no greater than the amount of overpayment. The Department of Education shall maintain an accurate account and a record of the reasons for such overpayments and the manner in which adjustments were made.

012.03A5 Allowable costs incurred for children with disabilities below age five shall be considered as total excess cost. The Nebraska Department of Education shall provide grants for the costs of the special education programs approved by the Nebraska Department of Education to the school district of residence for children with disabilities who are less than five years of age. The grants shall be one hundred percent of the costs of such programs and shall continue to be one hundred percent as long as the funding for such grants comes from federal funds. If federal funding pursuant to the Individuals with Disabilities Education Act, Part B and section 619 base flow-through allocation funds are inadequate at any time to pay one hundred percent of the allowable costs of such programs and transportation, the amount of the grant payments provided by the

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department shall be a pro rata amount as determined by the State Board of Education from appropriations for special education approved by the Legislature and based on such allowable costs for all special education programs and transportation to children with disabilities who are less than five years of age.

012.03A6 The Nebraska Department of Education may make a supplemental payment to a school district or approved cooperative not able to achieve the Department's annually established Below Age Five funding threshold through a combination of IDEA base and enrollment and poverty flow-through allocations. Contingent upon available federal funds, this annual threshold will be at least the same percentage of funding as is available through state general funds for school age services for that year.

012.04 Allowable Costs

012.04A The allowable costs for special education services are restricted to the following items, which shall be documented and are subject to audit:

012.04A1 Salaries of special education personnel as per 92 NAC 51-010 and clerical personnel directly associated with special education programs;

012.04A2 School district or approved cooperative share of fringe benefits for the special education staff;

012.04A2a Fringe benefits shall be limited to social security, retirement programs, workers' compensation, health, life, long term disability, and unemployment insurance.

012.04A3 Inservice costs directly related to the special education programs, provided that;

012.04A3a Allowable inservice expenditures are costs directly related to special education programs. Allowable activities must be designed to contribute to the professional growth and competence of staff serving children with disabilities and their parents through workshops, demonstrations, and school visits. Tuition and expenses of attending special education courses for college credit are not allowed.

012.04A3b Allowable costs include: presenter fees and expenses, mileage, board and room of staff to attend inservice programs, costs of substitutes for staff attending inservice programs, costs of inservice programs which directly assist regular educators in providing appropriate programs for children with verified disabilities in their classrooms, and costs of special education workshop attendance.

012.04A3c Costs of attending meetings conducted by organizations where only organizational business is conducted is not an allowable expense.

012.04A4 Travel costs incurred by the school district or approved cooperative in delivering the special education programs including costs for:

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- 012.04A4a Children attending nonpublic schools who are required to leave the nonpublic school to receive special education and related services.
- 012.04A4b Children who are assigned to more than one attendance center to receive special education.
- 012.04A5 Travel costs incurred by parents to attend educational planning meetings held outside the resident district which are necessary to provide a free appropriate public education or to visit their child who is assigned to a residential program outside the district as agreed upon through the IEP process;
- 012.04A6 Costs of transporting children with disabilities which are authorized under Neb. Rev. Stat. §79-1129 and Section 014 are budgeted and claimed separately;
- 012.04A7 Instructional equipment including assistive technology devices and equipment, supplies and publications necessary to aid the child in accomplishing the goals and objectives of the individual education program (IEP) or IFSP are allowable under this Chapter. The equipment, supplies, and publications shall be used by the child in association with the implementation of the child's IEP, IFSP or evaluation. This shall also include equipment, supplies, and publications used by staff when instructing children with verified disabilities; when evaluating children who are suspected of having disabilities; or when reevaluating children with verified disabilities. Allowable and reimbursable costs shall include printing, publication and postage costs that are necessary to carry out the provisions of this Chapter. This shall not include personal equipment and supplies or life support equipment and supplies. When equipment is used for purposes other than for special education, the school district or approved cooperative shall only claim the applicable prorated portion for special education payment;
- 012.04A8 Those contracted special education services in which children with disabilities are served by a service provider whose special education programs and rates have been approved by the Commissioner of Education or designee;
- 012.04A9 Facility costs for Below Age Five Programs are limited to plant operations, maintenance, repairs, and lease costs. A total facility square footage cost may also be claimed for facilities owned by the school district or approved cooperative that are being utilized for ECSE programs. When determining square footage costs, expenditures for facility improvements must be excluded;
- 012.04A10 Utilities; and
- 012.04A11 Cost for support services as defined in Neb. Rev. Stat. §79-1125.01 and 92 NAC 51-003.59 and identified in 92 NAC 51-011.05 as the Flexible Funding Option.
- 012.04A11a Allowable support services must meet the requirements of 34 CFR 300.226 (coordinated early intervening services).

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012.05 Program Cost Limitations

012.05A Supervision of early childhood special education programs is allowable as an expenditure for up to an amount not to exceed 8% of the school district's or approved cooperative's allowable special education program costs, minus the cost of program supervision. Supervision of early childhood special education programs includes clerical costs associated with supervision of early childhood special education programs; also refer to Supervision of School Age Special Education programs contained in 92 NAC 51-011.02C.

012.05B The cost of a superintendent or a principal, hired for the purpose of supervising general education, shall not be included in costs for below age five and school age special education programs.

012.05C Any IDEA funds remaining after meeting Below Age Five obligations or at the option of the school district or approved cooperative, funds used for Coordinated Early Intervening Services (CEIS) pursuant to 92 NAC 51-012.07A, may be used by the school district or approved cooperative for other allowable costs associated with serving children with disabilities, ages 5 to 21.

012.06 IDEA Enrollment and Poverty Flow-through Allocation

012.06A As per federal regulations, the enrollment and poverty flow-through allocation is distributed to school districts or approved cooperatives as follows:

012.06A1 85% on the basis of the number of children enrolled in public and nonpublic elementary schools and secondary schools within the jurisdiction of the district; and

012.06A2 15% in accordance with the number of children living in poverty within the jurisdiction of the district as determined by the Nebraska Department of Education.

012.06B A combination of IDEA base and IDEA Enrollment and Poverty allocations will be used by school districts or approved cooperatives to achieve the annual threshold as specified in 92 NAC 51-012.03A6.

012.06C Funds may be used to supplement school age and below age five special education allowable costs not covered by state or federal payments (Refer to 92 NAC 51-012.04 and 012.05).

012.06C1 School districts or approved cooperatives shall complete an annual application and following approval by the Nebraska Department of Education, the school district or approved cooperative may request payment for reimbursement of allowable special education expenditures.

012.06C2 School districts or approved cooperatives may receive funding by submitting requests for payment to NDE supported with documentation.

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012.06C3 Funds shall be used only to pay the excess cost of providing special education and related services to children with disabilities except for purposes specified in 92 NAC 51-012.07A, and shall be used to supplement State, local and other federal funds and not to supplant such funds.

012.06C3a For purposes of 92 NAC 51-012, school district or approved cooperative eligibility for IDEA funds is determined by annually calculating separately both an elementary and secondary average per pupil expenditure (APPE).

012.06C3b A school district or approved cooperative meets the IDEA excess cost requirement if it has spent at least a minimum average elementary or secondary amount (APPE) for the education of its children with disabilities before funds under Part B are used.

012.06C4 Minor building modifications are allowable costs if approved through the Enrollment/Poverty Supplemental application process.

012.06C5 When expenditures are for resources benefiting all children, costs attributed to IDEA shall be on a prorata basis.

012.06C6 IDEA Enrollment and Poverty flow-through allocation can be considered in calculating the maximum amount of funds available under 92 NAC 51-012.07A.

012.06D An educational service unit, cooperative, or regional planning entity recognized by the State Board of Education pursuant to Neb. Rev. Stat. §79-1135 may receive grant funding if a school district or approved cooperative authorizes through a signed certification the release of all or a portion of the school district or approved cooperative IDEA allocation to said entity.

012.07 Special Considerations

012.07A Except as provided in 34 CFR 300.646 provision of IDEA Coordinated Early Intervening Services (CEIS) are voluntary for school districts and approved cooperatives receiving an IDEA allocation. Such services are limited to 15% of the school district or approved cooperative yearly IDEA allocations and are to be designed for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade 3) who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment.

012.07B When implementing IDEA CEIS, a school district may carry out activities that include:

012.07B1 Professional development (which may be provided by entities other than a school district or approved cooperative) for teachers and other school staff to enable such personnel to deliver scientifically based academic instruction and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and

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- 012.07B2 Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.
- 012.07C Each school district or approved cooperative that develops and maintains CEIS shall annually report the following information to the Department of Education:
- 012.07C1 The number of students served; and
- 012.07C2 The number of students served who subsequently receive special education and related services during the preceding two year period.
- 012.07D Payments for CEIS shall be contingent upon meeting the reporting requirements of 92 NAC 51-012.07C.
- 012.07D1 Payments for CEIS will be made according to 92 NAC 51-012.06C2.
- 012.07E Nothing in this subsection shall be construed to limit or create a right to a free appropriate public education under 92 NAC Rule 51.
- 012.07F Related services for children with verified disabilities are allowable if the services are listed in the IEP and are required to assist the child to benefit from his/her special education program.
- 012.07G Payments to a school district or approved cooperative contracting for special education services shall be limited to rates approved by the Commissioner of Education or designee.
- 012.07H Late submission of required forms will be subject to the procedures specified in 92 NAC 51-004.14.
- 012.08 Expenditures for Parentally-Placed Nonpublic School Children
- 012.08A To meet the requirement of 92 NAC 51-015.03C, each school district or approved cooperative must spend at least the following on providing special education and related services (including direct services) to parentally-placed nonpublic school children with disabilities:
- 012.08A1 For children aged 3 through 21, an amount that is the same proportion of the school district's or approved cooperative's total subgrant under section 611(f) of the IDEA as the number of nonpublic school children with disabilities aged 3 through 21 who are enrolled by their parents in nonpublic including religious, elementary schools and secondary schools located in the school district served by the school district or approved cooperative is to the total number of children with disabilities in its jurisdiction aged 3 through 21.
- 012.08A2 For children aged three through five, an amount that is the same proportion of the school district or approved cooperative's total subgrant under section 619(g) of the IDEA as the number of parentally-placed nonpublic school children with disabilities aged three through five who are enrolled by their parents in a nonpublic, including religious, elementary school located in the school district served by the school district or approved cooperative, is to the total number of children with disabilities in its jurisdiction aged three through five.

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012.08A2a Children aged three through five are considered to be parentally-placed nonpublic school children with disabilities enrolled by their parents in nonpublic, including religious, elementary schools, if they are enrolled in a nonpublic school that meets the definition of elementary school in section 34 CFR 300.13.

012.08B If a school district or approved cooperative has not expended all of the funds described in 92 NAC 51-012.08A1 and 012.08A2 by the end of the fiscal year for which Congress appropriated the funds, the school district or approved cooperative must obligate the remaining funds for special education and related services (including direct services) to parentally-placed nonpublic school children with disabilities during a carry-over period of one additional year.

012.08C In calculating the proportionate amount of Federal funds to be provided for parentally-placed nonpublic school children with disabilities, the school district or approved cooperative, after timely and meaningful consultation with representatives of nonpublic schools under 92 NAC 51-015.03D, must conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending nonpublic schools located in the school district or approved cooperative.

012.08D Each school district or approved cooperative must, after timely and meaningful consultation with representatives of parentally-placed nonpublic school children with disabilities (consistent with 92 NAC 51-015.03D) determine the number of parentally-placed nonpublic school children with disabilities attending nonpublic schools located in the school district or approved cooperative. The count is conducted on December 1 of each year.

012.08D1 The count must be used to determine the amount that the school district or approved cooperative must spend on providing special education and related services to parentally-placed nonpublic school children with disabilities in the next subsequent fiscal year.

012.08E State and local funds may supplement and in no case supplant the proportionate amount of Federal funds required to be expended for parentally-placed nonpublic school children with disabilities under this Chapter.

012.08F Eligible school districts and approved cooperatives shall submit a budget and narrative for serving nonpublic school children as part of an approved IDEA Consolidated Application.

012.08F1 Requests for payments may be submitted to NDE with supporting documentation.

012.09 Children with Disabilities Who Are Covered by Public Benefits or Insurance

012.09A A school district or approved cooperative may use the Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under this Chapter, as permitted under the Medicaid in Public Schools (MIPS) (Neb. Rev. Stat. §43-2511), except as provided in 92 NAC 51-012.09B.

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012.09B With regard to services required to provide FAPE to an eligible child under Part B, the school district or approved cooperative:

012.09B1 May not require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive FAPE under this Chapter;

012.09B2 May not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to this Chapter, but pursuant to 92 NAC 51-012.10C2 of this section, may pay the cost that the parents otherwise would be required to pay;

012.09B3 May not use a child's benefits under a public benefits or insurance program if that use would:

012.09B3a Decrease available lifetime coverage or any other insured benefit;

012.09B3b Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school;

012.09B3c Increase premiums or lead to the discontinuation of benefits or insurance; or

012.09B3d Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

012.10 Use of Part B Funds

012.10A If a school district or approved cooperative is unable to obtain parental consent to use the parents' private insurance, or public benefits or insurance when the parents would incur a cost for a specified service required under this Chapter, to ensure FAPE the school district or approved cooperative may use its Part B funds to pay for the service.

012.10B To avoid financial cost to parents who otherwise would consent to use private insurance, or public benefits or insurance if the parents would incur a cost, the school district or approved cooperative may use its Part B IDEA funds to pay the cost that the parents otherwise would have to pay to use the parents' benefits or insurance (e.g., the deductible or co-pay amounts).

012.10C Proceeds from public benefits or insurance or private insurance.

012.10C1 Proceeds from public benefits or insurance or private insurance will not be treated as program income for the purposes of 34 CFR 80.25.

012.10C2 If a school district or approved cooperative spends reimbursements from Federal funds (e.g., Medicaid) for services under this part, those funds will not be considered "State or local" funds for purposes of the maintenance of effort provisions in 92 NAC 51-012.01C.

012.11 Prior to accessing Public Benefits or Insurance or Private Insurance, school districts or approved cooperatives must meet requirements contained in 92 NAC 51-009.09A or 009.09B.

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013 Contracted Programs

013.01 Special education programs and support services may be provided by contracting with another school district, approved cooperative, or with a Nebraska Department of Education provisionally approved service provider. Responsibility for compliance with state and federal regulations for programs for children with disabilities remains with the school district.

013.02 The school district of residence or approved cooperative shall be responsible for the development and maintenance of the IEP, and the participation in all IEP meetings and shall assure that IEP meetings are arranged with the contracted program and the parents. Such arrangements may include meetings with the contracted program, the school district, the approved cooperative, and the parent. Meetings may occur within the district, at the contracted program site or another site if more appropriate.

013.02A The parent, the school district, and a contracted program representative shall be involved in any decision about the IEP.

013.02B The expenditures for special education contractual services shall be considered for payment of allowable costs under the following conditions:

013.02B1 The services claimed by the school district or approved cooperative were provided by contracted programs whose service(s) and rate(s) were provisionally approved by the Nebraska Department of Education.

013.02C The school district or approved cooperative will be allowed a forty-five (45) calendar day grace period when entering into contracts with programs not provisionally approved by the Nebraska Department of Education. Within this forty-five day grace period a school district or approved cooperative is responsible for notifying the program of the application and approval requirements of the Nebraska Department of Education.

013.02C1 If the contracted program, other than a school district or approved cooperative fails to submit an application within the forty-five (45) calendar day grace period, the school district or approved cooperative is required to seek and obtain placement for the child in a provisionally approved program within fourteen (14) calendar days following the expiration of the grace period. If the agency's application for approval is denied by the Nebraska Department of Education, the school district or approved cooperative is required to seek and obtain placement for the child in a provisionally approved program within fourteen (14) calendar days following notification of the denial.

013.02C2 The cost of services provided by a contracted program which is not granted provisional approval by the Nebraska Department of Education will not be reimbursed.

013.02D The school district or approved cooperative and the provisionally approved contracted program shall enter into a contract which shall include but need not be limited to:

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- 013.02D1 A description of the services to be provided;
 - 013.02D2 Names of children to be served;
 - 013.02D3 A cost schedule for the services; and
 - 013.02D4 The Nebraska Department of Education service code and agency code for the service(s) provided.
- 013.02E The school district or approved cooperative shall have on file a signed copy of the contract.
- 013.02F The school district or approved cooperative shall monitor the progress of those children for whom they have contracted. For each child contracted for services, the school district or approved cooperative shall maintain within the school district or approved cooperative all applicable records as follows: a record of all referral information, notice to parents, parent notice and consent for initial evaluation, multidisciplinary evaluation team report, notification of IEP meeting, the individual education program, parent notice and consent for initial placement, notice of change of placement or program termination, notice of reevaluation, and other supportive data. School districts or approved cooperatives may elect to enter into agreements with provisionally approved contracted programs for the proper maintenance and protection of personally identifiable data on children with disabilities.
- 013.02G The school district or approved cooperative shall be liable for the payment of the educational costs for the placement of a child in a program not operated by the school district or approved cooperative when:
- 013.02G1 The school district or approved cooperative initiated the placement; or
 - 013.02G2 The school district or approved cooperative has agreed to the placement; or
 - 013.02G3 The school district or approved cooperative is party to a decision under 92 NAC 55 which requires such placement and which has not been appealed by the school district or approved cooperative; or
 - 013.02G4 The school district or approved cooperative has been a party to litigation resulting in a court order requiring the placement.
- 013.03 Nebraska Department of Education Provisionally Approved Service Provider Responsibility
- 013.03A With the exception of inservice providers and consultants who provide special education training for parents and staff which directly assist in providing appropriate programs for children with verified disabilities, all service providers contracting with a school district or approved cooperative shall seek approval and obtain a provisionally approved rate, service code, and agency code for such services.
 - 013.03B The school district or approved cooperative shall pay an amount equal to the average per pupil cost (program per pupil cost) of the service agency of the preceding year or the cost as agreed upon pursuant to the contract to the agency providing the educational program for each child with a disability.

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013.03C Service providers who request reimbursable rates exceeding NDE established rates shall submit, on forms provided by the Nebraska Department of Education, the following:

013.03C1 Personnel and their qualifications;

013.03C2 A cost schedule for services (for allowable costs, see Sections 011 and 012);

013.03C3 A written description of services;

013.03C4 Separation of sectarian educational costs and non-sectarian educational costs, if applicable;

013.03C5 Separation of the cost of residential care costs from the cost of the educational program, if applicable;

013.03C6 Documentation of conformance with building codes and safety requirements, if applicable; and

013.03C7 For Educational Service Units, a final report of expenditures which is due within 45 days after the service provider's fiscal year end.

013.03D Service providers who request reimbursable rates at or below NDE established rates shall submit, electronically via the NDE website to the Nebraska Department of Education, the following:

013.03D1 Personnel and their qualifications;

013.03D2 A cost schedule for services;

013.03D3 A written description of services; and

013.03D4 Documentation of conformance with building codes and safety requirements, if applicable.

013.03E Service providers must have on file a copy of the child's current IEP.

013.03F Service providers shall provide reasonable notice to the school district or approved cooperative prior to termination of services by the provider.

013.03G Service providers shall not be considered provisionally approved until the Commissioner of Education or designee grants such approval.

013.03H Service providers shall be considered for provisional approval annually.

013.03I When residential care is required for a child to attend an education program, the education program must be approved by the Commissioner of Education or designee prior to approval for residential care.

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014 Special Education Transportation

014.01 The board of education shall furnish one of the following types of services to children with disabilities who are residents of the school district:

014.01A Provide transportation for any child with a disability who is forced to leave the school district temporarily because of lack of educational services; and

014.01B Provide transportation within the school district for any child with a disability who is enrolled in a special education program of the district when either:

014.01B1 The child is required to attend a facility other than what would be the normal school of attendance of the child to receive appropriate special education services; or

014.01B2 The nature of the child's disability is such that special education transportation is required.

014.01C The board of education shall provide transportation for all children with disabilities birth to age five including children birth to age five who are wards of the court.

014.01D Transportation for Parentally-Placed Non-Public School Children

014.01D1 If necessary for the child to benefit from or participate in the services provided under this Chapter, a parentally-placed nonpublic school child with a disability must be provided transportation:

014.01D1a From the child's school or the child's home to a site other than the nonpublic school; and

014.01D1b From the service site to the nonpublic school, or to the child's home, depending on the timing of the services.

014.01D2 School districts or approved cooperatives are not required to provide transportation from the child's home to the nonpublic school.

014.01D3 The cost of transportation may be included in calculating whether the school district or approved cooperative has met the requirement of 92 NAC 51-012.08.

014.02 Responsibility for Transportation

014.02A The board of education shall be responsible to provide for the transportation expenses of children with disabilities who are residents of the school district under Neb. Rev. Stat. §79-1129 by:

014.02A1 Paying a parent for transporting his or her child for actual miles traveled and claimed; or

014.02A2 Operating vehicles for the purpose of transporting children with disabilities; or

014.02A3 Contracting for transportation services for children with disabilities; or

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- 014.02A4 Purchasing services from a common carrier; or
- 014.02A5 Arranging for such other transportation as is proper and necessary to transport children with disabilities.
- 014.02B The board of education shall select an efficient and effective means of transportation for the child with a disability at a reasonable cost.
- 014.02C The board of education shall not provide for the transportation expenses of children with a disability who are residents of the school districts under Neb. Rev. Stat. §79-1129 if such children are able to use regular transportation services provided by the district unless:

 - 014.02C1 Alteration of the routes of such regular transportation is required to transport children with a disability; or
 - 014.02C2 Alteration is required of the equipment or vehicles used in such regular transportation in order to accommodate children with a disability.
- 014.02D The board of education shall provide for expenses equal to the statutory amount for each mile or fraction thereof traveled between the place of residence and the program of attendance when a parent transports his or her child(ren) with a disability. (Refer to Neb. Rev. Stat. §§79-1129 and 81-1176.)
- 014.02E Except when a parent is transporting only his or her child, the board of education shall require that the driver and vehicle meet the standards required by 92 NAC 91 and 92.
- 014.02F For students with disabilities participating in the Option Enrollment Program under Neb. Rev. Stat. §§79-232 to 79-246, the transportation services included on the student's IEP shall be provided by the district from which the student optioned. The Department shall reimburse the district from which the student optioned for the cost of transportation in accordance with Section 014.
- 014.03 Allowable Expenses

 - 014.03A The school district or approved cooperative shall provide for the transportation expenses of children with a disability transported by the parents of such children, upon receipt of claims submitted to the board of education by such parents. Such claims shall be documented and subject to audit. The claims shall:

 - 014.03A1 State the names of the children transported, the dates they were transported, the mileage incurred in such transportation; and
 - 014.03A2 Contain a statement that the claim is a true and correct report of mileage; and
 - 014.03A3 Include the signature of the parent.

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- 014.03B The school district or approved cooperative shall not be relieved of the obligation to provide transportation for an eligible child with a disability because of the inability or unwillingness of the child's parents to provide transportation. No eligible child with a disability may be denied or have limitations placed on the child's receipt of special education services required by an IEP as a result of the inability or unwillingness of parents to provide transportation.
- 014.03C The school district or approved cooperative shall provide for the expenses or the equivalent costs for transportation from the child's legal residence (the residence of the parent(s)) or the Nebraska Department of Education approved residential placement, to the child's program.
- 014.03D A school district or approved cooperative may apply to the Department of Health and Human Services for reimbursement of transportation costs for the school age student who was made a ward of the state or court prior to his or her arrival in that school district.
- 014.03E When the school district or approved cooperative provides for transportation expenses under Neb. Rev. Stat. §79-1129 for children with a disability who are residents of the school district by utilizing vehicles operated by the school district, it shall include those transportation expenses below which are directly related to the vehicles used to transport special education children:
- 014.03E1 Salaries and fixed charges of drivers and necessary aides;
 - 014.03E2 Vehicle operational supplies;
 - 014.03E3 Vehicle repairs and maintenance;
 - 014.03E4 Vehicle lease costs;
 - 014.03E5 Vehicle insurance related to the transportation of children with a disability;
 - 014.03E6 Documented administrative expenses of those engaged or employed for the purpose of supervising the transportation of children with a disability, their assistants, and clerical personnel but not including expenses for those engaged in general school or special education administration;
 - 014.03E7 Such depreciation as is allowed in 92 NAC 51-014.04;
 - 014.03E8 Those expenses attributable to an alteration of routes;
 - 014.03E9 Those expenses attributable to alterations in equipment of vehicles, which must be depreciated; and
 - 014.03E10 Facility expenses relating to the maintenance of vehicles used for transporting children with a disability. Transportation facility expense for purposes other than maintenance are not allowable reimbursable items. Maintenance includes such activities as repair, cleaning, greasing, fueling, and inspecting vehicles for safety. If a facility is used for purposes other than maintenance of vehicles used to transport children with a disability, expenses must be listed separately so that only those costs attributed to the maintenance of special education vehicles are included.

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014.03F If income is derived from a transportation service provided under Neb. Rev. Stat. §79-1129 such income shall be used to offset expenses listed above to the extent of such income.

014.03G The Nebraska Department of Education shall allow a per mile cost for operating vehicles by using the categories of allowable expenses in 92 NAC 51-014.03 divided by the actual mileage the vehicle was driven for each fiscal year or the mileage rate provided in Neb. Rev. Stat. §81-1176. This procedure may be used in lieu of 92 NAC 51-014.03E.

014.03H The costs used must be adequately documented by the school district for review by the Nebraska Department of Education.

014.03I Detailed mileage logs must be maintained by the school district or approved cooperative and be available for review by the Nebraska Department of Education.

014.03J Undocumented expenses or mileage will not be allowed.

014.04 Depreciation

014.04A The school district or approved cooperative shall claim as a depreciation deduction a reasonable allowance for depreciation of:

014.04A1 Vehicles owned by the district, or portion of vehicles, or other capital assets owned by the district used in the transportation of children with a disability under Neb. Rev. Stat. §79-1129; and

014.04A2 Other capital expenditures required in the alteration of vehicles used in the transportation of children with a disability under Neb. Rev. Stat. §79-1129.

014.04B An allowance for depreciation shall be based on a reasonable useful life span of an item at the time of acquisition or for previous district owed vehicles, the fair market value of the item when placed into special education service so that the amount set aside each year for depreciation plus the estimated salvage value, will, at the end of the useful life of the item, equal the cost of the item.

014.04B1 It shall be presumed that the reasonable period of depreciation for a new conventional school bus is seven years and that of a new small vehicle is three years.

014.04B2 If any school district or approved cooperative determines that the periods of depreciation set forth above are not reasonable because of the type of vehicles in use, the school district or approved cooperative may request alternate periods of depreciation for such vehicles, along with supporting reasoning in an application to the Nebraska Department of Education.

014.04B3 Capital expenditures in excess of two thousand dollars (\$2000) require a depreciation schedule approved by NDE.

014.04B4 The allowance for depreciation must be claimed in the fiscal year in which the vehicle was used.

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014.04B5 When equipment is used for purposes other than for special education transportation, the school district or approved cooperative shall only claim the applicable prorated portion for special education payment.

014.04C When a depreciable item is disposed of or used for a purpose other than the transportation of children with a disability under Neb. Rev. Stat. §79-1129, the fair market value of such item shall be considered its actual salvage value.

014.04C1 Any actual salvage in excess of estimated salvage value shall be set off against any payments due to the board under Neb. Rev. Stat. §79-1129 and 79-1144.

014.04C2 When the actual salvage value is less than the estimated salvage value, then an expense for such difference shall be allowable under 92 NAC 51-014.04B.

014.04C3 When vehicles are not disposed of in a cash sale, recognized retail book values, such as the Used Car Guide of the National Automobile Dealers Association shall be evidence of fair market value unless a board of education demonstrates that it is not appropriate to use such recognized book values on a particular vehicle because of the condition or type of the vehicle in question.

014.04C4 A depreciation schedule shall be maintained by the district or approved cooperative as long as they own the vehicle.

014.05 Other Conditions

014.05A The fiscal year for school age and early childhood special education (Below Age Five) transportation shall be from September 1 to August 31.

014.05B Based on claim forms submitted reflecting the allowable costs of transporting children with disabilities, the Nebraska Department of Education will reimburse each school district or approved cooperative a pro rata amount determined by the State Board of Education from appropriations for special education approved by the Legislature. For early childhood special education (Below Age Five) transportation, refer to 92 NAC 51-014.05H. Transportation claim forms shall be submitted on or before September 30 of each year according to the provisions of 92 NAC 51-011.04C3 and 011.04C4. Forms are available at the Nebraska Department of Education.

014.05C Reimbursement to a school district or approved cooperative whose Special Education Transportation Final Claim Form is submitted to the Nebraska Department of Education after the due date shall be subject to the procedures specified in 92 NAC 51-004.14.

014.05D All transportation claims shall be documented and are subject to audit.

014.05E For payment for costs associated with the transportation of children below the age of five with a disability who are wards of the court, refer to 92 NAC 51-014.05H.

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- 014.05F Supplementary amendments to any Special Education School Age Transportation Final Claim Form previously approved by the Nebraska Department of Education may be submitted to the Nebraska Department of Education for review and approval within three years of the original due date. Approved amendments may be submitted by the Nebraska Department of Education to the Legislature for consideration of a supplemental appropriation.
- 014.05G Payments authorized by Neb. Rev. Stat. §79-1144 shall be made only to a school district or approved cooperative.
- 014.05H IDEA Base flow-through allocation (92 NAC 51-012.02) and the IDEA Enrollment and Poverty Allocation (92 NAC 51-012.06) are to be used to fund costs for transporting children with disabilities below the age of five.
- 014.05I Expenditure of IDEA Allocations shall be in accordance with 92 NAC 51-012.06C3, 012.06C4, and 012.06C5.

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015 Children with Disabilities Attending Nonpublic Schools

015.01 Children Placed In or Referred To a Nonpublic School or Facility by the School District or Approved Cooperative As a Means of Providing Special Education and Related Services

015.01A School districts or approved cooperatives shall ensure that a child with a disability who is placed in or referred to a nonpublic school or facility by a school district:

015.01A1 Is provided special education and related services in conformance with an IEP that meets the requirements of Section 007 at no cost to the parents;

015.01A2 Is provided an education that meets the standards that apply to education provided by the school district or approved cooperative including the requirements of this Chapter except 92 NAC 51-003.62; and

015.01A3 Has all of the rights of a child with a disability who is served by a school district or approved cooperative.

015.01B The school district or approved cooperative is responsible for initiating and conducting meetings for the purpose of developing, reviewing and revising an IEP for a child with a verified disability.

015.01B1 Before a school district or approved cooperative places a child with a disability in, or refers a child to, a nonpublic school or facility, the school district or approved cooperative shall initiate and conduct a meeting to develop an IEP for the child in accordance with Section 007.

015.01B2 After a child with a disability enters a nonpublic school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the nonpublic school or facility at the discretion of the school district or approved cooperative.

015.01B3 If the nonpublic school or facility initiates and conducts these meetings, the school district or approved cooperative shall ensure that the parents and nonpublic representative:

015.01B3a Are involved in any decision about the child's IEP; and

015.01B3b Agree to any proposed changes in the IEP before those changes are implemented.

015.02 Children Placed In a Nonpublic School by Parents As a Means of Obtaining Special Education and Related Services; FAPE is At Issue

015.02A This Chapter does not require a school district or approved cooperative to pay for the cost of education, including special education and related services, of a child with a disability at a nonpublic school or facility if that school district or approved cooperative made FAPE available to the child and the parents elected to place the child in a nonpublic school or facility as a means of obtaining special education and related services. However, the school district or approved cooperative shall include that child in the population whose needs are addressed consistent with 92 NAC 51-015.03.

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015.02B Disagreements between a parent and a school district or approved cooperative regarding the availability of a program appropriate for the child, and the question of financial reimbursement, are subject to the due process procedures of 92 NAC 55.

015.02B1 If the parents of a child with a disability, who previously received special education and related services under the authority of the school district or approved cooperative, enroll the child in a nonpublic preschool, elementary or secondary school as a means of obtaining special education and related services without the consent of or referral by the school district or approved cooperative, a court or a hearing officer may require the school district or approved cooperative to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the school district or approved cooperative had not made a free appropriate public education available to the child in a timely manner prior to that enrollment and that the private placement is appropriate.

015.02B1a A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the school district or approved cooperative.

015.02C The cost of reimbursement described in 92 NAC 51-015.02B1 may be reduced or denied if:

015.02C1 At the most recent IEP team meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP team that they were rejecting the placement proposed by the school district or approved cooperative to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a nonpublic school at public expense; or

015.02C2 At least 10 business days (including any holidays that occur on a business day), prior to the removal of the child from the public school or approved cooperative, the parents did not give written notice to the school district of the information described in 92 NAC 51-015.02C1; or

015.02C3 If prior to the parents' removal of the child from the public school, the school district or approved cooperative informed the parents, through the notice requirements described in 92 NAC 51-009.05, of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or

015.02C4 Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

015.02D Notwithstanding the notice requirement in 92 NAC 51-015.02C1 and 015.02C2, the cost of reimbursement:

015.02D1 Must not be reduced or denied for failure to provide the notice if:

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- 015.02D1a The school district or approved cooperative prevented the parents from providing the notice;
- 015.02D1b The parents had not received notice, pursuant to 92 NAC 51-009.06 of the notice requirement in 92 NAC 51-015.02C1 and 015.02C2; or
- 015.02D1c Compliance with 92 NAC 51-015.02C1 and 015.02C2 would likely result in physical harm to the child; and
- 015.02D2 May, in the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if:
- 015.02D2a The parents are not literate or cannot write in English; or
- 015.02D2b Compliance with paragraph 92 NAC 51-015.02C1 and 015.02C2 of this section would likely result in serious emotional harm to the child.

015.03 Children Enrolled In a Nonpublic School by Parents If FAPE Is Not At Issue

- 015.03A Parentally-placed nonpublic school children with disabilities means children with disabilities enrolled by their parents in nonpublic, including religious schools or facilities that meet the definition of elementary or secondary school, other than children with disabilities covered in 92 NAC 51-015.01 and 015.02.
- 015.03A1 For purposes of providing equitable services utilizing IDEA funds described in 92 NAC 51-012.08:
- 015.03A1a Elementary school shall mean a school system accredited pursuant to 92 NAC 10, a nonpublic school approved pursuant to 92 NAC 14, or an interim-program school approved pursuant to 92 NAC 18 that offers instruction in any or all grades Kindergarten through eighth grade designated by the school as an elementary grades.
- 015.03A1b Secondary school shall mean a school system accredited pursuant to 92 NAC 10, a nonpublic school approved pursuant to 92 NAC 14 or an interim-program school approved pursuant to 92 NAC 18 that offers instruction in any or all grades seventh through twelfth designated by the school as a secondary grade.
- 015.03A2 For purposes of providing a Free Appropriate Public Education:
- 015.03A2a Elementary school shall mean a school system accredited pursuant to 92 NAC 10, a nonpublic school approved pursuant to 92 NAC 14 or an interim-program school approved pursuant to 92 NAC 18 that offers instruction in any or all grades Kindergarten through eighth grade designated by the school as an elementary grades and also includes children attending nonpublic schools that are exempt from approval or accreditation pursuant to 92 NAC 12 and 92 NAC 13.

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015.03A2b Secondary school shall mean a school system accredited pursuant to 92 NAC 10, a nonpublic school approved pursuant to 92 NAC 14 or an interim-program school approved pursuant to 92 NAC 18 that offers instruction in any or all grades seventh through twelfth designated by the school as a secondary grades and also includes children attending nonpublic schools that are exempt from approval or accreditation pursuant to 92 NAC 12 and 92 NAC 13.

015.03B Child find for Parentally-placed Nonpublic School Children with Disabilities

015.03B1 Each school district or approved cooperative must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in nonpublic, including religious, elementary schools and secondary schools located in the school district or approved cooperative, in accordance with 92 NAC 51-015.03B2 through 015.03B5.

015.03B2 The child find process must be designed to ensure:

015.03B2a The equitable participation of parentally-placed nonpublic school children; and

015.03B2b An accurate count of those children.

015.03B3 In carrying out the child find requirements, the school district or approved cooperative must undertake activities similar to the activities undertaken for public school children.

015.03B4 The cost of carrying out the child find requirements in this subsection, including individual evaluations, may not be considered in determining if a school district or approved cooperative has met its obligations under 92 NAC 51-012.08.

015.03B5 The child find process must be completed in a time period comparable to that for children attending public schools in the school district or approved cooperative consistent with 92 NAC 51-006.02.

015.03B6 Each school district or approved cooperative, in which one or more nonpublic, including religious, elementary schools and secondary schools are located must, in carrying out the child find requirements in this subsection, include parentally-placed nonpublic school children who reside in a State other than Nebraska.

015.03C Provision of Services for Parentally-placed Nonpublic School Children

015.03C1 To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in nonpublic including religious elementary schools and secondary schools located in the school district or approved cooperative, provision must be made for the participation of those children in the program assisted or carried out under Part B of the IDEA as amended in 2004 by providing them with special education and related services.

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015.03C1a Parentally-placed nonpublic school children with disabilities are eligible for the provision of a free appropriate public education from the school district or approved cooperative in which they reside. Services available under such circumstances are referred to as a Free Appropriate Public Education (FAPE).

015.03C1a(1) An IEP shall be developed and implemented in accordance with 92 NAC 51-007 for each resident nonpublic school child receiving FAPE.

015.03C1b Parentally-placed nonpublic school children with disabilities who are attending a nonpublic school located outside of their district of residence may receive special education and related services (referred to as equitable services) from the district in which the nonpublic school is located or a free appropriate public education (FAPE) from the district in which they reside, but not both. The decision on whether to receive equitable services or FAPE is at the discretion of the child's parent.

015.03C1b(1) In accordance with 92 NAC 51-015.03C1 and 92 NAC 51-015.03G through 015.03I, an equitable services plan must be developed and implemented for each nonresident nonpublic school child with a disability who has been designated by the school district or approved cooperative in which the nonpublic school is located to receive equitable services.

015.03C2 Each school district or approved cooperative must maintain in its records, and provide to the Nebraska Department of Education the following information related to parentally-placed nonpublic school children attending nonpublic schools located in the school district or approved cooperative:

015.03C2a The number of children evaluated;

015.03C2b The number of children determined to be children with disabilities; and

015.03C2c The number of children served.

015.03C3 Special education and related services (FAPE or equitable services) provided to parentally-placed nonpublic school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.

015.03D Consultation

015.03D1 To ensure timely and meaningful consultation, a school district or approved cooperative must consult with representatives of nonpublic schools located in the school district or approved cooperative and representatives of parents of parentally-placed nonpublic school children with disabilities attending such schools during the design and development of special education and related services (FAPE and equitable services) for the children regarding the following:

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- 015.03D1a The child find process, including:
- 015.03D1a(1) How parentally-placed nonpublic school children suspected of having a disability can participate equitably; and
 - 015.03D1a(2) How parents, teachers, and nonpublic school officials will be informed of the process.
- 015.03D1b The determination of the proportionate share of Federal funds available to serve parentally-placed nonpublic school children with disabilities available under 34 CFR 300.133(C), including the determination of how the proportionate share of those funds was calculated.
- 015.03D1c The consultation process among the school district or approved cooperative, nonpublic school officials, and representatives of parents of parentally-placed nonpublic school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services (FAPE or equitable services).
- 015.03D1d How, where, and by whom special education and related services (FAPE or equitable services) will be provided for parentally-placed nonpublic school children with disabilities, including a discussion of:
- 015.03D1d(1) The types of services, including direct services and alternate service delivery mechanisms; and
 - 015.03D1d(2) How special education and related services funded by the proportionate amount of federal funds will be apportioned if such funds are insufficient to serve all parentally-placed nonpublic school children; and
 - 015.03D1d(3) How and when those decisions will be made.
- 015.03D1e If the school district or approved cooperative disagrees with the views of the nonpublic school officials on the provision of services or the types of services (whether provided directly or through a contract), the school district or approved cooperative will provide to the nonpublic school officials a written explanation of the reasons why the school district or approved cooperative chose not to provide services directly or through a contract.

015.03E Written Affirmation

- 015.03E1 When timely and meaningful consultation, as required by 92 NAC 51-015.03D has occurred, the school district or approved cooperative must obtain a written affirmation signed by the representatives of participating nonpublic schools.
- 015.03E2 If the representatives do not provide the affirmation within a reasonable period of time, the school district or approved cooperative must forward the documentation of the consultation process to the Nebraska Department of Education.

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015.03F Complaints

015.03F1 A nonpublic school official has the right to submit a complaint to the Nebraska Department of Education that the school district or approved cooperative:

015.03F1a Did not engage in consultation that was meaningful and timely;
or

015.03F1b Did not give due consideration to the views of the nonpublic school official.

015.03F2 If the nonpublic school official wishes to submit a complaint, the official must provide to the Nebraska Department of Education the basis of the noncompliance by the school district or approved cooperative with the applicable school provisions in this Chapter; and

015.03F2a The school district or approved cooperative must forward the appropriate documentation to the Nebraska Department of Education. If the nonpublic school official is dissatisfied with the decision of the Nebraska Department of Education, the official may submit a complaint to the United States Secretary of Education by providing the information on noncompliance described in 92 NAC 51-015.03F2. The Nebraska Department of Education must forward the appropriate documentation to the United States Secretary of Education.

015.03G Equitable Services for Nonresident Nonpublic School Children Determined

015.03G1 No parentally-placed nonresident nonpublic school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

015.03G2 Decisions about the equitable services that will be provided to parentally-placed nonresident nonpublic school children with disabilities must be made in accordance with 92 NAC 51-015.03G3 and 015.03D1c.

015.03G2a The school district or approved cooperative must make the final decisions with respect to the equitable services to be provided to eligible parentally-placed nonresident nonpublic school children with disabilities.

015.03G3 If a nonresident nonpublic school child with a disability is enrolled in a religious or other nonpublic school by the child's parents and will receive equitable services from a school district or approved cooperative, the school district or approved cooperative must:

015.03G3a Initiate and conduct meetings to develop, review, and revise an equitable services plan for the child, in accordance with 92 NAC 51-015.03H; and

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015.03G3b Ensure that a representative of the religious or other nonpublic school attends each meeting. If the representative cannot attend, the school district or approved cooperative shall use other methods to ensure participation by the religious or other nonpublic school, including individual or conference telephone calls.

015.03H Equitable Services Provided to Nonresident Nonpublic School Children with Disabilities

015.03H1 The equitable services provided to parentally-placed nonresident nonpublic school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that nonpublic elementary school and secondary school teachers who are providing equitable services to parentally-placed nonresident nonpublic school children with disabilities do not have to meet the special education teacher requirements of 92 NAC 51-003.62.

015.03H2 Parentally-placed nonresident nonpublic school children with disabilities may receive a different amount of services than resident public and nonpublic school children with disabilities.

015.03H3 Each parentally-placed nonresident nonpublic school child with a disability who has been designated to receive equitable services under 92 NAC 51-015.03C1b must have an equitable services plan that describes the specific special education and related services that the school district or approved cooperative will provide to the child in light of the services that the school district or approved cooperative has determined, through the process described in 92 NAC 51-015.03C and 015.03G, it will make available to parentally-placed nonresident nonpublic school children with disabilities.

015.03H4 The equitable services plan must, to the extent appropriate:

015.03H4a Meet the requirements of 92 NAC 51-007.07A or for a child ages three through five, meet the requirements of 92 NAC 51-007.02A1 with respect to the services provided; and

015.03H4b Be developed, reviewed, and revised consistent with 92 NAC 51-007.

015.03H5 Equitable services must be provided:

015.03H5a By employees of a public school district or approved cooperative;
or

015.03H5b Through contract by the school district or approved cooperative with an individual, association, agency, organization, or other entity.

015.03I Location of Services and Transportation

015.03I1 Services (equitable or FAPE) to parentally-placed nonpublic school children with disabilities may be provided on the premises of nonpublic, including religious, schools, to the extent consistent with law.

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015.03I1a A school district or approved cooperative may lease a classroom in a nonpublic school building. If properly drafted, the lease transforms the classroom into a public school classroom during the times covered by the lease. The board of education of a public school district may offer the special education programs enumerated in Neb. Rev. Stat. §79-1127 in a leased classroom in a nonpublic school building. It does not, however, have an unqualified legal duty to do so.

015.03J Due Process and State Complaints

015.03J1 Except as provided in 92 NAC 51-015.03J2, the procedures in 92 NAC 51-009.06, 009.07, 009.10, 009.12, 009.13, 009.14 and 92 NAC 55 do not apply to complaints that a school district or approved cooperative has failed to meet the requirements of 92 NAC 51-015.03C1 through 015.03I and 92 NAC 51-014.01D and 012.08 including the provision of services indicated on the child's equitable services plan.

015.03J2 The procedures in 92 NAC 51-009.06, 009.07, 009.10, 009.12 through 009.14 and 92 NAC 55 apply to complaints that a school district or approved cooperative has failed to meet the child find requirements in 92 NAC 015.03B1, including the requirements in 92 NAC 51-009.08 and 006.

015.03J3 Any due process complaint regarding the child find requirements (as described in 92 NAC 51-015.03J2) must be served on the school district or approved cooperative in which the nonpublic school is located and filed with the Nebraska Department of Education.

015.03J4 Any complaint that the Nebraska Department of Education or school district or approved cooperative has failed to meet the requirements in 92 NAC 51-015.03C through 015.03E and 012.08 and 92 NAC 51-015.03G through 015.07 must be filed in accordance with the procedures described in 92 NAC 51-009.11.

015.03J5 A complaint filed by a nonpublic school official under 92 NAC 51-015.03F1 must be filed with the Nebraska Department of Education in accordance with the procedures in 92 NAC 51-015.03F2.

015.04 A school district or approved cooperative may not use special education funds for classes that are organized separately on the basis of school enrollment or religion of the children if:

015.04A The classes are at the same site; and

015.04B The classes include children enrolled in public schools and children enrolled in nonpublic schools.

015.05 A school district or approved cooperative may not use special education funds to finance the existing level of instruction in a nonpublic school or to otherwise benefit the nonpublic school.

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- 015.05A A school district or approved cooperative shall use the special education funds provided to meet the special education and related services (FAPE or equitable services) needs of parentally-placed nonpublic school children with disabilities but not for meeting:
- 015.05A1 The needs of a nonpublic school; or
 - 015.05A2 The general needs of the children enrolled in a nonpublic school.
- 015.06 A school district or approved cooperative may use special education funds to make public school personnel available in other than public facilities:
- 015.06A To the extent necessary to provide services designed for parentally-placed nonpublic school children with disabilities; and
 - 015.06B If those services are not normally provided by the nonpublic school.
- 015.07 A school district or approved cooperative may use special education funds to pay for the services of an employee of a nonpublic school to provide special education and related services (FAPE or equitable services) if:
- 015.07A The employee performs the services outside of his or her regular hours of duty; and
 - 015.07B The employee performs the services under public supervision and control.
- 015.08 A school district or approved cooperative may place equipment and supplies in a nonpublic school for the period of time needed for the provision of special education and related services.
- 015.08A The school district or approved cooperative shall ensure that the equipment and supplies placed in a nonpublic school:
 - 015.08A1 Are used only for the purpose of providing special education and related services; and
 - 015.08A2 Can be removed from the nonpublic school without remodeling the nonpublic school facilities.
 - 015.08B The school district or approved cooperative shall remove equipment or supplies from a nonpublic school if:
 - 015.08B1 The equipment and supplies are no longer needed for the purpose of providing special education and related services; or
 - 015.08B2 Removal is necessary to avoid unauthorized use of the equipment and supplies for other than special education purposes.
 - 015.08C No special education funds may be used for repairs, minor remodeling, or the construction of nonpublic school facilities.
- 015.09 A school district or approved cooperative must control and administer the funds used to provide special education and related services under 92 NAC 51-015.03G through 92 NAC 51-015.03I, and hold title to and administer materials, equipment, and property purchased with those funds for those uses and purposes provided in this Chapter.

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016 Disciplinary Removal of Children with Disabilities

016.01 Change of Placement for Disciplinary Removals

016.01A For the purpose of removals of a child with a disability from the child's current educational placement under Section 016, a change of placement occurs if:

016.01A1 The removal is for more than 10 consecutive school days; or

016.01A2 The child is subjected to a series of removals that constitute a pattern:

016.01A2a Because the series of removals total more than 10 school days in a school year;

016.01A2b Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and

016.01A2c Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

016.01B The school district or approved cooperative determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.

016.01B1 This determination is subject to review through due process and judicial proceedings.

016.02 Authority of School Personnel

016.02A School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of subsection 016.02 of this Chapter, is appropriate for a child with a disability who violates a code of student conduct.

016.02B School personnel under subsection 016.02 may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent these alternatives are applied to children without disabilities) and for additional removals of not more than 10 consecutive school days in the same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under 92 NAC 51-016.01).

016.02B1 After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the school district or approved cooperative must provide services to the extent required under 92 NAC 51-016.02D.

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016.02C For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to 92 NAC 51-016.02E, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures that would be applied to children without disabilities, except as provided in 92 NAC 51-016.02D.

016.02D A child with a disability who is removed from the child's current placement pursuant to 92 NAC 51-016.02C or 016.02G must:

016.02D1 Continue to receive educational services, as provided in 92 NAC 51-004.01, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

016.02D2 Receive, as appropriate, a functional behavior assessment, behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.

016.02D3 The services described in 92 NAC 51-016.02D1, 016.02D2, 016.02D4, and 016.02D5 may be provided in an interim alternative educational setting.

016.02D4 A school district or approved cooperative is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.

016.02D5 After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school days and is not a change of placement under 92 NAC 51-016.01, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed as provided in 92 NAC 51-004.01, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

016.02D6 If the removal is a change of placement under 92 NAC 51-016.01, the child's IEP team determines appropriate services under 92 NAC 51-016.02D.

016.02E Manifestation Determination

016.02E1 Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the school district or approved cooperative, the parent, and relevant members of the child's IEP team (as determined by the parent and the school district or approved cooperative) shall review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

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- 016.02E1a If the conduct in question was caused by or had a direct and substantial relationship to, the child's disability; or
- 016.02E1b If the conduct in question was the direct result of the school district's or approved cooperative's failure to implement the IEP.
- 016.02E2 The conduct must be determined to be a manifestation of the child's disability if the school district or approved cooperative, the parent, and relevant members of the child's IEP team determine that a condition in either 92 NAC 51-016.02E1a or 016.02E1b was met.
- 016.02E3 If the school district or approved cooperative, the parent, and relevant members of the child's IEP team determine the condition described in 92 NAC 51-016.02E1b was met, the school district or approved cooperative must take immediate steps to remedy those deficiencies.
- 016.02F If the school district or approved cooperative, the parent, and relevant members of the IEP team make the determination that the conduct was a manifestation of the child's disability, the IEP team must:
- 016.02F1 Either conduct a functional behavioral assessment, unless the school district or approved cooperative had conducted a functional behavioral assessment before the behavior that resulted in a change of placement occurred, and implement a behavioral intervention plan for the child; or if a behavioral intervention plan has already been developed, review the behavioral intervention plan and modify it, as necessary, to address the behavior; and
- 016.02F2 Except as provided in 92 NAC 51-016.02G, return the child to the placement from which the child was removed, unless the parent and the school district or approved cooperative agree to a change of placement as part of the modification of the behavioral intervention plan.
- 016.02G School personnel may remove a child to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child:
- 016.02G1 Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the Nebraska Department of Education or a school district or approved cooperative;
- 016.02G2 Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the Nebraska Department of Education or a school district or approved cooperative; or
- 016.02G3 Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the Nebraska Department of Education or a school district or approved cooperative.

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016.02H On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the school district or approved cooperative shall notify the parents of that decision, and provide the parents the procedural safeguards in 92 NAC 51-009.

016.03 The interim alternative educational setting in 92 NAC 51-016.02C, 016.02D and 016.02G shall be determined by the child's IEP team.

016.04 Appeals Regarding Placement in an Alternative Education Setting

016.04A The parent of a child with a disability who disagrees with any decision regarding placement, or the manifestation determination under this subsection, or a school district or approved cooperative that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, may request a hearing by filing a petition pursuant to 92 NAC 55.

016.04B A hearing officer shall hear and make a determination regarding an appeal pursuant to 92 NAC 55 requested under 92 NAC 51-016.04A.

016.04C In making the determination under 92 NAC 51-016.04B, the hearing officer may:

016.04C1 Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of 92 NAC 51-016.02 or that the child's behavior was a manifestation of the child's disability; or

016.04C2 Order a change in placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

016.04C3 The procedures under 92 NAC 51-016.04 may be repeated, if the school district or approved cooperative believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

016.04D Whenever a hearing is requested under 92 NAC 51-016.04A, the parents or the school district or approved cooperative involved in the dispute must have an opportunity for an impartial due process hearing consistent with the requirements in 92 NAC 55, except as provided in 92 NAC 51-016.04D1 through 016.04D2b.

016.04D1 The Nebraska Department of Education is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The hearing officer must make a determination within 10 school days after the hearing.

016.04D2 Unless the parents and school district or approved cooperative agree in writing to waive the resolution meeting described in 92 NAC 51-016.04D2a, or agree to use the mediation process described in 92 NAC 51-009.12 –

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016.04D2a A resolution meeting must occur within seven days of receiving notice of the due process complaint; and

016.04D2b The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process complaint.

016.04D3 The decisions on expedited due process hearings are appealable consistent with 92 NAC 55.

016.05 When an appeal under 92 NAC 51-016.04 has been requested by either the parent or the school district or approved cooperative:

016.05A The child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in 92 NAC 51-016.02C, whichever occurs first, unless the parent and the school district or approved cooperative agree otherwise.

016.06 Protections for Children Not Yet Eligible for Special Education and Related Services

016.06A A child who has not been determined to be eligible for special education and related services, and who has engaged in behavior that violates a code of student conduct of the school district or approved cooperative, may assert any of the protections provided for in this Chapter if the school district or approved cooperative had knowledge (as determined in accordance with 92 NAC 51-016.06B) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

016.06B A school district or approved cooperative shall be deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred:

016.06B1 The parent of the child has expressed concern in writing to supervisory or administrative personnel of the school district or approved cooperative, or a teacher of the child, that the child is in need of special education and related services;

016.06B2 The parent of the child requested an evaluation of the child pursuant to 92 NAC 51-006.02B1; or

016.06B3 The teacher of the child or other personnel of the school district or approved cooperative expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education of the school district or approved cooperative or to other supervisory personnel of the school district or approved cooperative.

016.06C A school district or approved cooperative shall not be deemed to have the knowledge that the child is a child with a disability if:

016.06C1 The parent of the child has not allowed an evaluation of the child pursuant to 92 NAC 51-006; or

016.06C2 The parent of the child has refused services under this Chapter; or

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016.06C3 The child has been evaluated pursuant to 92 NAC 51-006 and was determined to not be a child with a disability under this Chapter.

016.06D Conditions that Apply if No Basis of Knowledge

016.06D1 If a school district or approved cooperative does not have knowledge that a child is a child with a disability (in accordance with 92 NAC 51-016.06B or 016.06C) prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with 92 NAC 51-016.06D2.

016.06D2 If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under 92 NAC 51-016.02, the evaluation shall be conducted in an expedited manner.

016.06D2a Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

016.06D2b If a child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the school district or approved cooperative and information provided by the parents, the school district or approved cooperative must provide special education and related services in accordance with this Chapter, including the requirements of 92 NAC 51-016.

016.07 Referral to and Action by Law Enforcement and Judicial Authorities

016.07A Nothing in this Chapter shall be construed to prohibit school districts or approved cooperatives from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

016.07B A school district or approved cooperative reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the school district or approved cooperative reports the crime.

016.07C A school district or approved cooperative reporting a crime under 92 NAC 51-016.07 may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Education Rights and Privacy Act (FERPA).

Appendix A

Excerpts from the Individuals with Disabilities Education Act 2004 (IDEA 2004)

602(4) CORE ACADEMIC SUBJECTS. – The term ‘core academic subjects’ has the meaning given the term in Section 9101 of the Elementary and Secondary Education Act of 1965.

(Note: Section 9101 of the Elementary and Secondary Education Act of 1965 defines “core academic subjects” as follows:

Core Academic Subjects means English, reading or language arts, mathematics, science, foreign language, civics and government, economics, arts, history and geography.)

602(10) HIGHLY QUALIFIED. –

(A) In GENERAL – For any special education teacher, has the meaning given the term “high qualified” in Section 9101 of the Elementary and Secondary Education Act of 1965, except that such term also

- (i) includes the requirements described in Subparagraph (B); and
- (ii) includes the option for teachers to meet the requirements of Section 9101 of such Act by meeting the requirements of Subparagraph (C) and (D).

(B) REQUIREMENTS FOR SPECIAL EDUCATION TEACHERS –

When used with respect to any public elementary school or secondary school special education teacher teaching in the State, such term means that –

- (i) the teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher; except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State’s public charter school law;
- (ii) the teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
- (iii) the teacher holds at least a bachelor’s degree.

(C) SPECIAL EDUCATION TEACHERS TEACHING TO ALTERNATE

ACHIEVEMENT STANDARDS. – When used with respect to a special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate achievement standards established under the regulations promulgated under Section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, such term means the teacher, whether new or not new to the profession, may either—

- (iii) meet the applicable requirements of Section 9101 of such Act for any elementary, middle, or secondary school teacher who is new or not new to the profession; or
- (iv) meet the requirements of Subparagraph (B) or (C) of Section 9101(23) of such Act as applied to an elementary school teacher, or, in the case of instruction above the elementary level, has subject matter knowledge appropriate to the level of instruction being provided, as determined by the State, needed to effectively teach to those standards.

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- (D) SPECIAL EDUCATION TEACHERS TEACHING MULTIPLE SUBJECTS – When used with respect to a special education teacher who teaches two or more core academic subjects exclusively to children with disabilities, such term means that the teacher may either –
- (i) meet the applicable requirements of Section 9101 of the Elementary and Secondary Education Act of 1965 for any elementary, middle, or secondary school teacher who is new or not new to the profession;
 - (ii) in the case of a teacher who is not new to the profession, demonstrate competence in all the core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher who is not new to the profession under Section 9101(23)(c)(ii) of such Act, which may include a single, high objective uniform State standard of evaluation covering multiple subjects; or
 - (iii) in the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, demonstrate competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher under Section 9101(23)(c)(ii) of such Act, which may include a single, high objective uniform State standard of evaluation covering multiple subjects, not later than two years after the date of employment.
- (E) RULE OF CONSTRUCTION – Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this section or part shall be construed to create a right of action on behalf of an individual student or class of students for the failure of a school district or approved cooperative employee to be highly qualified.
- (F) DEFINITION FOR PURPOSES OF THE ESEA – A teacher who is highly qualified under this paragraph shall be considered highly qualified for purposes of the Elementary and Secondary Education Act of 1965.

602(18) LIMITED ENGLISH PROFICIENT. – The term 'limited English proficient' has the meaning given the term in Section 9101 of the Elementary and Secondary Education Act of 1965.

(Note: Section 9101 of the Elementary and Secondary Education Act of 1965 defines "Limited English Proficient" as follows:

The term "limited English proficient", when used with respect to an individual, means an individual –

- (A) *who is aged 3 through 21;*
- (B) *who is enrolled or preparing to enroll in an elementary school or secondary school;*
- (C) *(i) who was not born in the United States or whose native language is a language other than English*
(ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and
(II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
- (D) *Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual –*


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- (i) *the ability to meet the State's proficient level of achievement on State assessments described in Section 1111(b)(3);*
- (ii) *the ability to successfully achieve in classrooms where the language of instruction is English; or*
- (iii) *the opportunity to participate fully in society.)*

- 612(a)(16) **PARTICIPATION IN ASSESSMENTS. –**
(A) In General. – All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under Section 1111 of the Elementary and Secondary Education Act of 1965 with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs.
- 612(a)(16)(C)(ii)(II) If the State has adopted alternate academic achievement standards permitted under the regulations promulgated to carry out Section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, measure the achievement of children with disabilities against those standards.
- 1413(a)(9) **RECORDS REGARDING MIGRATORY CHILDREN WITH DISABILITIES. –** The local education agency shall cooperate in the Secretary's efforts under Section 1308 of the Elementary and Secondary Education Act of 1965 to ensure the linkage of records pertaining to migratory children with a disability for the purpose of electronically exchanging, among the States, health and educational information regarding such children. Scientifically based research has the meaning given the term in section 9101(37) of the ESEA.
- 614(a)(5)(A) **SPECIAL RULE FOR ELIGIBILITY DETERMINATION. –** In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is –
(A) lack of appropriate instruction in reading, including in the essential components of reading instruction (as defined in Section 1208(3) of the Elementary and Secondary Education Act of 1965;



TO: State Board of Education

FROM: Juan Román, General Counsel 
Commissioner's Appointed staff person to conduct a rule-making hearing on the proposed revisions to Title 92, Nebraska Administrative Code, Chapter 51 (Rule 51), *Regulations and Standards for Special Education Programs*

DATE: January 4, 2022

RE: Summary of Hearing on Proposed Revisions to 92 NAC 51

On November 12, 2021, the Commissioner approved a hearing draft and set a hearing date and location to conduct a hearing on the adoption of proposed revisions to Title 92, Nebraska Administrative Code, Chapter 51. By a memorandum dated November 24, 2021, the Commissioner appointed me to conduct a virtual rule hearing on this Rule on January 4, 2022, commencing at 9:00 a.m. (CT), via ZOOM. After the proper legal notice was published, this hearing was held via ZOOM. Pursuant to State Board of Education Policy B9, what follows is a written summary of the hearing testimony.

The testimony presented was recorded and recording will be made available to the State Board of Education and the public via YouTube on NDE's website.

SUMMARY OF TESTIMONY ON THE PROPOSED REVISIONS TO 92 NAC 51

Juan Román, General Counsel and the hearing official, called the hearing to order, read into the record the name of the newspaper in which legal notice of the hearing was published and the date the notice appeared, and outlined the procedures for the hearing. Mr. Román opened the hearing for testimony. Mr. Román then introduced NDE staff member, **Amy Rhone, Administrator/Director Office of Special Education**.

Ms. Rhone introduced and explained the one proposed revision (please see attached written testimony.)

No other written or oral testimony was received.



RULE 51 PUBLIC HEARING WRITTEN TESTIMONY
AMY RHONE, ADMINISTRATOR/DIRECTOR OFFICE OF SPECIAL EDUCATION
JANUARY 4, 2022

With the passing of LB 527 which will be codified at Neb. Rev. Stat. § 83-1225, Nebraska statute will require transition planning to be documented in Individual Education Programs (IEPs) as required by both federal and state law and must occur in the first IEP meeting held after the student reaches the age of 14.

The Office of Special Education held a public hearing on January 4, 2022 and will move forward with the change in 92 NAC 51 to reflect Neb. Rev. State Statute.

Neb. Rev. Stat. § 83-1225 states:

- Each school district shall provide transition services for each student with a disability no later than when the student reaches fourteen years of age and until the student graduates from a special education program or no longer meets the definition of a child with a disability pursuant to section 79-1117.
- Transition services shall consist of a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment, continuing and adult education, adult services, independent living, and community participation.
- The coordinated set of activities shall be based upon the individual student's needs, taking into account, the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other postschool adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

With the above stated changes to Nebraska Revised State Statute, Title 92 Nebraska Administrative Code Chapter 51 (Rule 51) has been updated to state the following:

007.07A9 Beginning not later than the first IEP to be in effect when the child turns ~~16, or younger if deemed appropriate by the IEP team~~ 14, and updated annually thereafter:

007.07A9a Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

007.07A9b The transition services (including courses of study) needed to assist the child in reaching those goals; and

007.07A9c If a participating agency, other than the school district or approved cooperative fails to provide the transition services described in the IEP, the school district or approved cooperative shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.

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Rule 51 Public Hearing Written Testimony

007.07A9c(i) Nothing in this Chapter relieves any participating agency, including the State Division of Vocational Rehabilitation, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility of that agency



Nebraska State Board of
Education

Report of The Nebraska State Board of Education

Ad Hoc Committee: Standard's Process, Policy and Procedures Implementation

January 28, 2022

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Purpose

The Ad Hoc Committee on Standards Formations and Processes (“Committee”) was formed at the November State Board Meeting in response to a board member request to review the Nebraska Department of Education (“NDE”) standards processes. The Committee was created by State Board of Education President, Maureen Nickels. Robin Stevens, Patti Gubbels, and Jacquelyn Morrison were appointed to the Committee. Jacquelyn Morrison was chosen to chair the Committee. The Committee was asked to report on the work of the committee at the February 2022 State Board of Education Meeting. This report has been prepared pursuant to that request.

Committee Members

Jacquelyn Morrison – Chair
Patti Gubbels
Robin Stevens

Committee Meetings

The Committee met on the following dates:

11/9/21
11/17/21
12/1/21
12/3/21
1/7/21
1/19/21
1/23/21

Overview of the Committee Work

The Committee was formed at the November meeting of the Nebraska State Board of Education (“Board”) and began meeting shortly afterward. The first meeting of the Committee was 11/9/21. At the 11/9/21 and 11/17/21 Committee meetings, the Committee compiled responses received from Board Members at the November meeting. The responses encompassed the concerns of Board Members with the Health Standards Process. After reviewing the information in the responses, the Committee drafted recommendations to the Policy Committee. The recommendations, which centered around the composition of standing committees, are incorporated into Recommendation Number One of this report.

During the meetings, the Committee also drafted questions to submit to the Nebraska Department of Education (“NDE”) to gain clarity about NDE’s current standards processes. On 11/30/21, the Committee sent the drafted questions to NDE. A list of the questions sent are incorporated into this report as Attachment A. On 01/04/21, NDE staff sent responses to the Committee with answers to the questions. The responses are incorporated into this report as Attachment B.

At the 12/3/21 meeting, the Committee met with Board President Maureen Nickels to request permission to make early recommendations to the Policy Committee regarding the formation and make up of committees. Permission was granted, and recommendations were made to the Policy Committee at the first Policy Committee meeting following the request. The Committee also gave an update to the Board President and sought clarification on the length and purpose of the Committee.

On 01/06/22, the Committee requested permission from the Commissioner to utilize Ryan Foor to do additional research for the Committee. The Committee specifically requested more information about the participation and role of other state boards in their respective standards development processes. The Commissioner granted permission to the Committee and the Committee met with Ryan Foor on 01/07/22, to outline their requests. The compiled materials are incorporated into this report as Attachment C.

On January 19, 2022, the Committee met to review the responses provided by NDE. The Committee discussed the responses and potential next steps for the Committee and NDE. The

Committee created a list of recommendations to include in this report and subsequently met on January 23, 2022, to finalize this report. This report concludes the work of the Committee.

Recommendations:

After reviewing all information presented to the Committee, the Committee has five recommendations to the State Board of Education and NDE. The recommendations are as follows:

Recommendation #1: The Board improve the makeup and operation of Standing Committees.

Rationale: The State Board should have well defined and transparent committees that align with the Board's duties and vision.

Action Item:

1. The Board make improvements to the makeup and operation of standing committees to allow for more transparency, accountability, and preparation among board members. Suggested changes include but are not limited to:
 - a. Create a committee structure that enables more overlap with board members
 - b. Create a transparent structure wherein all board members have:
 - i. Advance notice of critical decisions
 - ii. Detailed committee reports to the full board
 - iii. Detailed committee notes from committee meetings
 - c. Improve the administration of standing committees by:
 - i. More specifically outlining the role of the committee chair
 - ii. Allowing members to define the goals and priorities of the committee
 - iii. Delineating the role of staff versus board members in committee meetings
 - iv. Enforcing timelines for when information must be provided to the committee
 - v. Rotating committee members and chairs
 - vi. Aligning board statements and priorities with committee priorities
 - vii. Having committees that are equally weighted in responsibility

Recommendation #2: The Board define the role of the Board in the Standards Processes.

Rationale: The State Board needs to have a definite written understanding of their role in the development of subject area standards and standards revision.

Action Item:

2. The Executive Committee create a policy that defines the role of the Nebraska State Board of Education in the development of subject area standards and standards revision with the target completion date end of Standards Year 2022.

Recommendation #3: The Board continue to work on the standards development process through the Planning and Evaluation Committee.

Rationale: The Planning and Evaluation Committee, responsible for matters related to content area standards, is the appropriate committee to guide revision of the NDE Standards Development/Revision process.

Action Item:

3. The Planning and Evaluation Committee assume responsibility for guiding development, monitoring progress, and affirming revision of the NDE Office of Teaching, Learning, and Assessment content standards development process with the target completion date end of Standards Year 2023.

Recommendation #4: NDE enlist the services of a consultant.

Rationale: A consultant with expertise in content standards development will help the Office of Teaching, Learning, and Assessment evaluate objectively the current standards development practices and procedures, provide research-based advice, and suggest revisions to enhance and assure quality of the content area standards development and implementation processes and procedures

Action Item:

4. Commissioner Blomstedt enlist the services of an external consultant to review and make recommendations to the Office of Teaching, Learning, and Assessment to improve the NDE standards development process. In addition to a general external review, the Ad Hoc Committee suggests special consideration be given to the following topics as part of the review process:

- i. State and national content standards resource selection, organization and use by writing/revision teams
- ii. Subject matter expert qualifications, selection criteria, and role clarification
- iii. Public engagement in content standards development process
 - 1. Purpose of the public input survey and use of survey results
 - 2. Opportunities for and timing of school personnel draft input/review
- iv. Final standards review and consensus process by writing/revision team
- v. Bias/Equity tools selection criteria, process consistency, and use of results
- vi. Coherent and comprehensive content standards implementation processes and resources including high-quality instructional materials, aligned and balanced assessments, and educator professional learning opportunities

Recommendation #5: The Board approve content standards for all subject matter areas.

Rationale: By approving content standards for all subject matter areas, the State Board will set the requisite standards for all Nebraska schools and students.

Action Item:

- 5. The Executive Committee create a policy that requires the State Board of Education to approve content standards for all subject matter areas.

Conclusion

At the January meeting of the State Board of Education, the Board elected new officers and reorganized its standing committee structure. After further discussion, the Ad Hoc Committee believes that the newly formed standing committees are well positioned to continue the work of the Ad Hoc Committee. Therefore the Ad Hoc Committee recommends that the Board approve the recommendations of the Ad Hoc Committee and continue the work of the Committee as outlined in its recommendations. The Ad Hoc Committee further recommends that the board review the progress made on each action item at the January 2023 meeting of the State Board of Education.

Attachment A

- 1) Please outline the process and procedures generally used in the development of standards?
 - 1a) If a certain standard has required a deviation from the standard process, please explain where the deviation was needed and why it was necessary.
 - 1b) Please describe how the development of the health standards deviated from any prior standards development processes.
- 2) Please provide the general timeline used in the development of standards.
 - 2a) Who are the participants in each part of the timeline? What has been the role of each participant in the timeline?
 - 2b) What was the timeline for the development of health standards?
- 3) Please describe each layer of oversight in the standards development process. (Oversight includes those layers within NDE and outside of NDE)
 - 3a) Please provide a Flow chart which shows decision points in the process and potential outcomes at each decision point.
- 4) What has been the role of each of the following groups in the standards process? (This includes but is not limited to the development, writing, approval, and review of the standards) If there are written descriptions for the role of any group, please provide them.
 - NDE Staff
 - NDE Leadership
 - Commissioner

- State Board of Education
- Parents
- Community
- School Districts
- Writing Committee
- Advisory Committee
- Subject Matter Experts
- Policy Committee
- Teaching and Learning Committee
- Any other stakeholder not listed

- 5) Is the standards development process reviewed and revised on a regular basis? If so, how/when does that occur?
- 6) Are there any recent best practices in content standards development processes you believe could be incorporated to improve our process?
- 7) What resources do you believe you will need to align the standards development process with new research-based best practices?

Nebraska's Content Area Standards Standards: ProBcess Overview
Prepared by the NDE's Office of Teaching, Learning, & Assessment (1/2022)

The following information is presented in response to questions posed by the Nebraska State Board of Education's ad hoc committee as it seeks to clarify the processes of developing and revising content area standards.

NOTE: The information below reflects the knowledge of staff hired since 2011. It does not reflect a holistic history of content area standards in Nebraska. Also, the information reflects processes related to content area standards. It does not reflect the processes used to develop and/or revise other standards including the [Nebraska Career Readiness Standards](#), [Nebraska Teacher and Principal Performance Standards](#), [Nebraska's Birth to Five Learning and Development Standards](#), or the [Nebraska English Language Proficiency Standards](#).

Introduction:

The Nebraska State Board of Education is required to “adopt measurable academic content standards for at least the grade levels required for statewide assessment” (Academic Content Standards, 2015) per Revised Statute 79--760.01. The statute specifies that those standards cover the subject areas of reading, writing, mathematics, science, and social studies and that the State Board of Education develops a plan to review and update standards for those subject areas every seven years. Although not required by law, the Nebraska Department of Education (NDE) developed (or has planned to develop) content area standards for Fine Arts, Physical Education, Health Education, and World Languages, as well as course-based content standards for Career and Technical Education (CTE). The standards provide schools a framework for ensuring quality teaching and learning for all content areas offered in Nebraska schools.

The work of developing and/or revising content area standards is guided by the following beliefs:

- Rigorous **content area standards** serve as the foundation for instruction that meets college and career readiness expectations.
- High-quality **instructional materials** are strongly aligned to content area standards and reflect the instructional shifts within college and career-ready standards.

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- High-quality assessments are included within a **balanced assessment system**, reflect the instructional shifts of college and career-ready standards, and provide educators with useable and timely data to inform instruction.
- A continuum of high-quality **professional learning** improves educators' content knowledge, content pedagogy knowledge, and connects content area standards, instructional materials, and assessments.
- To be **culturally sustaining**, content area standards, instructional materials, assessments, and professional learning must reflect and respect the backgrounds, histories, and narratives of all students, allowing students to understand and maintain their own unique cultural identity.

Question 1: Please outline the process and procedures generally used in the development of standards?

The Office of Teaching, Learning, and Assessment has oversight for the development and/or revision of content area standards for English Language Arts, Mathematics, Science, Social Studies, Fine Arts, Physical Education, Health Education, and World Languages. The Office of Career, Technical, and Adult Education oversees the development and/or revision of Programs of Study and course-based standards for Career & Technical Education. The processes and procedures used to develop and/or revise content area standards can be organized into the following phases:

Planning Phase: In this phase, research and resources are gathered by NDE staff, including national standards and content area standards from other states. This phase includes the development of the revision team, including the selection of Nebraska educators to assist in the development and/or revision process. It also includes the engagement of subject matter experts and an initial public input survey. The planning phase includes notice to the State Board of Education that the development and/or revision process has begun, and it includes communication to school superintendents and curriculum directors. Also in this phase, NDE content area specialists develop a tentative development and/or revision timeline guided by the targeted approval date.

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Writing and/or Revision Phase: In this phase, the bulk of the work occurs. It includes in-person and/or virtual meetings for the revision team. The revision team is provided and reviews data from initial public input, and they also review research and resources provided by NDE staff and subject matter experts. The format, frequency, and number of meetings are determined by NDE content area specialist in consultation with the Office Administrator of Teaching, Learning, and Assessment. In this phase, updates are provided to the State Board of Education Teaching & Learning (T&L) Committee and the Full State Board, upon request by the T&L Committee members.

Public Input and Editing Phase: Upon the public release of Draft #1, the transition to the next phase begins. In this phase, public input on Draft #1 is collected, reviewed, and incorporated (as determined by the revision team). This includes input from the general public, and it also includes input and feedback from subject matter experts, postsecondary education faculty, and business and industry representatives. The phase leads to subsequent drafts leading up to the approval date. The number of drafts developed prior to the approval date is dependent upon the size and scope of edits needed. Updates are provided to the State Board of Education T&L Committee and the full State Board, upon request by the T&L Committee members.

Approval and Dissemination Phase: Once public input has been incorporated, the "approval draft" is presented. The State Board T&L Committee makes the recommendation to bring the approval draft to the Full Board for approval. Following State Board approval, the process of dissemination begins. The final, approved draft is made available to the public via the main NDE website and a press release is prepared by the Office of Public Information & Communications. Soon thereafter, the Office Administrator of Teaching, Learning, and Assessment notifies Superintendents, Non-Public School Administrators, District Assessment Contacts, and District Curriculum Contacts, of the approval. Other notifications are sent by NDE content area specialists in accordance with the channels of communication for the given content area. This may include state-level organizations, postsecondary faculty groups, and teacher listservs. The communications include a link to the standards as well as other content-specific resources that support implementation. For example, several content areas have developed

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an Instructional Shifts document describing the major shifts between legacy and revised standards and their implications for instruction.

Transition to Implementation: Upon final approval, the focus shifts to supporting the implementation of revised content area standards. This phase includes four stages: (1) **Exploration**: the opportunity to explore the newly revised content area standards and assess readiness to implement, (2) **Initial Implementation**: the focus is on analyzing content area standards at a deeper level and developing resources to support the implementation, (3) **Scale Up**: the implementation of content area standards while attending to student learning gaps resulting from the transition between legacy to revised standards, and (4) **Deep Implementation and Sustainability**: the seamless integration of curriculum, instruction, and assessments with a focus on cross-curricular planning. To support this transition, the NDE has developed a [Content Area Standards Implementation Framework](#) which is then customized for the newly approved content area standards.

Question 1A. If a certain standard has required a deviation from the standard process, please explain where the deviation was needed and why it was necessary.

In 2016, the Office of Teaching, Learning, and Assessment began the process to develop a transparent timeline for the development and/or revision of content area standards. The [Standards Revision Timeline](#) was finalized in 2016 and revised in 2018. Additionally, a [Content Area Standards Reference Guide](#) and [Content Area Standards Implementation Framework](#) were developed. These resources did not exist before 2015 and are updated periodically.

The most current iterations of content area standards and year of approval are noted below:

- Fine Arts (2014)*
- Mathematics (2015)
- Physical Education (2016)*
- Science (2017)
- Social Studies (2019)
- World Languages (2019)*
- English Language Arts (2021)
- Career & Technical Education (2016, 2017, 2018)*

**Denotes the first time these standards were approved by the State Board*

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Each revision process provides an opportunity to reflect on previous practices and identify areas for improvement which may lead to changes in processes. Notable improvements and the rationale are included below:

- Statewide public input meetings were held for English Language Arts (2014) and Mathematics (2015). These meetings were held in the morning and evening at seven sites across the state. This practice was discontinued after 2015.

RATIONALE: Across seven sites (Lincoln, Wakefield, Omaha, Kearney, Scottsbluff, North Platte, and Ainsworth) fewer than 10 individuals provided public comment. As a result, the State Board asked the NDE to identify ways to increase public comment. The recommendation from NDE's Office of Data, Research, and Evaluation (DRE) was to focus efforts on increasing comment through electronic surveys. Following this, NDE's DRE provided consultation on all survey designs including survey dissemination and data analysis. The public input surveys, regardless of content area, use a consistent format and elicit feedback related to the content and rigor of both the legacy and draft versions. Some aspects of the survey are customized to the respective content area, for example, the survey questions for English Language Arts were organized into 9-10 and 11-12 grade bands.

A notable improvement in the survey process began with the 2021 ELA revision and continues with the mathematics revision currently in process. Each survey included a parent/caregiver section with a brief description of the major work of the grade along with a set of open-ended questions.

- The designation of standards as "college and career ready" by Nebraska's postsecondary systems (community colleges, state colleges, private and independent institutions, and the university system) first occurred with the 2014 English Language Arts standards. This practice continued with mathematics (2015), science (2017), and revised ELA standards (2021).

RATIONALE: It is critical that K-12 standards provide an opportunity for a seamless transition to postsecondary education.

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As such, the standards, when mastered, should provide the opportunity for students to succeed in entry-level, credit-bearing postsecondary coursework without the need for remediation. With that in mind, representatives from Nebraska's postsecondary systems are involved in the process to revise standards, and postsecondary administration provides a "sign-off" that the standards meet the expectations for "college and career readiness." This has only been done for ELA, mathematics, and science as those are the three areas assessed by the summative assessment.

- In 2014, a group of employers provided feedback on the proposed revisions to the English Language Arts standards. This practice, engagement of business and industry, has occurred in each standard revision. Additionally, futuring panels included industry representatives helping to identify the knowledge and skills needed in a given industry (e.g. agriculture, computer science, health science, etc.).

RATIONALE: As "college and career ready" standards were being developed, it was important to ensure that employers had the opportunity to weigh in on the skills and knowledge needed in their particular industry. For example, "What reading, writing, speaking, and listening skills are needed in the manufacturing industry?" Employer engagement helps ensure education is preparing our students for Nebraska's workforce, anticipating the emerging workforce landscape, and the future needs of employers.

- An application was created to determine members of the revision team for the science standards (2017). This was the first time an application was used. Previous processes required extensive recruitment in order to fill the revision team. An application process was used to select members of the revision team for world languages (2019), social studies (2019), health education (2020), and mathematics (2021).

RATIONALE: Previous standard revisions relied on NDE's content area specialists to recruit members to participate on the revision team. An application was created to ensure all educators had access to participate on the science standards revision team and to recruit a broader group of educators to the table.

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- A bias review was included in the process to revise the Social Studies standards (2019). Using a tool from the Midwest Plains and Equity Assistance Center, "[Assessing Bias in Standards and Curricular Materials](#)," a subset of the revision team reviewed Draft #1 of the social studies standards to determine if bias was minimized. A bias or equity review was included in the standards development process for health education and the standards revision process for ELA.

RATIONALE: The perspectives, histories, and contributions of non-white, non-male, non-disabled, or non-cisgender people are generally minimalized, misrepresented, or often omitted altogether from content area standards (Coomer, Skelton, Kyser, Warren, C., and Thorius, 2017). It is imperative that content area standards reflect the diverse backgrounds, histories, and narratives of all students in Nebraska's schools. This aligns with the State Board's Equity Lens and the NDE's Commitment to Equity.

Question 1b. Please describe how the development of the health standards deviated from any prior standards development processes.

The process to develop the Nebraska Health Education Standards followed the process used to develop other content area standards. The most notable deviation is that the process began pre-pandemic (i.e. in-person meetings, etc.) and continued during the pandemic (i.e. remote meetings, etc). Also, NDE's Health Education Specialist was on maternity leave from November 2020 to January 2021 and limited work was completed during that time. Other deviations include:

- Because Nebraska had not developed Health Education standards previously, this process was a **development** versus a **revision**. Previous processes have been revisions of the current content area standards. Additionally, subject matter experts were utilized in the process to develop the Nebraska Health Education standards. ~~But~~ because this was a development process, the subject matter experts were consulted prior to the official process beginning. The input provided by the subject matter experts guided the development of the strands in the proposed Health Education standards.
- At the request of a State Board member, non-educators were invited to

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apply to participate as writing team members. These individuals were not selected to be part of the writing team but were utilized as subject matter experts. No similar requests have been made in previous standards revision and/or development processes.

- Non-public schools are not required to utilize content area standards approved by the State Board of Education. Even so, non-public school educators are included as members of the writing/revision team. In September 2020, outreach was made by the Associate Director of Education Policy for the Nebraska Catholic Conference. This was the first time the Nebraska Catholic Conference inquired specifically about the involvement of Catholic school educators and other professionals participating on the writing team.
- The training, "*Centering Equity within Health Education Standards,*" occurred at the beginning of the process. Previously, an equity (or bias) review was completed after Draft #1 was available. This was done so that educational equity, as described [here](#), would be considered throughout the entire process rather than once at the end.
- The Methodology and Evaluation Research Core (MERC) at the University of Nebraska- Lincoln (UNL) was contracted to analyze the qualitative data provided in feedback via the NDE's Health Education Standards Public Input Survey, as well as general email responses. This independent analysis was completed because of the number of responses and emails received and a desire for third-party analysis. Previously, this work was completed by the NDE's Office of Data, Research, and Evaluation.
- After the release of Draft #1 of the Nebraska Health Education Standards, NDE staff met with State Board members outside of scheduled State Board meetings. This included opportunities for informal discussion with NDE staff (which occurred in March 2021) and additional Teaching & Learning Committee meetings.

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Question 2: Please provide the general timeline used in the development of standards.

The [Content Area Standards timeline](#) denotes a 1.5-year process to develop and/or revise each content area. The process typically begins in the Spring of one academic year with final approval occurring the Fall of the next academic year. A longer period of time may be necessary when developing new standards. NDE content area specialists develop a general timeline as the process begins. This timeline is shared publicly via the NDE website as well as groups directly involved with the revision. A **sample timeline** is included below:

| Phase | Activities |
|---|---|
| Planning December/ January | Collection and organization of research and resources; preparation and distribution of public input survey; development of application and selection process for writing team members; drafting of revision timeline |
| Planning February/ March | Distribution and review of writing/revision team member applications, notification of applicants; initial analysis of public input survey data; publication of revision timeline; identification of subject matter experts; initial planning of review for bias; provide updates to T & L Committee |
| Writing and/or Revision April/May | Onboarding of writing/revision team members by NDE staff, selection of team facilitators (if utilized), ongoing writing/revision team meetings; initial consultations with subject matter experts; finalize planning of bias review training; provide updates to T & L Committee |
| Writing and/or Revision June | Ongoing collaboration with writing/revision team and consultation with subject matter experts; preparation of public input survey for Draft 1 of revised standards; provide updates to T & L Committee |
| Public Input and Editing July | Collection, review, and incorporation of input from survey, subject matter experts, education faculty, bias review, and business and industry representatives; development and presentation of subsequent draft(s) |

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| | |
|---|--|
| Approval and Dissemination August/ September | Presentation of "approved" draft to Board; publication to NDE main and content area websites; broad distribution of final document, instructional shifts, and supporting resources |
| Transition to Implementation Ongoing | Development of implementation tools and supports, design and delivery of statewide professional learning; ongoing needs assessment related to standards implementation |

Question 2A: Who are the participants in each part of the timeline? What has been the role of each participant in the timeline?

The participants and roles are described in Question 4.

Question 2B: What was the timeline for the development of health standards?

The comprehensive timeline for the development of the Nebraska Health Education Standards is linked [here](#).

Question 3: Please describe each layer of oversight in the standards development process. (Oversight includes those layers within NDE and outside of NDE)

The layers of oversight are described in the explanation of roles (Question 4).

Question 3A: Please provide a flow chart that shows decision points in the process and potential outcomes at each decision point.

Decision points in content area standards development and/or revision are not linear or sequential. Rather than developing a flowchart, key decision points are listed within the phases described above:

Planning Phase:

- Collection of Public Input: The NDE Content Area Specialist(s) determines the initial approach to collecting public input before the process begins. In partnership with the NDE Office of Data, Research, and Evaluation, a customized survey and email address are created and disseminated to gather input.
- Identification of Research and Resources: The NDE Content Area

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Specialist(s) determines the research and resources that may be used in the development and/or revision process. This includes national standards, exemplar standards from other states, and current research related to teaching and learning in the content area.

- Selection of Revision Team: Using a rubric, NDE staff select the members of the revision team from the applications submitted. The criteria for selection include curriculum development experience, standards writing experience, content area teaching experience/knowledge, and representation {(e.g. geographic location (urban, suburban, or rural), grade level experience (elementary, middle, high, or postsecondary), type of school (public or non-public, content area/strand experience, and ESU region)}.
- Organization of Revision Team: In the planning phase, NDE Content Area Specialists determine the organization of the revision team. This includes determining if subgroups will be organized by grade band (K-2, 3-5, 6-8, 9-12) or by content area strand (e.g. topical organization).
- Engagement of Subject Matter Experts: NDE Content Area Specialists identify subject matter experts and then determine a strategy to engage the experts in this phase. These individuals often have experience in working in educational settings (formal or non-formal), worked with the NDE previously (e.g. DHHS staff, university faculty, etc.), and have experience in the development of curriculum and/or educational resources.
- Communication with State Board of Education: The Administrator for the Office of Teaching, Learning, and Assessment works with the Commissioner of Education and the State Board Relations Officer to determine the timing of updates to the State Board.

Writing and/or Revision Phase:

- Content Included: The writing/revision team uses the resources and input from the planning phase to make decisions related to the content included in the standards. Decisions may be made as a whole group (e.g. middle school grade banded standards vs. middle school grade-level standards) or in smaller subgroups (e.g. K-3 subgroup, strand subgroup, etc.). In addition to the content included, the writing/revision team uses resources and

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subject matter expertise to determine appropriate learning progressions, grade-level placement of content, and the team ensures the standards meet the criteria for quality.

- Structure/Format of Standards: In this phase, the writing/revision team makes decisions regarding the structure or format of the standards. These decisions are made as a whole group. Examples may include the number and/or naming of strands, the format of middle school and/or high school standards, or decisions made regarding key content to be included.
- Engagement of Subject Matter Experts: NDE Content Area Specialist(s) determine the need to engage subject matter experts in this phase. This could include collecting additional resources from the subject matter experts, consultation on content decisions, etc.
- Communication with State Board of Education: The Administrator for the Office of Teaching, Learning, and Assessment works with the Commissioner of Education and the State Board Relations Officer to determine the timing of updates to the State Board.

Public Input and Editing Phase:

- Edits to Drafts: A smaller group of volunteers from the writing/revision team (e.g. editing group) is used to make edits after each draft is released. The editing group, led by the NDE Content Area Specialist(s), reviews public input received via electronic survey and via the NDE Standards Input Email and makes the determination of the input/feedback incorporated into a new draft. Those decisions are made as a whole group and subject matter experts are consulted when needed. This process continues until there is an "approval draft."
- Communication with State Board of Education: The Administrator for the Office of Teaching, Learning, and Assessment works with the Commissioner of Education and the State Board Relations Officer to determine the timing of updates, including drafts of the standards, to the State Board.

Approval and Dissemination Phase:

- Approval Draft: The approval draft is presented to the State Board Teaching & Learning Committee as the recommendations for the standards in a given content area. The Teaching &

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Learning Committee determines if the approval draft will move forward to the full State Board for discussion and approval. Approval of content area standards requires a majority vote of the State Board of Education.

Transition to Implementation:

- Implementation Timeline and Resources: The NDE Content Area Specialist, in consultation with the Administrator for the Office of Teaching, Learning, and Assessment, determines the timeline for implementing the revised content area standards using the NDE Content Area Standards Implementation Framework. This includes the identification of resources needed to support implementation.

Question 4: What has been the role of each of the following groups in the standards process? (This includes but is not limited to the development, writing, approval, and review of the standards). If there are written descriptions for the role of any group, please provide them.

State Board of Education: [79-760.01](#) requires the State Board of Education to “adopt measurable academic content standards for at least the grade levels required for statewide assessment pursuant to section 79-760.03. The standards shall cover the subject areas of reading, writing, mathematics, science, and social studies.” Additionally, the State Board of Education has approved non-statutorily required content area standards. This precedent was established in 2014 when the State Board of Education approved the Nebraska Fine Arts Standards. **As such, the role of the State Board of Education has been to approve content area standards.**

State Board of Education - Teaching and Learning Committee: The State Board's Teaching and Learning Committee is the first “touch-point” of standards with the State Board of Education. The committee receives updates on the process to develop and/or revise content area standards before and throughout the revision/development process. Also, the committee is the first to receive drafts of proposed standards, and at that point, will determine how the draft moves forward. **The role of the committee is to provide input and feedback throughout the processes, provide updates to the full board through committee reports and/or full board discussions, and recommend when staff presentations are necessary for the full board. The committee also makes the**

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final recommendation to the full board for approval of content area standards.

State Board of Education - Policy Committee: **The State Board's Policy Committee has not had a formal role in content area standards revision and/or development.** The Policy Committee is generally tasked with board policy matters.

Commissioner of Education: The Commissioner of Education identifies staff to provide oversight on the development and/or revision of content area standards. **Drafts brought forward to the State Board of Education reflect the Commissioner's recommendations for standards for a given content area.**

NDE Leadership, including administration for the Office of Teaching, Learning, and Assessment: The Office of Teaching, Learning, and Assessment provides oversight for the development and/or revision of content area standards for English Language Arts, Mathematics, Science, Social Studies, Fine Arts, Physical Education, Health Education, and World Languages. **The Administrator and Assistant Administrator for the Office of Teaching, Learning, and Assessment provide input and recommendations on the process, work to ensure standards are consistent across all content areas, meet expectations for quality, and are the primary contact to the State Board of Education.**

NDE Staff: Working with the Administrator and Assistant Administrator for the Office of Teaching, Learning, and Assessment, **the role of NDE Content Area Specialists is to design and facilitate the process to revise and/or develop content area standards. Additional NDE staff may participate in the process as subject matter experts (e.g. staff from Special Education, English Learners, Statewide Assessment, etc.).** The content area specialist is the point of contact for the standards revision/development process.

Writing/Revision Committee: The writing or revision committee (or team) includes the Nebraska educators selected to write (or revise) content area standards. **Their role is to collaboratively write or revise content area standards utilizing current resources, best practices, research, and public input.**

Advisory Committee: See Subject Matter Experts

Subject Matter Experts: Subject Matter Experts (SMEs) have specialized education, knowledge, and expertise related to the content area. SMEs possess an understanding of the research base needed for teaching and

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learning in a given content area. SMEs may include PK-12 educators, postsecondary educators, business/industry representatives, and other state or national experts. **The role of SMEs is to provide input and/or recommendations that are considered by members of the revision team.**

School Districts: School districts provide input on revisions to content area standards in a number of ways and at different points in the process. This may include completing public input surveys, identifying educators to participate on the revision team, or providing feedback directly to NDE staff. School district staff play an integral role during the approval/dissemination stage by sharing out communications about drafts, final approval, and facilitating district-wide exploration activities. **Per 79-760.02, school districts “shall adopt measurable quality academic content standards in the subject areas of reading, writing, mathematics, science, and social studies. The standards may be the same as, or maybe equal to or exceed in rigor, the measurable academic content standards adopted by the state board and shall cover at least the same grade levels.”** School districts are not required to adopt the state-approved standards for non-statutorily required standards.

Community Stakeholders, including Parents: **The role of community stakeholders, including parents, is to provide input on the content and rigor of content area standards.** This input is collected through electronic surveys, via the standards input email, or by sending input directly to NDE staff. Community stakeholders may also provide public comments at State Board of Education meetings.

Question 5: Is the standards development process reviewed and revised on a regular basis? If so, how/when does that occur?

To date, a third-party review of standards development and/or revision processes has not been completed. Process improvements are informally noted by content area specialists and implemented as appropriate.

Since 2014, there has not been a year when there are no content area standards being revised; SY 2022-2023 offers a year where no standards are being revised or developed. A third-party review is recommended. Organizations that have completed reviews of state standards processes include [the Center for Standards, Assessment, and Accountability](#) and [American Institutes for Research](#).

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Question 6: Are there any recent best practices in content standards development processes you believe could be incorporated to improve our process?

Nebraska's process for developing and/or revising content area standards follows the same general procedures that arose from the creation of national content area standards. Best practices included in developing national standards have been consistently applied to Nebraska's process including:

- Classroom teachers play a critical role in the development of content area standards.
- State and local leaders and other subject matter experts guide the process of development and/or revision.
- Educators involved in the process are informed by research related to the content area and resources such as exemplars of high-quality standards from other states.
- Partner organizations, both nationally and locally, provide input as appropriate. Examples include the National Council of Teachers of Mathematics (NCTM), the Nebraska Association of Teachers of Mathematics (NATM), the National Council of Teachers of English (NCTE), and the Nebraska State Literacy Association (NSLA).
- Stakeholders, including members of the public, business and industry, and post-secondary representatives, provide specific, constructive feedback on drafts of standards.

While the importance of content area standards is well documented, limited research has expanded the literature base on standards development processes. Rather, researchers have focused their efforts on standards implementation, implementation of high-quality instructional materials, and assessment of student learning. For example, the RAND Corporation's report (2016) [*Creating a Coherent System to Support Instruction Aligned with State Standards*](#), examines the practices of the Louisiana Department of Education. More recently, Dr. Morgan Polikoff released [*Beyond Standards: The Fragmentation of Education Governance and the Promise of Curriculum Reform*](#) (2021). This work highlights the structural conditions that have undermined the success of the standards movement and identifies curriculum reform as a high-leverage strategy for making meaningful progress at scale and emphasizes that states need to play a greater role in evaluating and recommending high-quality instructional materials (Polikoff, 2021).

Nebraska's Content Area Standards Standards: Process Overview
Prepared by the NDE's Office of Teaching, Learning, & Assessment (1/2022)

Question 7: What resources do you believe you will need to align the standards development process with new research-based best practices?

Though there have not been significant developments in the research base for the standards development process, each process requires certain resources that are unique to the content area and that inform educators who comprise writing and subject matter expert teams. These include current research directly related to a field of study.

In addition, there are needs for resources related to effective implementation of standards and instructional materials, instructional practices, and assessing student learning. During the process of creating or revising content area standards, Nebraska educators draw on a number of resources from organizations such as The American Institutes for Research, the RAND Organization, Student Achievement Partners, the Association for Supervision and Curriculum Development, EdReports, and the National Center for Assessment are organizations that support state-level content standards implementation.

The content area specialists involved with their respective processes have recognized the need to develop broader, system-wide coherence around the implementation of standards. This includes supporting educators in understanding the standards and instructional shifts, properly mapping and sequencing the standards, implementing and supplementing high-quality instructional materials, and differentiating implementation. The identified areas of need are as follows:

- Research has demonstrated that teachers need specific guidance in the interpretation of standards and indicators so that there is a common understanding of what standards are asking students to do (RAND, Corporation, 2018);
- the same research indicates that district leaders rarely provide specific, standards-aligned professional learning opportunities;
- few state standards documents provide guidance on the organization of a large number of standards and indicators into a year's instruction; and,
- American Teacher Panel data (2019) suggests remarkably low adoption or implementation of standards-aligned core materials in any content area.

Nebraska's Content Area Standards Standards: Process Overview
Prepared by the NDE's Office of Teaching, Learning, & Assessment (1/2022)

As such, to support the improvement of teaching and learning at scale, additional policy should be considered closer to the classroom: expanding access to high-quality instructional materials, assessments, and interventions while ensuring teachers receive high-quality professional learning to successfully implement those resources. Content area standards are a foundation from which we can build, but the focus on improving instruction requires a more holistic view.

References:

- Coomer, M. N., Skelton, S. M., Kyser, T. S., Warren, C., & Thorius, K. A. K. (2017). Assessing bias in standards and curricular materials. *Equity Tool*. Indianapolis, IN: Great Lakes Equity Center.
- Kaufman, J., Thompson, L., and Opfer, V. (2016) *Creating a coherent system to support instruction aligned with state standards: Promising practices of the Louisiana Department of Education*. Retrieved January 04, 2022: https://www.rand.org/pubs/research_reports/RR1613.html
- Polikoff, M. (2021). *Beyond standards: The fragmentation of education governance and the promise of curriculum reform*. Harvard Education Press.

Attachment C

Utah Board Revision Process: <https://www.schools.utah.gov/file/c580f8a1-8cc5-4a47-9a1a-2ed5948ad9f4>

Utah Board Revision Policy: <https://www.schools.utah.gov/file/6b0123c9-f8bd-46d7-98a4-ad3bfe1df0fe>

Utah Revision Timeline: <https://www.schools.utah.gov/file/620b6e97-0a1c-4751-b991-8a4951c06550>

Ohio's Standards Learning Process: [Ohio's Learning Standards and Model Curriculum Review Process](#)

Ohio Revised Code: <https://codes.ohio.gov/ohio-revised-code/section-3301.079>

Education Commission of the States: [State-Information-Request Processes-for-Creating-and-Evaluating-State-Education-Standards-1.pdf \(ecs.org\)](#)

| UTAH STATE BOARD OF EDUCATION POLICY | |
|---|---------------------------------|
| Policy Number: | 3002 |
| Policy Name: | Core Standards Revision Process |
| Date Last Approved: | September 5, 2019 |

By this policy, the Utah State Board of Education, “the Board,” establishes the following internal rules and procedures for fulfilling the Board’s responsibilities under Section 53E-4-202.

1. Core Standards Rubric:
 - a. As part of determining if the Board should recommend a set of core standards for revision outside of the Board’s established timeline for revision, the Superintendent shall submit to the Board the results of an annual analysis of each of the core standards rubric results.
 - b. The Board will then consider the results of the annual analysis described in Subsection (1)(a) to determine if standards need to be cued for revision.

2. Revision Warranted:
 - a. If a core standards revision is warranted, by either the Board-established timeline or the revision rubric, the Board shall instruct the Superintendent to commence the standards review process.

3. Standards Review Committees:
 - a. If the Board determines that a set of core standards warrant revision, the Board shall direct the Superintendent to establish a standards review committee (“Committee”) to review the core standards and make recommendations to the Board for revisions.
 - b. Membership:

- i. The Superintendent shall ensure that a standards review committee described in Subsection (3)(a) includes individuals as set forth in Section 53E-4-203(5).
 - ii. The Superintendent shall facilitate the appointments described in Subsections 53E-4-203(5)(b) and (c) with the Speaker of the Utah House of Representatives and President of the Utah State Senate.
 - iii. The Superintendent shall recommend candidates to the Board Chair for appointment as described in Subsection 53E-4-203(5) taking into consideration:
 - A. recommendations of content-area specialists; and
 - B. expertise in the content-area under review.
4. Standards Review Committee Process:
 - a. A standards review committee, established as described in Subsection (3), shall meet twice within a three month timeframe after the committee's establishment.
 - i. At the first meeting, the committee shall review existing core standards and relevant research and data.
 - ii. At the second meeting, the committee shall make recommendations to the Board for revisions to the existing core standards, taking into consideration the criteria set forth in Subsection 53E-4-2-3(8).
 - b. A standards review committee shall make written recommendations to the Board, which may include recommendations to:
 - i. consider particular research, data, or professional documents;
 - ii. add or eliminate content;
 - iii. amend the format; or

- iv. provide clarity.
 - c. A standards review committee shall be disbanded after submitting the committee's written recommendations to the Board.
- 5. The Superintendent shall:
 - a. provide logistical support for scheduling, conducting, and staffing committee meetings;
 - b. provide relevant materials to a committee;
 - c. assist a committee in preparing written recommendations to the Board;
and
 - d. present a committee's recommendations to the Board no more than two months after the committee's second meeting.

Utah State Board of Education Standards Revision Process

Approved July 9, 2020

Purpose: As described in 53E-4-202, the Utah State Board of Education shall establish the core standards for Utah public schools that:

- Identify the basic knowledge, skills, and competencies each student is expected to acquire or master as the student advances through the public education system.
- Increase in depth and complexity from year to year and focus on consistent and continual progress within and between grade levels and courses.

Governing Documents:

| | |
|--|--|
| <p>Statute</p> <p>53E-4-202 Core standards for Utah public schools 53E-4-203 Standards review committee</p> | <p>Board Policy</p> <p>Board Policy 3002 – Standards Review Committee</p> |
|--|--|

| Step | Step Description | Required By | Sample Timeline |
|---|--|-------------------|------------------------------|
| 1. Review Triggered | Using the Board-adopted standards revision timeline, revision checklist, or due to a legislative mandate, the need for a standards review is triggered. | Board Policy 3002 | Month 1 |
| 2. Board Approval for Standards Review | Staff submits an action item requesting the full Board’s approval to: <ul style="list-style-type: none"> • Start the Standards Review Process. • Organize the standards review committee. | | Month 2 Full Board |
| 3. Standards Review Committee Membership Identification | Staff submits a written request to the State Board Chair to appoint member to the standards review committee consisting of: <ul style="list-style-type: none"> (a) seven individuals, with expertise in the subject being reviewed, including teachers, business representatives, faculty of higher education institutions in Utah and others as determined by the State Board Chair. Staff submits a written request to the Superintendent to assist with identifying membership for the standards review committee consisting of: <ul style="list-style-type: none"> (b) five parents of public education students appointed by the speaker of the House of Representatives; and | 53E-4-203(6) | Month 2 |

| Step | Step Description | Required By | Sample Timeline |
|---|--|--------------------------------|---|
| | (c) five parents of public education students appointed by the president of the Senate. | | |
| 4. Standards Review Committee Work | <p>Staff organizes the standards review committee based on received appointments. At least two meetings are convened to review the standards and make initial recommendations. Initial comments and recommendations may include research updates, suggestions for adding/eliminating content, format amendments, suggestions for clarity, alignment to the Portrait of a Graduate, connection to other areas (e.g. civic and character education, financial literacy) and insights based on the standards revision rubric.</p> <p><u>Notes:</u> Meetings must be held within three months of the initial meeting; a member of the standards review committee may not receive compensation or benefits for the member's service on the committee.</p> | 53E-4-203 Board Policy 3002 | Months 3-4 |
| 5a. Report of Standards Review Committee Comments and Recommendations | The standards review committee will present a summary of the committee's comments and recommendations to the full Board. | 53E-4-203 | Month 5 Full Board |
| <p>If the Board determines that a revision is not warranted, the process ends here. If there is cause for a revision, then the following steps would be executed.</p> | | | |
| 6. Writing Committee Organization and Work | <p>Staff organizes a writing committee comprised of multiple stakeholders with advanced knowledge and expertise in the content area.</p> <p>The writing committee meets to review the comments and recommendations and uses those to revise the standards.</p> | 53E-4-203 Board Policy 3002 | Months 6-12 |
| 7a. Draft Standards Presented for Public Release | Staff submits a draft of the standards and a proposal for public review to the Standards and Assessment Committee. The Committee will forward a recommendation to the Board concerning releasing the draft. | 53E-4-202(4) | Month 13 Standards and Assessment Committee |

| Step | Step Description | Required By | Sample Timeline |
|--|---|--------------|--|
| <u>7b. Board Approval of Public Release</u> | <p>The Board will determine whether to release the standards for public input.</p> <p>Upon approval of the draft release, staff will ensure to publicize the release on the USBE website and social media outlets, the Public Notice Website, and to any other applicable advisory committees.</p> | | Month 14 Full Board |
| 8. 90-day Public Review | <ul style="list-style-type: none"> • Staff posts the approved draft for at least a 90-day public review period. • Staff plans and facilitates three public hearings in different regions of the state. • Staff provides monthly updates to the Board on the location, numbers of attendees, and the modes of delivery of the public hearings. • Staff will hold ongoing meetings with the writing committee to incorporate public feedback as appropriate into the draft. | 53E-4-202(4) | Months 14-17 Monthly Consent Calendar Information Item |
| 9. Revised Draft of Standards Submitted | <p>Staff submits to the Standards and Assessment Committee an amended version of the publicly-released draft standards that incorporates the comments from the public.</p> <p>The Committee determines whether to forward the revised draft standards to Board Members for a 30-day review</p> | | Month 18 Standards and Assessment Committee |
| 10. Full Board Opportunity for Review and Feedback | <p>Each Board Member is afforded the opportunity to review the revised draft and provide specific feedback for additional consideration and revision.</p> <p>Board Members will track their changes/suggestions in an editable format and submit to staff within 30 days of receipt.</p> | | Month 18 Board Member review |
| 11. Committee Review and Determination of Path | <p>The Standards and Assessment Committee will be presented with one comprehensive document of Board Member changes/suggestions. Some initial changes will be crafted by staff for consideration by the Standards and Assessment Committee.</p> <p>Each suggestion or change will be reviewed and amended, as determined by the Committee, to create a final version for full Board approval.</p> | | Month 19 Standards and Assessment Committee |

| Step | Step Description | Required By | Sample Timeline |
|---|---|---|---|
| | The Committee will determine a path for moving the standards forward. | | |
| Path 1 | | Path 2 | |
| <p>12.a. Final Draft Review and Approval by Full Board in Regular Meeting</p> <p>The updated draft with the Standards and Assessment Committee revisions from the prior month will be submitted to the Board in a regular meeting. During the meeting, the full Board will discuss the changes/suggestions and finalize the draft.</p> <p>Writing committee members will be invited to be present for consultation.</p> <p>The Board will consider approval of the final draft.</p> | <p>Month 20 Full Board</p> | <p>12.b. Final Draft Review and Approval by Full Board in Special Session</p> <p>The updated draft with the Standards and Assessment Committee revisions from the prior month will be submitted to the Board in a special session. During the special standards session, the full Board will discuss the changes/suggestions and finalize the draft.</p> <p>Writing committee members will be invited to be present for consultation.</p> <p>The Board will consider approval of the final draft.</p> | <p>Month 20 Full Board</p> |
| <p>13. Report Implementation Plan and Provide Updates</p> | <p>Staff provides a written plan.</p> <p>An update is included in the Superintendent’s Annual Report.</p> | <p>53E-402-203</p> | <p>Month 21 Information item on Consent Calendar</p> |

Table 1. Utah Core Standards Revision Timeline

| Content Area | 2019-2020 | 2020-2021 | 2021-2022 | 2022-2023 | 2023-2024 | 2024-2025 | 2025-2026 | 2026-2027 | 2027-2028 | 2028-2029 |
|--------------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------|-------------------------|
| Social Studies (K-6) 2010 | Review/Revise Standards | Adopt & Introduce | Implement | | | | | | | |
| ELA (K-12) 2013 | | Review/Revise Standards | Adopt & Introduce | Implement | Assess | | | | | Review/Revise Standards |
| World Languages 2015 | | | Review/Revise Standards | Adopt & Introduce | Implement | | | | | |
| Library Media (K-12) 2015 | | | Review/Revise Standards | Adopt & Introduce | Implement | | | | | |
| Fine Arts (K-12) 2016 | | | | Review/Revise Standards | Adopt & Introduce | Implement | | | | |
| Mathematics (K-12) 2016 | | | | | Review/Revise Standards | Adopt & Introduce | Implement | Assess | | |
| Physical Education (K-12) 2016 | | | | | | Review/Revise Standards | Adopt & Introduce | Implement | | |
| Social Studies (K-12) 2016 | | | | | | | | Review/Revise Standards | Adopt & Introduce | Implement |
| Driver Education 2018 | | | | | | | Review/Revise Standards | Adopt & Introduce | Implement | |
| Health 2019 | | | | | | | Review/Revise Standards | Adopt & Introduce | Implement | Assess |
| Science (K-12) 2019 | | | | | | Review/Revise Standards | Adopt & Introduce | Implement | Assess | |
| Pre-School 2019** | | | | | | | | Review/Revise Standards | Adopt & Introduce | Implement |

**Expected

Blue: Required Standards to be reviewed by a Standards Review Committee

Note: As required by 53E-4-202(8)

Ohio's Learning Standards Review Process

The development and review process of Ohio's learning standards and model curriculum are a key component of Ohio's Strategic Plan, *Each Child, Our Future*:

Strategy 4: “Ohio has had standards focused on the foundational knowledge and skills and well-rounded content learning domains. In these two learning domains, the state engages a mix of Ohio-based educators and experts to review and revise the standards.”

“State-level steps should be taken to engage educators, employers and experts in the development of standards and guidelines for what students should be able to demonstrate in the learning domains of leadership and reasoning and social-emotional learning.”

- Ohio's learning standards outline what students should know and be able to do in each subject and grade to be on track for success in college and/or careers once they graduate. The focus of the standards is on knowledge and skills a child should gain.
- Standards are different from curriculum. In Ohio, local school districts select the curriculum to utilize in the classroom. The district's local curriculum outlines *how* schools teach and *what* materials they use.
- It's important for Ohio to review the standards every few years to ensure they:
 - are still suitable for specific grade levels;
 - continue to provide critical knowledge in the subject;
 - still lead to higher student achievement; and
 - still call for teaching the skills that colleges and employers tell us are most important.
- Educator input is critical for periodic updates and revision of the standards and model curriculum.

IDENTIFICATION OF STAKEHOLDER GROUPS

- Two groups manage the actual development of standards: **Advisory Groups** and **Working Groups**.

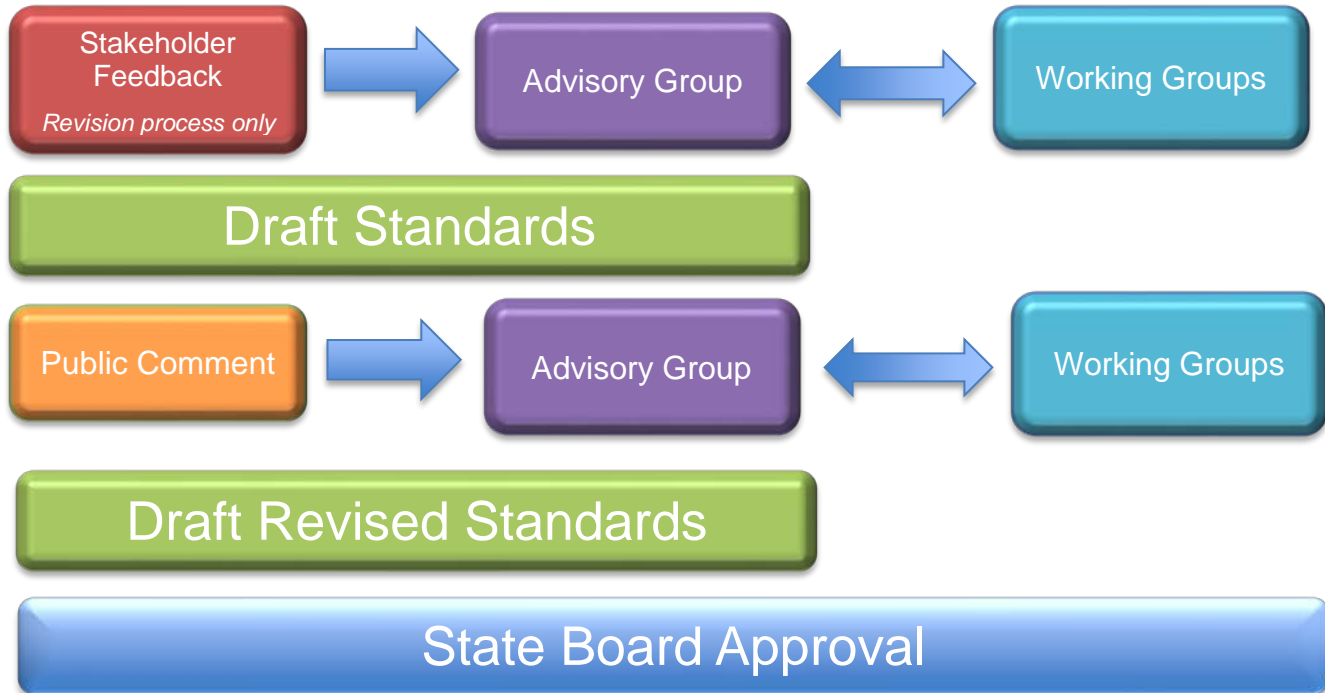
Advisory Group:

- Advisory group membership is by invitation from the department. It is made up of selected members of state level, professional educator organizations in Ohio.
- The advisory group:
 - provides guidance for the scope of work assigned to the working groups;
 - identifies and recommends resources for the working groups to consider;
 - identifies documents including other state, national or international standards to guide the development or revision of standards; and
 - reviews and approves edits to Ohio's Learning Standards in response to the comments and suggestions from the public comment period.
- The advisory group reviews public comments to determine where to focus revision work. Recommendations are made to the working groups and oversees their efforts.

Working Groups:

- The department accepts nominations for Ohio educators to serve on working groups. Individuals may nominate themselves – or a colleague or supervisor may nominate an individual. These groups are made up of experts in their subject areas from throughout the state who have taught at some level from kindergarten through college.
- The working groups write and edit the standards in the development/revision process.
- The working groups propose revisions to the standards based on comments received during the public feedback period.

The following graphic provides a visual for the standards development/review process:

**COLLECTION OF PUBLIC COMMENTS DURING INITIAL DEVELOPMENT PROCESS**

- In the development process, a single public comment period is conducted to collect feedback on the draft standards. The draft standards are revised based on comments received from the public and a review by the advisory group.

COLLECTION OF PUBLIC COMMENTS DURING REVIEW AND REVISION PROCESS

- To begin the periodic review and revision process, the Department creates an initial survey to collect public comments on the standards from educators, parents and community members. The Department heavily promotes the opportunity to give feedback to teachers and school curriculum directors who use the standards for planning and teaching.
- Once the standards are revised, the Department conducts a second survey of the proposed standards revisions. The feedback is carefully reviewed by the advisory and/or working groups to incorporate suggested edits/changes.

Ohio's Model Curriculum Development and Review Process

The process of development and review of Ohio's model curricula is very similar to the process for the development and review of Ohio's learning standards.

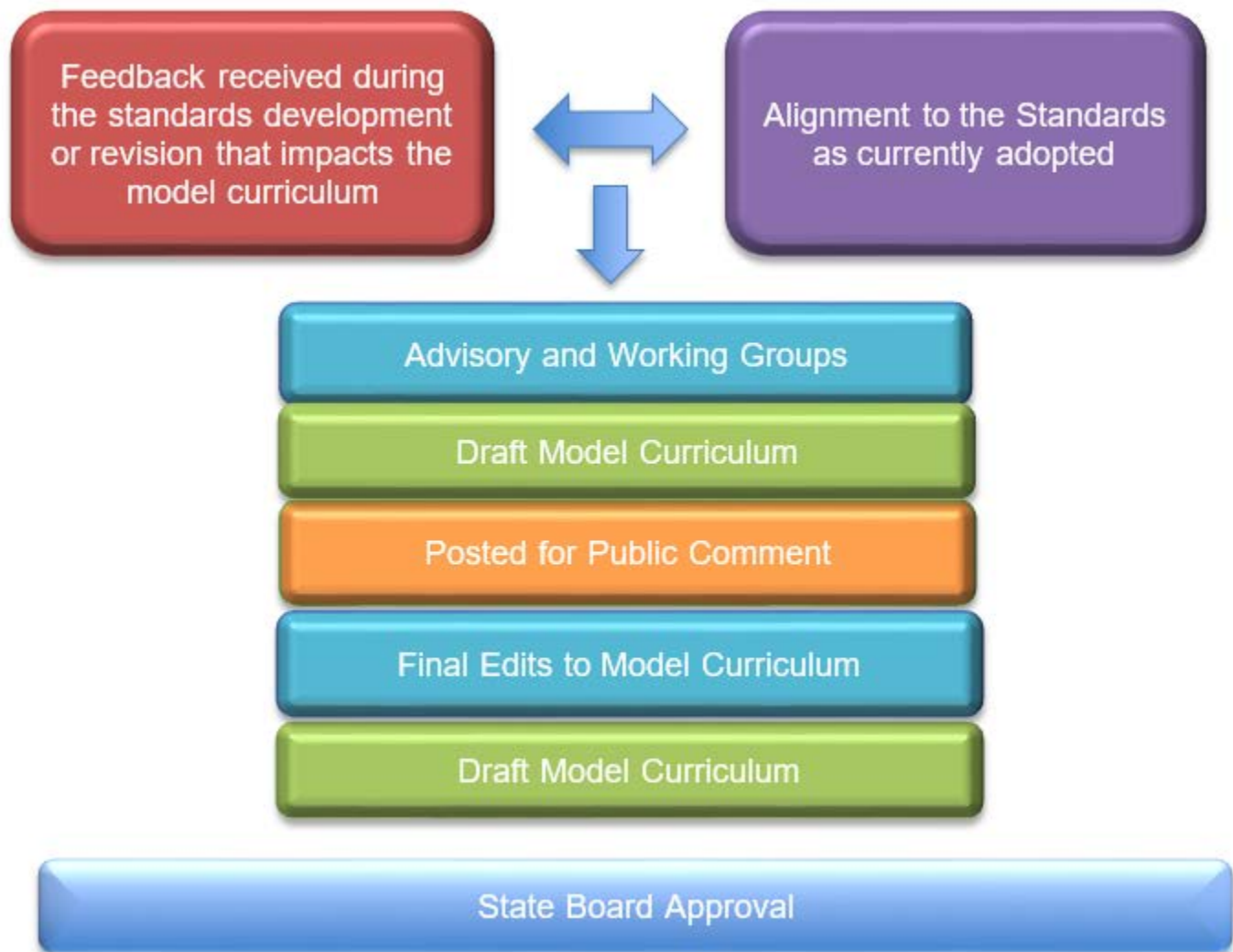
Advisory Group:

- The advisory group from the standards revision will also provide guidance and support of the model curriculum.

Working Groups:

- The working groups are comprised of a combination of participants from the standards revision working groups as well as new members. This allows for greater continuity but also provides additional input to the development and/or revision of the model curriculum.

The following graphic provides an overview of the model curriculum development:



Your Question:

You asked about the process used in other states to develop education standards, including processes for gathering public input, the content areas and number of standards found within those content areas in other states, and examples of states currently working to develop interdisciplinary standards.

Our Response:

Education Commission of the States tracks legislation related to standards, and standards revision specifically, in our State Education [Policy Tracking tool](#). This includes 45 enacted bills related to standards since 2017. General themes of this legislation include adding or amending standards for various topics (i.e., civics, physical education, health education, financial literacy, arts, computer science, literacy intervention, college and career readiness, social-emotional learning); aligning standards with curriculum and assessments; reviewing standards using schedules; creating study committees/work groups; and making changes to the states' use of Common Core.

[When Common Core first emerged](#), 45 states and D.C. adopted the standards for both English language arts and math. Minnesota adopted common core for ELA only. Four states (Alaska, Nebraska, Texas and Virginia) never adopted Common Core standards. Since 2010, eight of the original adopting states have replaced the Common Core standards with state-developed standards, and two states are currently reviewing the Common Core standards in an effort to replace them.

One common theme among the states that have revised or replaced the Common Core standards is the stakeholder engagement leveraged to review and replace the standards. Several of the states in the below chart formed committees or task forces to review the standards, gain public input, and recommend new standards to the appropriate authority. For more on the process used to amend and set state standards, see ECS' 2014 brief, [State standard-setting processes in brief](#).

Resources

- Center for Standards, Assessment & Accountability, [State of the States](#): This resource has high-level information on state standards across the country, including the information in the first table.
- Education Commission of the States, [State standard-setting process in brief](#), 2014: This resource has information on standard-setting processes across the country, along with several state examples. The states included here are also included in the second table with updated information.
- Education Commission of the States, [State Information Request: Common Core Standards and Assessments](#), 2020: This resource looks at adoption and revision of Common Core State Standards from 2010 through 2020.

Standards Overview

The Center for Standards, Assessment & Accountability's [State of the States](#) tool includes information on state standards for English language arts, math, science and social studies. The maps show whether states have adopted national standards, including Common Core or [Next Generation Science](#) standards, or state-developed standards in each domain. That resource also includes more detailed information about recent changes to standards and links to state standards webpages and additional information.

Below is a table detailing the information from CSAA.

| State | English Language Arts | Mathematics | Science | Social Studies |
|-----------------------------|------------------------------|--------------------|-----------------|-----------------------|
| Alabama | Common Core | Common Core | State-developed | State-developed |
| Alaska | State-developed | State-developed | State-developed | State-developed |
| Arizona | State-developed | State-developed | State-developed | State-developed |
| Arkansas | State-developed | State-developed | Next Generation | State-developed |
| California | Common Core | Common Core | Next Generation | State-developed |
| Colorado | State-Developed | State-developed | State-developed | State-developed |
| Connecticut | Common Core | Common Core | Next Generation | State-developed |
| Delaware | Common Core | Common Core | Next Generation | State-developed |
| District of Columbia | Common Core | Common Core | Next Generation | State-developed |
| Florida | State-developed | State-developed | State-developed | State-developed |
| Georgia | Common Core | Common Core | State-developed | State-developed |
| Hawaii | Common Core | Common Core | Next Generation | State-developed |
| Idaho | Common Core | Common Core | State-developed | State-developed |
| Illinois | Common Core | Common Core | Next Generation | State-developed |
| Indiana | State-developed | State-developed | State-developed | State-developed |
| Iowa | Common Core | Common Core | Next Generation | State-developed |
| Kansas | Common Core | Common Core | Next Generation | State-developed |
| Kentucky | State-developed | State-developed | Next Generation | State-developed |
| Louisiana | Common Core | Common Core | State-developed | State-developed |
| Maine | Common Core | Common Core | Next Generation | State-developed |
| Maryland | Common Core | Common Core | Next Generation | State-developed |
| Massachusetts | Common Core | Common Core | Next Generation | State-developed |
| Michigan | Common Core | Common Core | Next Generation | State-developed |
| Minnesota | Common Core | State-developed | State-developed | State-developed |
| Mississippi | Common Core | Common Core | State-developed | State-developed |
| Missouri | State-developed | State-developed | State-developed | State-developed |
| Montana | Common Core | Common Core | State-developed | State-developed |
| Nebraska | State-developed | State-developed | State-developed | State-developed |
| Nevada | Common Core | Common Core | Next Generation | State-developed |
| New Hampshire | Common Core | Common Core | Next Generation | State-developed |
| New Jersey | State-developed | State-developed | Next Generation | State-developed |
| New Mexico | Common Core | Common Core | Next Generation | State-developed |
| New York | Common Core | Common Core | State-developed | State-developed |
| North Carolina | Common Core | Common Core | State-developed | State-developed |
| North Dakota | State-developed | State-developed | State-developed | State-developed |
| Ohio | State-developed | State-developed | State-developed | State-developed |
| Oklahoma | State-developed | State-developed | State-developed | State-developed |
| Oregon | Common Core | Common Core | Next Generation | State-developed |
| Pennsylvania | Common Core | Common Core | State-developed | State-developed |
| Rhode Island | Common Core | Common Core | Next Generation | State-developed |
| South Carolina | State-developed | State-developed | State-developed | State-developed |
| South Dakota | State-developed | State-developed | State-developed | State-developed |
| Tennessee | State-developed | State-developed | State-developed | State-developed |
| Texas | State-developed | State-developed | State-developed | State-developed |
| Utah | State-developed | State-developed | State-developed | State-developed |

| | | | | |
|----------------------|--|--|--|---------------------|
| Vermont | Common Core | Common Core | Next Generation | State-developed |
| Virginia | State-developed | State-developed | State-developed | State-developed |
| Washington | Common Core | Common Core | Next Generation | State-developed |
| West Virginia | State-developed | State-developed | Next Generation | State-developed |
| Wisconsin | Common Core | Common Core | State-developed | State-developed |
| Wyoming | Common Core | Common Core | State-developed | State-developed |
| | State-developed: 20 Common Core: 31 (D.C.) | State-developed: 21 Common core: 30 (D.C) | State-developed: 28 Next Generation: 23 (D.C.) | State-developed: 51 |

Standards Domains and Review Process by State

The standards domains adopted by each state vary significantly, as do the number of standards per domain and across grades/grade bands.

- **Domains:** Most, if not all states include arts, English language arts, math, science, health/physical education, social studies and world languages in their standard domains. Fewer states include domains such as driver’s education, social and emotional learning, personal finance and library sciences.
- **Number of Standards:** In the few states reviewed, the number of standards per domain ranged from 9-45 depending on grade. **Missouri** statute (see below) limits the number of standards that may be established to 75.
- **Grades/Grade Bands:** The majority of standards apply to K-12 grades. Some group grade bands (e.g., grades 1-2, 3-5, or 9-12) and others, including driver safety, only apply to high school or grades 10-12.

Below is a look at each state’s standards domains and examples of standards review processes from several states. The review processes vary by state, though several do include process flowcharts that detail each step and timelines for upcoming reviews. The majority of the review processes below include public input or parent engagement on committees or workgroups to develop or revise standards. We did not look at validation of standards by the state or third parties in the scope of this request, but the [State standard-setting processes in brief](#) details those approaches.

Interdisciplinary standards were not specifically called out below. However, there are some potential examples from Iowa, Oklahoma and Wisconsin. **Iowa** includes several literacy and employability skills in their 21st Century Skills standards. **Oklahoma** adopted ISTE's Education Technology standards that it indicates are integrated. **Wisconsin** has literacy in all subject standards that indicate literacy as a potential interdisciplinary element.

| State | Domains | Review Process and Public Input |
|-------------------------|--|---|
| Alabama | Arts Education (2017) Career Tech (2009) Digital Literacy & Computer Science (2018) Driver Safety (2007) English Language Arts (2021) Foreign Language (2017) Health Education (2019) Mathematics (2019) Other Courses of Study: Character Education & Counseling and Guidance Physical Education (2019) Science (2015) Social Studies (2010) | Alabama standards for English language arts, mathematics and science have recently been reviewed by Task Forces established by the State Board. More details about these committees can be found on the content standard website. <ul style="list-style-type: none"> • 2020-2021 Alabama English Language Arts Course of Study Committee and Task Force • 2019 Alabama Mathematics Course of Study Committee and Task Force • 2012-2015 Alabama State Science Course of Study Committee and Task Force |
| Alaska | Arts (2016) Computer Science (2019) Cultural (2016) Digital Literacy (2019) Employability (2016) English Language Arts (2012) English Language Proficiency (WIDA) Geography (2016) Government and Citizenship (2016) History (2016) Library (2016) Mathematics (2012) Physical Education Science (2019) Skills for a Healthy Life (2016) World Languages (2016) | Alaska Department of Education & Early Development, Standards Revision Schedule : details recent and upcoming standards reviews. |
| Arizona | Arts Education (2015) Computer Science (2018) Educational Technology (2010) English Language Arts (2016) Mathematics (2016) | Arizona’s Educational Technology standards are currently under review . Public feedback is open until Oct. 15, 2021 |

Education Commission of the States strives to respond to information requests within 48 hours. This document reflects our best efforts, but it may not reflect exhaustive research. Please let us know if you would like a more comprehensive response. Our staff is also available to provide unbiased advice on policy plans, consult on proposed legislation and testify at legislative hearings as third-party experts.

| | | |
|----------------------------|--|--|
| | Health Education (2010) | |
| | Physical Education (2015) | |
| | Science (2018) | |
| | Social Emotional Competencies (2021) | |
| | Social Studies (2018) | |
| | World & Native Languages (2015) | |
| | Other Standards <ul style="list-style-type: none"> • Early Learning Standards • Career and Technical Education • English Language Proficiency Standards • History and Literature of the Biblical Era | |
| Arkansas | Computer Science | <p>Ark. Code Ann. § 6-15-2906: requires the Division of Elementary and Secondary Education to establish academic standards that define what students shall know and be able to demonstrate in each content area. Requires the division to establish a schedule for periodic review and revision of academic standards. Requires the review to include input from educators and community members with professional experience related to academic standards.</p> <p>Ark. Code Ann. § 6-15-1502: requires the State Board of Education to develop a comprehensive plan to review and revise the Arkansas Academic Content Standards and Curriculum Frameworks process.</p> <p>Ark. Code Ann. § 6-15-1504: requires the Division of Elementary and Secondary Education to review the Arkansas Academic Content Standards and Curriculum Framework process plan on its State Board of Education-approved revision cycle and report to the State Board of Education annually.</p> |
| | Drivers Education (2018) | |
| | English Language Arts (2016) | |
| | Fine Arts (2020) | |
| | Health & PE (2018) | |
| | Library Media (2019) | |
| | Mathematics (2016) | |
| | Science (2016) | |
| | Social Studies (Currently Under Review) | |
| | World Languages (2019) | |
| California | Arts Education (2019) | |
| | Career Technical Education (2013) | |
| | Computer Science (2018) | |
| | English Language Arts (2013) | |
| | English Language Development (2012) | |
| | Health Education (2008) | |
| | History-Social Science (1998) | |
| | Mathematics (2013) | |
| | Model School Library (2010) | |
| | Physical Education (2005) | |
| | Science (2013) | |
| | World Languages (2019) | |
| Colorado | Comprehensive Health (2020) | |

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|--------------------------------------|---|--|
| | Computer Science (2018) Financial Literacy (2020) Mathematics (2020) Physical Education (2020) Reading, Writing and Communicating (2020) Science (2020) Social Studies Visual and Performing Arts World Languages | Academic standards in social studies, dance, drama/theatre arts, music, and visual arts are being revised in 2021-2022 , as a result of a new standards revision schedule required under House Bill 20-1032 (section C.R.S. 22-7-1005(6)) passed during the 2020 legislative session. The guiding principles for standards review and revision include transparency with the public and inclusivity of public comment. |
| Connecticut | Common Core State Standards (2010) | |
| Delaware | English & Language Arts English Learners Financial Literacy (2018) Health and Physical Education Math Science Social Studies Visual and Performing Arts (2016) World Languages & Dual Language Immersion | |
| District of Columbia | Common Core State Standards (2010) | |
| Florida | CTE (in various domains) Dance English Language Arts (B.E.S.T. effective 2021-22) English Language Development Gifted Health Education Mathematics (B.E.S.T. effective 2022-23) Music Physical Education Science (includes computer science) Social Studies Special Skills Theatre Visual Art World Languages | |

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| | | |
|--------------------------|---|---|
| Georgia | Computer Science | |
| | English Language Arts (2015-16) | |
| | Fine Arts (2018-19) | |
| | Health Education (2021) | |
| | Mathematics | |
| | Physical Education (2018) | |
| | Science (2017-18) | |
| | Social Studies | |
| | World Languages (2019) | |
| Hawaii | Career and Technical Education | |
| | Computer Science (by 2022) | |
| | English Language Arts (Hawaii Common Core) | |
| | Fine Arts | |
| | Health Education | |
| | Mathematics (Hawaii Common Core) | |
| | Physical Education | |
| | Science (Next Gen) (2019-20) | |
| | Social Studies (2018) | |
| World Languages | | |
| Idaho | Arts and Humanities | The 2020-2021 review of English Language Arts/Literacy, Math and Science will make final recommendations to the legislature in 2022. The public was encouraged to follow the process and provide feedback along the way. The intended review timeline detailed each step along the way. |
| | Computer Science | |
| | English Language Arts/Literacy, Handwriting, and Speech | |
| | Health Education | |
| | Information and Communication Technology | |
| | Mathematics | |
| | Physical Education | |
| | Science | |
| | Social Studies | |
| Illinois | SEL/PE/Health Learning | |
| | English Language Arts | |
| | English Language Learning | |
| | Mathematics | |
| | Science | |
| | Social Science | |
| Indiana | CTE (in various domains) | |

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|------------------------|--|---|
| | Employability Skills English/Language Arts (2020) Financial Literacy Fine Arts: Dance, Music, Theatre, Visual Arts (2017) Guidance Health and Wellness (2017) Mathematics (2020) Physical Education (2017) Science & Computer Science (2016) Social Studies (2020) World Languages and International Education (2019) | <p>Ind. Code Ann. § 20-31-3-1 et. seq. requires the state board to adopt state academic standards for English language arts, mathematics, social studies and science.</p> <p>Ind. Code Ann. § 20-31-3-4 requires the secretary of education to appoint an academic standards committee composed of subject area teachers, higher education representatives with subject matter expertise, and parents during the period of revision.</p> <p>Ind. Code An. § 20-31-3-3 requires the Department to revise and update academic standards at least once every six years.</p> |
| Iowa | 21 st Century Skills <ul style="list-style-type: none"> • Civic Literacy • Employability Skills • Financial Literacy • Health Literacy • Technology Literacy Literacy Mathematics Science Social Studies | |
| Kansas | English Language Arts (2017) Mathematics (2017) History-Government and Social Studies (2020) Science (2018) English Language Proficient (2018) Computer Science (2019) Counseling (2015) Dance (2017) Early Learning (2020) Handwriting (2020) Health Education (2017) Library Media Technology (2017) Music (2015) Physical Education (2017) Social, Emotional and Character Development (2018) | According to the State Department of Education’s webpage, the department reviews its curricular standards at least every seven years. Those standards are approved and adopted by the State Board of Education. |

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|---------------------------|---|---|
| | Theater Arts (2020) | |
| | Visual Arts (2015) | |
| | World Languages (2017) | |
| Kentucky | Career Studies and Financial Literacy | <p>Kentucky Academic Standards Revision Process: Ky. Rev. Stat. § 158.6453 (2019 S.B. 175) “calls for the Kentucky Department of Education (KDE) to implement a process for reviewing all academic standards and aligned assessments beginning in the 2017-18 school year. The current schedule calls for one or two content areas to be reviewed each year and every six years thereafter on a rotating basis. The rotation schedule began in the summer of 2017 by soliciting feedback on English/language arts, mathematics and health/physical education standards.”</p> <p>The Standards and Assessments Review Committee must review public comments and feedback. The Standards and Assessments Process Review Committee must include two parents of public school students.</p> |
| | Computer Science | |
| | Health Education and Physical Education | |
| | Library Media | |
| | Mathematics | |
| | Reading & Writing | |
| | Science | |
| | Social Studies | |
| | Technology | |
| | Visual and Performing Arts | |
| | World Language | |
| Louisiana | Arts | |
| | Early Education – Birth to Five | |
| | English Language Arts | |
| | Health | |
| | Math | |
| | Physical education | |
| | Science | |
| | Social Studies | |
| | World Languages and Immersion | |
| Maine | Early Learning | |
| | English Language Arts | |
| | Health Education | |
| | Life and Career ready | |
| | Mathematics | |
| | Physical Education | |
| | Science and Engineering | |
| | Social Studies | |
| | Visual and Performing Arts | |
| | World Languages | |
| Maryland | College and Career Ready Standards <ul style="list-style-type: none"> • English Language Arts • Mathematics | |

| | | |
|-------------------------------|--|--|
| | <ul style="list-style-type: none"> • Literacy in History/Social Studies • Literacy in Science & Technical Subjects | |
| | <p>Content Standards</p> <ul style="list-style-type: none"> • English Language • Arts/Literacy • Mathematics • Science • Social Studies • Disciplinary Literacy • English for Speakers of Other Languages • Environmental Education • Fine Arts • Health • Personal Financial • Literacy Education • Physical Education School Library Media • STEM • Technology Education • Technology Literacy for Students • World Languages | |
| Massachusetts | <p>Arts</p> <p>Comprehensive Health</p> <p>Digital Literacy and Computer Science</p> <p>English Language Arts and Literacy</p> <p>English Language Development</p> <p>Foreign Languages</p> <p>History and Social Science Framework</p> <p>Mathematics</p> <p>Science and Technology Engineering</p> <p>Vocational Technical Education</p> <p>World Languages</p> | |
| Michigan | <p>Arts</p> <p>Career and College Ready Skills</p> <p>Computer Science</p> <p>English Language Arts</p> <p>English Language Development</p> | |

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| | | |
|-----------------------------|---------------------------------------|--|
| | Health | |
| | Mathematics | |
| | Physical Education | |
| | Science | |
| | Social Studies | |
| | Technology | |
| | World Languages | |
| Minnesota | Arts | <p>Minn. Stat. Ann. § 120B.021, Subds. 2-4.</p> <ul style="list-style-type: none"> The commissioner of education develops standards and must consider advice from a defined set of stakeholders in developing statewide rigorous core academic standards in language arts, mathematics, science, social studies, including history, geography, economics, government and citizenship, and the arts. The commissioner must implement a ten-year cycle to review and revise academic standards. <p>Learn more about the Minnesota K-12 Academic Standards Development Process.</p> |
| | Computer Science | |
| | English Language Arts | |
| | Health Education | |
| | Mathematics | |
| | Physical Education | |
| | Science | |
| | Social Studies | |
| | STEM | |
| | World Languages | |
| Mississippi | Arts (2017) | |
| | Business & Technology (2014) | |
| | Career and Technical Education (2021) | |
| | Computer Science (2018) | |
| | English Language Arts (2016) | |
| | Early Childhood (2018) | |
| | Health (2012) | |
| | Mathematics (2016) | |
| | Physical Education (2013) | |
| | Science (2018) | |
| | Social Emotional Learning | |
| | Social Studies (2018) | |
| Missouri | Computer Science (2019) | <p>Mo. Rev. Stat. Ann. § 160.514</p> <p>The state board has authority to formulate and approve state standards but may not adopt any more than 75 academic standards.</p> <p>Whenever the state board of education develops, evaluates, modifies, or revises academic performance standards or learning standards, it shall convene work groups composed of education professionals to develop and recommend such</p> |
| | English Language Arts (2016) | |
| | Fine Arts | |
| | Health/Physical education | |
| | Math (2016) | |
| | Personal Finance (2017) | |
| | School Counseling | |

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|-------------------------------|---|---|
| | Science (2017-18) Social Studies (2016) World Languages | academic performance standards or learning standards. The workgroups must include four parents of children currently enrolled in K-12. The state board of education shall hold at least three public hearings whenever it develops, evaluates, modifies, or revises academic performance standards or learning standards. |
| Montana | Arts Career & Technical Education Computer Science English Language Arts & Literacy Health Enhancement Library Media Mathematics Science Social Studies Technology Integration World Languages | |
| Nebraska | Career education Programs of Study (2017-18) English Language Arts (2021) English Language Proficiency (2013) Fine Arts (2014) Mathematics (2015) Physical Education (2016) Science (2017) Social Studies (2019) World Languages (2019) | Neb. Rev. Stat. § 79-760.01 Requires the Nebraska State Board of Education to “adopt measurable academic content standards for at least the grade levels required for statewide assessment.” The State Board of Education shall develop a plan to review and update standards for those subject areas every seven years. A Content Area Standards Revision Timeline has been developed and includes a tentative timeline for the review and revision of all content area standards. |
| Nevada | Computer Science English Language Arts Fine Arts Health/Physical Education Mathematics Science Social Studies World Language | |
| New Hampshire | Arts Education Computer Science | New Hampshire has also created Model College and Career Readiness Competencies that align with some of the standards detailed here. |

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| | | |
|----------------------------|---|--|
| | English Language Arts | |
| | English as a Second Language | |
| | Health Education | |
| | Mathematics | |
| | Physical Education | |
| | Science | |
| | Social Studies | |
| | World Languages | |
| New Jersey | 21 st Century Life and Careers | N.J. Admin. Code § 6A:8-1 The State Board must review and readopt the New Jersey Student Learning Standards (NJSLS) every five years. The Commissioner must convene and advisory panel and must present to the State Board for consideration at a public meeting. The process will be open to public comment and public hearings. |
| | Comprehensive Health and Physical Education | |
| | English Language Arts | |
| | Mathematics | |
| | Science | |
| | Social Studies | |
| | Technology | |
| | Visual and Performing Arts | |
| | World Languages | |
| New Mexico | Career and Technical Education | |
| | English Language Arts & Spanish Language Arts | |
| | English Language Development & Spanish Language Development | |
| | Health Education | |
| | Mathematics | |
| | Physical Education | |
| | Science | |
| | Social Studies | |
| | Visual and Performing Arts | |
| | World-Readiness Standards for Learning Languages | |
| New York | Arts | |
| | Career Development and Occupational Studies | |
| | Computer Science and Digital Fluency | |
| | English Language Arts | |
| | Family and Consumer Sciences | |
| | Health | |
| | Mathematics | |
| | Physical Education | |

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|--------------------------------|---|--|
| | Science | |
| | Social Studies | |
| | Technology Education | |
| | World Languages | |
| North Carolina | Arts Education | <p>N.C. Gen. Stat. § 115C-12 (9c): The Board shall develop a comprehensive plan to revise content standards and the standard course of study in the core academic areas of reading, writing, mathematics, science, history, geography, and civics. The Board shall involve and survey a representative sample of parents, teachers, and the public to help determine academic content standard priorities and usefulness of the content standards.</p> <p>The NC State Board of Education policy, SCOS-012, requires that each content area’s standards be reviewed every five-to-seven years to ensure the NCSCOS consists of clear, relevant standards and objectives.</p> |
| | CTE and Career Pathways | |
| | Computer Science | |
| | English Language Arts | |
| | English Language Development | |
| | Guidance | |
| | Healthful Living | |
| | Information and Technology | |
| | Mathematics | |
| | Science | |
| | Social Studies | |
| | World Languages | |
| North Dakota | Computer Science and Cybersecurity (2019) | |
| | Dance (2019) | |
| | Early Learning (2018) | |
| | English Language Arts/Literacy (2017) | |
| | Foreign Language (2001) | |
| | Health Education (2018) | |
| | Library and Technology (2012) | |
| | Mathematics (2017) | |
| | Media Arts (2019) | |
| | Music (2019) | |
| | Physical Education (2015) | |
| | Science (2019) | |
| | Social Studies (2019) | |
| | Theatre (2019) | |
| | Visual Arts (2019) | |
| Ohio | Career-Technical Education | <p>Ohio has a detailed standards review process that includes two groups: an advisory group and a working group. Members are chosen or nominated to participate. The State Board of Education approves the new or revised standards following public comment.</p> |
| | Computer Science (2018) | |
| | Early Learning | |
| | English Language Arts (2017) | |
| | English Learners | |

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| | | |
|------------------------------|---|--|
| | Financial Literacy (2018) | |
| | Fine Arts | |
| | Health Education | |
| | Mathematics | |
| | Physical Education (2017) | |
| | Science (2018) | |
| | Social and Emotional (2019) | |
| | Social Studies | |
| | STEM | |
| | Technology (2017) | |
| | World Languages and Cultures (2020) | |
| Oklahoma | Computer Science (2018) | Okla. Stat. Ann. tit. 70, § 11-103.6a Beginning with the 2014-15 school year, each area of subject matter standards, except for standards for career and technology education adopted pursuant to Section 14-103 of this title, shall be adopted by the State Board of Education and shall be subject to legislative review and approval as provided for in Section 4 of this act. The subject matter standards shall be implemented statewide by every public school district in this state. The subject matter standards shall be thoroughly reviewed by the State Board every six (6) years according to and in coordination with the existing subject area textbook adoption cycle. |
| | Education Technology (Integrated) (2016) | |
| | English Language Arts (2021) | |
| | Fine Arts (2020) | |
| | Health/Safety (2016) | |
| | Mathematics (2016) | |
| | Personal Financial Literacy (2019) | |
| | Physical Education (2016) | |
| | Science (2020) | |
| | Social Studies (2019) | |
| | World Languages (2015) | |
| Oregon | Arts | |
| | English Language Arts | |
| | Health | |
| | Library and Media Education | |
| | Mathematics | |
| | Physical Education | |
| | Science | |
| | Social Sciences | |
| | STEM | |
| | World Languages | |
| Pennsylvania | Arts and Humanities | |
| | Business, Computer and Information Technology | |
| | Career Education and Work | |
| | Computer Science | |

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| | Driver's Education Early Learning English Language Arts Environment and Ecology (Agriculture) Family and Consumer Sciences Health, Safety and Physical Education Mathematics Reading and Writing in Science and Technical Subjects Reading and Writing in History and Social Studies Science and Technology and Engineering Social Studies World Languages | |
| Rhode Island | Arts English Language Arts (2021) History and Social Studies Mathematics (2021) Science and Technology World Languages | Content Standards Review and Revision Process; R.I. Gen. Laws § 16-22-30(f) RIDE engages in a review and revision process for the content standards for mathematics, English language arts, science and technology, history and social studies, world languages, and the arts on a four-year cycle. RIDE solicited public comment and drew on the content expertise of review committees composed of Rhode Island educators. |
| South Carolina | Computer Science English Language Arts Health Education Mathematics Physical Education Science Social Studies STEM (ISTE standards adopted) Visual and Performing Arts World Languages | |
| South Dakota | Career & Technical Education Educational Technology English Language Arts Fine Arts Health Education Mathematics Oceti Sakowin Essential Understandings and Standards Personal Finance | S.D. Codified Laws § 13-3-48 requires the Department of Education to prepare and submit for approval of the South Dakota Board of Education Standards a standards revision cycle and content standards for K-12. The review process involves a series of four public hearings, held over a period of at least six months, and allows key stakeholders to thoughtfully review and analyze the state's content standards to pave the way for students to receive current and relevant learning experiences. |

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| | Physical Education School Library Science Social Studies World Languages | Standards Revision Timeline Standards Revision Process |
| Tennessee | Arts Education Career Clusters Computer Science Counseling and Career Guidance Early Learning Development English as a Second Language English Language Arts Health Education and Lifetime Wellness Mathematics Personal Finance Physical Education Science Social Studies STEM World Language Writing Rubrics | State Board Policy 3.209 requires that the Board review all sets of academic standards at a minimum of every six years. The state board’s standards review webpage includes more details, including a standards review process flowchart and review cycle document. |
| Texas | Career and Technical Education Career Development English Language Arts and Reading Fine Arts Health Education Languages Other Than English Mathematics Physical Education Science Social Studies Spanish Language Arts and English as a Second Language Technology Applications | Tex. Educ. Code Ann. § 28.002(c): (c) The State Board of Education, with the direct participation of educators, parents, business and industry representatives, and employers shall by rule identify the essential knowledge and skills of each subject of the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials under Chapter 31 and addressed on the assessment instruments required under Subchapter B, Chapter 39. The Texas Essential Knowledge and Skills (TEKS) Review and Revision webpage includes a review flowchart . Public feedback and comments are included in the review process. |
| Utah | Driver Education Early Learning English Language Arts | |

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| | | |
|----------------------------|------------------------------|--|
| | Financial Literacy | |
| | Fine Arts | |
| | Health Education | |
| | Computer Science | |
| | Library Media | |
| | Mathematics | |
| | Physical Education | |
| | Science | |
| | Social Studies | |
| | World Languages | |
| | English Learners | |
| Vermont | Digital Learning | |
| | Driver Education | |
| | English Language Arts | |
| | Financial Literacy | |
| | Global Citizenship | |
| | Health Education | |
| | Mathematics | |
| | Physical Education | |
| | Science | |
| | Visual and Performing Arts | |
| Virginia | Computer Science | Va. Code Ann. § 22.1-253.13:1 |
| | Digital Learning Integration | The Board of Education shall establish educational objectives known as the Standards of Learning, which shall form the core of Virginia's educational program. The Standards of Learning in all subject areas shall be subject to regular review and revision to maintain rigor and to reflect a balance between content knowledge and the application of knowledge in preparation for eventual employment and lifelong learning. The Board of Education shall establish a regular schedule, in a manner it deems appropriate, for the review, and revision as may be necessary, of the Standards of Learning in all subject areas. Such review of each subject area shall occur at least once every seven years. To provide appropriate opportunity for input from the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing revised Standards of Learning. |
| | Driver Education | |
| | Economics & Personal Finance | |
| | English | |
| | Family Life | |
| | Fine Arts | |
| | Health | |
| | History & Social Science | |
| | Mathematics | |
| | Physical Education | |
| | Science | |
| | World Languages | |
| Washington | Arts (2017) | |
| | Computer Science (2018) | |

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| | <p>Early Learning (birth through 3rd grade): guidelines, not standards</p> <p>Education Technology (2018)</p> <p>English Language Arts (2011)</p> <p>English Language Proficiency (2013)</p> <p>Environment and Sustainability (2009)</p> <p>Financial Education (2016)</p> <p>Health and Physical Education (2016)</p> <p>Mathematics (2011)</p> <p>Science (2013)</p> <p>Social Emotional Learning (2019)</p> <p>Social Studies (2018)</p> <p>World Languages (2015)</p> | |
| West Virginia | <p>Arts</p> <p>Career and Technical Education</p> <p>Drivers Education</p> <p>English Language Arts</p> <p>Health and Wellness</p> <p>Mathematics</p> <p>Pre-K</p> <p>Science</p> <p>Social Studies</p> <p>Student Success</p> <p>Technology and Computer Science</p> <p>World Language</p> | |
| Wisconsin | <p>Agriculture, Food and Natural Resources</p> <p>Art & Design Education (2019)</p> <p>Business and Information Technology</p> <p>Computer Science (2017)</p> <p>Dance (2019)</p> <p>Early Learning</p> <p>English Language Arts (2020)</p> <p>English Language Development (2020)</p> <p>Environmental Literacy & Sustainability (2018)</p> <p>Family and Consumer Sciences</p> <p>Health Education</p> | <p>The Wisconsin Department of Public Instruction details the revision process on their webpage and includes several documents, including a process flowchart, a checklist to determine if review is needed, a member list for the State Superintendent’s Academic Standards Review Council that includes parents, and timelines for upcoming reviews.</p> |

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| | | |
|-------------------------|---|--|
| | Health Science | |
| | Information and Technology Literacy (2017) | |
| | Literacy in All Subjects (integrated) | |
| | Marketing, Management, and Entrepreneurship | |
| | Mathematics (2021) | |
| | Music (2017) | |
| | Nutrition | |
| | Personal Financial Literacy (2020) | |
| | Physical Education (2020) | |
| | Reading (2020) | |
| | Science (2017) | |
| | Social Studies (2018) | |
| | Technology and Engineering | |
| | Theatre Education (2018) | |
| | World Languages (2019) | |
| Wyoming | Career/Vocational Education | Wyo. Stat. Ann. § 21-2-304 requires the State Board of Education to review the education program standards and student content and performance standards every nine years. The process must include feedback from parents, teachers, school and district administrators and the public at large. |
| | Computer Science | |
| | Fine Arts and Performing Arts | |
| | Foreign Cultures and Languages | |
| | Government and Civics | |
| | Health and Safety | |
| | Humanities | |
| | Mathematics | |
| | Physical Education | |
| | Reading/language arts | |
| | Science | |
| | Social Studies | |

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Motion to amend previous motion that was adopted at September 3, 2021 meeting with the following changes:

The State Board of Education hereby ~~postpones the~~ permanently rejects any development of Health Education Standards. The State Board of Education received substantial input on the draft Health Education Standards and recognizes that ~~now is not the time to continue the process from this day forward, any decision or any policy regarding health education standards, including sex education, sexual orientation and gender identity must be left entirely to local school boards, parents within the district and medical professionals. Furthermore, the Covid19 Pandemic has placed varied demands on school districts, parents and families and communities. The intent of the State Board of Education is to determine the most appropriate time to address Health Education Standards after taking into consideration the state of the pandemic; the needs of children, schools, and communities; and the readiness of local school stakeholders. The decision to continue the process of developing Health Education Standards must be supported by a majority vote of the State Board of Education.~~

From the minutes of the Friday, September 3, 2021 State Board of Education meeting:

I move the State Board of Education hereby postpones the development of Health Education Standards. The State Board of Education received substantial input on the draft Health Education Standards and recognizes that now is not the time to continue the process. Furthermore, the Covid-19 Pandemic has placed varied demands on school districts, parents and families and communities. The intent of the State Board of Education is to determine the most appropriate time to address Health Education Standards after taking into consideration the state of the pandemic; the needs of children, schools, and communities; and the readiness of local school stakeholders. The decision to continue the process of developing Health Education Standards must be supported by a majority vote of the State Board of Education. Motion made by Lisa Fricke, second by Patsy Koch Johns.

Motion made by Fricke, second by Koch Johns

Motion passed

Aye: Fricke, Koch Johns, Nickels, Stevens, Gubbels

No: Morrison

Abstain: Neary

Absent: Timm

Additional business:

I move to adopt the policy on local control of non-required standards.

The Nebraska State Board of Education believes that local school districts must be responsible to determine their non-required standards, curriculum and teaching methods. The Nebraska State Board of Education believes that local control and parental involvement is the hallmark of public education. The Nebraska State Board of Education also recognizes the need for state-wide standards in the areas granted by the Nebraska Legislature. The standards granted by the Nebraska Legislature are found in Nebraska Revised Statute 79-760.01 and reads as follows:

Academic content standards; State Board of Education; duties.

(1) The State Board of Education shall adopt measurable academic content standards for at least the grade levels required for statewide assessment pursuant to section [79-760.03](#). The standards shall cover the subject areas of reading, writing, mathematics, science, and social studies.

(2) The board shall also adopt measurable academic content standards for financial literacy as part of the social studies standards.

(3) Academic content standards adopted or recommended pursuant to this section shall be sufficiently clear and measurable to be used for testing student performance with respect to mastery of the content described in the state standards.

(4) The State Board of Education shall develop a plan to review and update standards for each subject area every seven years. The state board plan shall include a review of commonly accepted standards adopted by school districts.

The Nebraska State Board of Education recognizes that the Nebraska Department of Education has a duty to provide resources for schools in all content areas regardless whether the standard is required. However, the Nebraska State Board of Education recognizes that some content areas contain particularly sensitive content, specifically, sex education, sexual orientation and gender identity. The Nebraska State Board of Education believes local school boards and parents of the

district must determine what is taught in regards to sex education, sexual orientation and gender identity and that the Nebraska State Board of Education must remove itself from the discussion.

Therefore, the Nebraska State Board of Education directs that the Commissioner not provide resources to schools either written or via the Nebraska Department of Education website or any other means of distribution in the areas of sex education, sexual orientation and gender identity.

TO: MATTHEW L. BLOMSTEDT, PH.D.

FROM: BRYCE WILSON, DENISE THEGE

DATE: February 4, 2022

SUBJECT: MONTHLY LIST OF CONTRACTS \$10,000 TO \$50,000

RATIONALE: As stated in the Nebraska State Board of Education Policy Manual P5 the Commissioner shall provide the Board each month with a list of contracts between \$10,000 and \$50,000.

1. Contractor(s): Marzano Research
Contract Amount: \$24,800
Funding Source: General
Scope of Services: Conduct a multimethod evaluation of the K-8 mathematics acceleration project.
Date of Contract: 2/4/22-9/30/22
Contact Person: Cory Epler
2. Contractor(s): Kimberly Sanderson
Contract Amount: \$18,000
Funding Source: Federal
Scope of Services: Coaching/trng svcs.
Date of Contract: 1/15/22-1/14/23
Contact Person: Melody Hobson
3. Contractor(s): University of South Florida
Contract Amount: \$18,997
Funding Source: Federal
Scope of Services: Provide the services of Dr. Christina Dillahunt-Aspillaga to guide development of a multi-tiered, person-centered, culturally competent traumatic brain injury (TBI) training curriculum for the staff of Nebraska VR and its Supported Employment providers.
Date of Contract: 12/20/21-12/19/22
Contact Person: Lindy Foley
4. Contractor(s): UNL
Contract Amount: \$19,800
Funding Source: General
Scope of Services: Coaching/training/complete observations
Date of Contract: 1/15/22-1/14/23
Contact Person: Melody Hobson
5. Contractor(s): UNL
Contract Amount: \$49,999
Funding Source: Federal
Scope of Services: Support two different strategies to increase participation in the 2021 YRBS administration through recruitment and conversion efforts.
Date of Contract: 12/15/21-7/31/22
Contact Person: Zainab Rida

6. Contractor(s): Teachstone Training
Contract Amount: \$49,800
Funding Source: General
Scope of Services: Provide training.
Date of Contract: 1/15/22-12/31/22
Contact Person: Melody Hobson

