

**NEBRASKA DEPARTMENT
OF EDUCATION**

RULE 13

**REGULATIONS AND PROCEDURES FOR EXEMPTING SCHOOLS
FOR WHICH PARENTS ELECT NOT TO MEET LEGAL REQUIREMENTS
FOR SCHOOL APPROVAL AND ACCREDITATION FOR
RELIGIOUS REASONS**

**TITLE 92, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER 13**

**EFFECTIVE DATE
MAY 3, 2010
(REVISED)**

**State of Nebraska
Department of Education
301 Centennial Mall South
Lincoln, Nebraska 68509**



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001 General Information

001.01 Statutory Authority. Section 79-318(5)(c) of the Revised Statutes of Nebraska (R.R.S.), authorizes the Department to establish rules and regulations which govern procedures and standards for private, denominational, and parochial schools which elect, pursuant to procedures prescribed in subsections (2) to (4) of Section 79-1601 R.R.S., not to meet all state accreditation or approval requirements.

001.02 Scope. This Chapter provides rules and regulations governing the procedures for exemption of schools from state approval and accreditation requirements when such schools elect, pursuant to Section 79-1601 R.R.S., not to meet those requirements because they would violate the sincerely held religious beliefs of the parents or legal guardians. This Chapter only applies to such exempt schools and is not applicable to schools which are approved or accredited pursuant to Chapters 14 and 10 of Title 92 of the Nebraska Administrative Code. Schools exempted from the approval and accreditation requirements of Chapters 14 and 10 pursuant to this Chapter shall not be considered either approved or accredited by the Department, nor shall they be entitled to any of the benefits, privileges, or services accorded or provided to approved or accredited schools by the Department.

001.03 Related Regulations. Chapter 12 of Title 92 of the Nebraska Administrative Code governs the procedures for exemption of schools from state approval and accreditation requirements when such schools elect, pursuant to Section 79-1601 R.R.S., not to meet those requirements because they would interfere with the decisions of the parents or legal guardians in directing their child's education.

001.04 Exempt Schools Serving Students Under Both Chapters 12 and 13. An exempt school may have one or more students in attendance under Chapter 12 while one or more attend under this Chapter. In such cases, the parents or guardians filing under each Chapter may have separate parent representatives for each Chapter or may have one person act as a parent representative for both groups of parents or guardians and make separate filings under each Chapter.

002 Definitions. As used in this Chapter:

002.01 Commissioner shall mean the State Commissioner of Education, whose mailing address for purposes of this Chapter is P.O. Box 94987, Lincoln, NE 68509.

002.02 Exempt school shall mean a school which has elected not to meet approval or accreditation requirements and has complied with this Chapter or Chapter 12 and state law relating to such exemption.

002.03 Mandatory Attendance Age shall mean a child that will reach six (6) years of age prior to January 1 of the then-current school year, and has not reached eighteen (18) years of age. A child that will reach six (6) years of age prior to January 1 of the then-current school year need not be enrolled in a public, private, denominational or parochial day school or a school that has elected under this Chapter or Chapter 12 not to meet accreditation or approval requirements when the provisions in Section 011 of this Chapter are met.

002.04 School year shall mean, for the purposes of this Chapter, the period of instruction between July 1 and the following June 30.

003 Statements of Objections and Assurances

003.01 Parent or Guardian Statement. To elect under this Chapter not to meet state approval or accreditation standards and to obtain exemption from provisions of compulsory attendance requirements relating to attendance at a state approved or accredited school, each of the parents or guardians of the children who will attend the exempt school and who are of mandatory attendance age must sign a separate Statement of Objection and Assurances, a copy of which is attached as Form A, in the presence of and acknowledged by a notary public upon oath or affirmation.

003.01A Single Parent. If the filer is a single parent, that parent must complete a Form A and provide sole custody verification. A parent claiming to be a single parent is representing that he or she alone is responsible for making the decisions concerning the educational placement of the child(ren). Sole custody verification includes (but is not limited to): an order of a court of law having proper jurisdiction providing that the filing parent has sole custody of the child(ren), a birth certificate that lists only the filing parent as the parent, or a death certificate if one of the parents is deceased.

003.01A1 If the custody arrangement is changed by a court of law subsequent to the initial filing, a copy of that court order must be provided by the single parent filer.

003.01A2 If the court order specifies joint legal custody, both parents must complete a Form A, unless the court order provides that the custodial parent has sole educational decision-making authority. In that case, a copy of that court order must be provided.

003.01B Legal Guardian(s). If the filer is the legal guardian(s), a copy of the documentation lawfully appointing the filer(s) as guardian(s) must be submitted with the completed Form A(s).

003.02 Parent Representative Filings. The parents or guardians of the children who attend or will attend the exempt school shall designate a parent representative who shall do the following:

003.02A Thirty days prior to the date on which the exempt school is to begin operation, and annually thereafter by July 15, the parent representative will file a statement containing the names and ages of all children in the school and the names of their parents or guardians, and containing assurances regarding submission of information on enrollment and attendance, signed in the presence of and acknowledged by a notary public upon oath or affirmation. A copy of this statement is attached as Form B, which must be accompanied by a parent or guardian's statement (Form A) signed by each parent or guardian of all children who are to attend the exempt school.

003.02B If, at any time during the school year, new children will enroll in the exempt school, the parent representative shall submit to the Commissioner or designee an additional Form A statement for each new parent or guardian prior to enrollment.

003.02C If, at any time during the school year, children withdraw from the exempt school, the parent representative shall promptly inform the Commissioner or designee of such change in writing. See also Section 010.

003.02D If the parent representative changes at any time during the school year, the parents or guardians shall designate a new parent representative who shall promptly submit a new Form B.

003.02E If the address changes at any time during the school year, the parent representative shall promptly notify the Commissioner or designee in writing.

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004 Information Summary. Prior to the date that the exempt school begins operation, and annually thereafter by July 15, the parent representative will submit to the Commissioner or designee the following:

004.01 A calendar for the school year indicating a minimum instruction of 1,080 hours in secondary schools and 1,032 hours in elementary schools. During the first year of operation, the days of instruction may be prorated based upon the remaining balance of the school year.

004.02 A list of the names of all instructional monitors in the exempt school, which shall also include for each their address, age, highest level of education completed, names of educational institutions attended and the specific years attended, and summary of prior teaching or monitoring experience. If any new monitors are added during the school year, the same information for such persons shall be promptly submitted in writing to the Commissioner or designee. If any monitors leave during the school year, this shall also be promptly submitted in writing to the Commissioner or designee. At the option of the parent representative, a score on the National Teachers Examination may also be submitted for any monitor in addition to the above information.

004.03 A chart or written summary showing the scope and sequence of the sequential program of instruction designed to lead to basic skills in the language arts, mathematics, science, social studies, and health, which shall include a list of all classes or courses and the names of the monitors who are responsible for instructing or monitoring those classes or courses. This chart or summary shall show the grade levels being included in the exempt school.

004.04 The name of the public school district and county in which the child(ren) resides.

005 Letter of Acknowledgment. Upon receipt of the Form A signed by all parents or guardians, Form B signed by the authorized parent representative, and the information required in Section 004, the Commissioner will direct that a letter acknowledging such receipt be sent to the authorized parent representative and reported to the school district where the child resides.

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- 006 Failure to Provide Information or Meet Requirements. Failure of the parent representative to provide the information required by this Chapter within the time limits described above, or failure to meet any of the other requirements of this Chapter, will cause the Department to notify the school district in which the child resides that the school has not met the requirements of this Chapter and therefore shall not be deemed an exempt school for purposes of 79-201 R.R.S., which may subject the parents or guardians to prosecution thereunder or under any other statutes relating to habitual truancy.
- 007 Exempt School Visits. When the Department, in order to verify information submitted pursuant to this Chapter, deems it necessary to visit the exempt school, Department officials or their designees shall contact the parent representative and a time for the visit shall be mutually established. Denial of access for this purpose, so long as pursued in this manner, shall be cause for the Department to determine that the exempt school is not meeting requirements relating to the sequential program of instruction designed to lead to basic skills in the language arts, mathematics, science, social studies, and health. Therefore, it shall not be deemed an exempt school and the procedure in Section 006 above will be initiated.
- 008 Student Testing. When the Department, in order to verify information submitted pursuant to this Chapter deems it necessary to have conducted regular achievement testing of students attending the school, Department officials shall contact the parent representative and a test, a time, and a procedure shall be mutually designated and established. Denial of student testing for this purpose, so long as pursued in this manner, shall be cause for the Department to determine that the exempt school is not meeting requirements relating to the sequential program of instruction designed to lead to basic skills in the language arts, mathematics, science, social studies, and health. Therefore, it shall not be deemed an exempt school and the procedure in Section 006 above will be initiated.

009 Birth Certificate. Pursuant to Section 43-2007(3) R.R.S. (part of the Missing Children Identification Act), upon enrollment of a student who is receiving his or her education in an exempt school subject to sections 79-1601 to 79-1607, the parent or guardian of such student shall provide to the Commissioner of Education either (a) a certified copy of the child's birth certificate or (b) other reliable proof of the child's identity and age accompanied by an affidavit explaining the inability to produce a copy of the birth certificate. Upon failure of the parent or guardian to comply, the Commissioner of Education shall notify such parent or guardian in writing that unless he or she complies within ten days the matter shall be referred to the local law enforcement agency for investigation. If compliance is not obtained within such ten-day period, the Commissioner shall immediately report such matter.

010 Discontinuing Enrollment at the Exempt School. For a child who is of mandatory attendance age, attendance at the exempt school may be discontinued in the following two cases:

010.01 If the child has reached the age of 16 and is below age 18 and the parents or guardians wish to discontinue the enrollment of the child, the parents or guardians shall sign a separate "Parent or Guardian Form to Discontinue Enrollment at Exempt School" attached as Form C, in the presence of and acknowledged by a notary public upon oath or affirmation.

010.01A Single Parent. If the filer is a single parent, that parent must complete a Form C and provide sole custody verification. A parent claiming to be a single parent is representing that he or she alone is responsible for making the decisions concerning the educational placement of the child. Sole custody verification includes (but is not limited to): an order of a court of law having proper jurisdiction providing that the filing parent has sole custody of the child, a birth certificate that lists only the filing parent as the parent, or a death certificate if one of the parents is deceased.

010.01A1 If the custody arrangement is changed by a court of law subsequent to the initial filing, a copy of that court order must be provided by the single parent filer.

010.01A2 If the court order specifies joint legal custody, both parents must complete a Form C, unless the court order provides that the custodial parent has sole educational decision-making authority. In that case, a copy of that court order must be provided.

010.01B Legal Guardian(s). If the filer is the legal guardian(s), a copy of the documentation lawfully appointing the filer(s) as guardian(s) must be submitted with the completed Form C(s).

010.02 If the child is below 18 and has completed the program of instruction offered by the exempt school, the parents or guardians shall sign a separate "Parent or Guardian Form to Report Completion of Program" attached as Form D, in the presence of and acknowledged by a notary public upon oath or affirmation.

010.02A Single Parent. If the filer is a single parent, that parent must complete a Form D and provide sole custody verification. A parent claiming to be a single parent is representing that he or she alone is responsible for making the decisions concerning the educational placement of the child. Sole custody verification includes (but is not limited to): an order of a court of law having proper jurisdiction providing that the filing parent has sole custody of the child, a birth certificate that lists only the filing parent as the parent, or a death certificate if one of the parents is deceased.

010.02A1 If the custody arrangement is changed by a court of law subsequent to the initial filing, a copy of that court order must be provided by the single parent filer.

010.02A2 If the court order specifies joint legal custody, both parents must complete a Form D, unless the court order provides that the custodial parent has sole educational decision-making authority. In that case, a copy of that court order must be provided.

010.02B Legal Guardian(s). If the filer is the legal guardian(s), a copy of the documentation lawfully appointing the filer(s) as guardian(s) must be submitted with the completed Form D(s).

Within 30 days upon receipt of the Form C or Form D signed by all parents or guardians, the Commissioner will direct that a letter acknowledging such receipt be sent to the parents or guardians and reported to the school district where the child resides.

011 Children Below Age Seven - Filing Requirement to the Resident Public School District (delaying entry until age seven). Parents or guardians of a child who will reach six years of age prior to January 1 of the then-current school year, but has not reached seven years of age (and wish to delay entry until age seven), must sign an affidavit stating that the parent or guardian intends for the child to participate in an Exempt School and intends to file for exempt status with the Commissioner of Education on or before the child's seventh birthday. This affidavit is to be filed by the parent or guardian with the school district in which the child resides (resident public school district). Contact the resident public school district to request the affidavit form.

011.01 Parents or guardians of a child who will reach six years of age prior to January 1 of the then-current school year whose child will attend an exempt school must comply fully with the requirements as outlined in Rule 13, and begin educating the child accordingly.

012 Dual (Part-Time) Enrollment. Section 79-2,136 R.R.S. provides that public schools shall allow the part-time enrollment of students who are residents of the school district but attend an exempt (home) school. Contact the local public school district regarding their policies and procedures.

**** PLEASE PRINT CLEARLY AND COMPLETE ALL INFORMATION ****

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FORM A: Parent or Guardian Form

STATEMENT OF OBJECTION AND ASSURANCES BY PARENT OR GUARDIAN

TO: COMMISSIONER OF EDUCATION, STATE OF NEBRASKA
P.O. BOX 94987, LINCOLN, NE 68509

_____, the undersigned, being a parent or
(Printed Name of Parent or Guardian)
guardian of children who attend or will attend the _____ School,
(Name of Exempt School)
located at _____,
(Exempt School Address)

do hereby affirm that:

The requirements for school approval and accreditation required by law and the rules and regulations adopted and promulgated by the State Board of Education violate my sincerely held religious beliefs; and _____ has been designated as
(Name of Parent Representative)
my authorized parent representative who will at least annually submit to the Department of Education information to show that the students are enrolled and attending pursuant to compulsory attendance laws by submitting a school calendar for the year and notifying the Commissioner of any changes in student enrollment and address; and

A program of sequential instruction in the language arts, mathematics, science, social studies, and health is being provided; and

I have satisfied myself that individuals monitoring instruction at this school are qualified to monitor instruction in the basic skills as listed in the paragraph above, and that such individuals have demonstrated an alternative competency to monitor instruction or supervise children; and

The **name(s), age(s), and date(s) of birth** of my child(ren) who will attend the school is (are)

_____ ; and

I further understand that this school is not Approved or Accredited by the State of Nebraska.

Signed this ___ day of _____, 20__ _____
(Signature of Parent or Guardian)
State of Nebraska)
) ss _____
County of _____)
(Address)

The foregoing Statement of Objection and Assurances was signed in my presence by _____
_____, upon oath or affirmation that the statements contained therein were true.
(Printed Name of Parent or Guardian)

(Seal)

Signature of Notary Public

Instructions: A separate copy of this form must be signed by each parent or guardian of the child(ren) named on this form and provided to the parent representative for filing with the Commissioner of Education. A parent filing as a single parent should consult Section 003.01A. Form A is required by Rule 13, and is part of this rule, therefore, an altered Form A will not be accepted.

**** PLEASE PRINT CLEARLY AND COMPLETE ALL INFORMATION ****

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FORM C

Parent or Guardian Form to Discontinue Enrollment at the Exempt School

TO: COMMISSIONER OF EDUCATION, STATE OF NEBRASKA
P.O. BOX 94987, LINCOLN, NE 68509

_____, the undersigned, being a parent or guardian
(Printed Name of Parent or Guardian)

of the child(ren) listed below do hereby affirm that the child(ren) reached the age of sixteen, and is below age eighteen and, pursuant to 79-201 R.R.S., will discontinue enrollment at the _____ effective _____.
(Name of Exempt School) (Month/Day/Year)

| First/Last Name of Child(ren) | Age | Date of Birth Mo/Day/Yr | Resident Public School District In Which the Family Resides |
|-------------------------------|-----|----------------------------|--|
| | | | |
| | | | |
| | | | |

Signed this ___ day of _____, 20__

(Signature of Parent or Guardian)

State of Nebraska)
) ss
County of _____)

(Address)

The foregoing statement was signed in my presence by _____,
(Printed Name of Parent or Guardian)
upon oath or affirmation that the statements contained therein were true.

(Seal)

Signature of Notary Public

Instructions: A separate copy of this form must be signed by each parent or guardian of the child(ren) named on this form and filed with the Commissioner of Education, promptly upon withdrawal from the program. A parent filing as a single parent should consult Section 010.01A.

**** PLEASE PRINT CLEARLY AND COMPLETE ALL INFORMATION ****

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FORM D

Parent or Guardian Form to Report Completion of Program

TO: COMMISSIONER OF EDUCATION, STATE OF NEBRASKA
P.O. BOX 94987, LINCOLN, NE 68509

_____, the undersigned, being a parent or guardian
(Printed Name of Parent or Guardian)

of the child(ren) listed below do hereby affirm that the child(ren) has not reached the age of eighteen and, pursuant to 79-201 R.R.S., has completed the program of instruction offered at the _____ effective _____.
(Name of Exempt School) (Month/Day/Year)

| First/Last Name of Child(ren) | Age | Date of Birth Mo/Day/Yr | Resident Public School District In Which the Family Resides |
|-------------------------------|-----|----------------------------|--|
| | | | |
| | | | |
| | | | |

Signed this ___ day of _____, 20__

(Signature of Parent or Guardian)

State of Nebraska)

) ss

County of _____)

(Address)

The foregoing statement was signed in my presence by _____,
(Printed Name of Parent or Guardian)
upon oath or affirmation that the statements contained therein were true.

(Seal)

Signature of Notary Public

Instructions: A separate copy of this form must be signed by each parent or guardian of the child(ren) named on this form and filed with the Commissioner of Education, promptly upon completion of the program of instruction. A parent filing as a single parent should consult Section 010.02A.