NEBRASKA DEPARTMENT
OF EDUCATION

RULE 19

REGULATIONS REGARDING SCHOOL ENROLLMENT

TITLE 92, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER 19

EFFECTIVE DATE
JANUARY 18, 2016
(REVISED)

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

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 19 - SCHOOL ENROLLMENT

NUMERICAL TABLE OF CONTENTS

Subject	Statutory Authority	Code Section
General Information	Neb. Rev. Stat. §§ 79-215, 79-301, 79-302, 79-318, 79-319, 79-201 to 79-210	Section 001
Definitions	Neb. Rev. Stat. §§ 79-215, 79-301, 79-302, 79-318, 79-319, 79-201 to 79-210	Section 002
Enrollment Requirements	Neb. Rev. Stat. §§ 79-215, 79-301, 79-302, 79-318, 79-319, 79-201 to 79-210	Section 003
Contract Dispute Resolution	Neb. Rev. Stat. §§ 79-215, 79-301, 79-302, 79-318, 79-319	Section 004
Enrollment of Homeless Children And Youths	Neb. Rev. Stat. §§ 79-215 42 U.S.C. 11431 et. seq.	Section 005
Compulsory Attendance Enforcement	Neb. Rev. Stat. §§ 79-215, 79-301, 79-302, 79-318, 79-319, 79-201 to 79-210	Section 006
Compliance as a Mandatory Condition for School Accreditation	Neb. Rev. Stat. §§ 79-215, 79-301, 79-302, 79-318, 79-319, 79-201 to 79-210	Section 007
Enrollment Option Program	Neb. Rev. Stat. §§ 79-318, 79-232 to 79-246	Section 008
Open Enrollment in a Learning Community	Neb.Rev.Stat. §§ 79-2101, 79-2102, 79-2110, 79-4,117 to 79-4,129	Section 009
Part-time Enrollment	Neb.Rev.Stat. § 79-2,136	Section 010
Foreign/Foreign Exchange Students	Neb. Rev. Stat. § 79-215	Section 011
Forms	Neb. Rev. Stat. §§ 30-2604, 79-215 79-301, 79-302, 79-318, 79-319, 79-201 to 79-210	Section 012

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 19 - SCHOOL ENROLLMENT

APPENDICES

Statement of Person in Legal or Actual Charge or Control Form	Appendix A
Sample Power of Attorney Form	Appendix B
Section 79-215 of the Revised Statutes of Nebraska (Student Admission)	Appendix C
Visa Information	Appendix D

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 19 - SCHOOL ENROLLMENT

ALPHABETICAL TABLE OF CONTENTS

Subject	Statutory Authority	Code Section
Compliance as a Mandatory Condition for School Accreditation	Neb. Rev. Stat. §§ 79-215, 79-301, 79-302, 79-318, 79-319, 79-201 to 79-210	Section 007
Compulsory Attendance Enforcement	Neb. Rev. Stat. §§ 79-215, 79-301, 79-302, 79-318, 79-319, 79-201 to 79-210	Section 006
Contract Dispute Resolution	Neb. Rev. Stat. §§ 79-215, 79-301, 79-302, 79-318, 79-319	Section 004
Definitions	Neb. Rev. Stat. §§ 79-215, 79-301, 79-302, 79-318, 79-319, 79-201 to 79-210	Section 002
Enrollment of Homeless Children And Youths	Neb. Rev. Stat. §§ 79-215 42 U.S.C. 11431 et.seq.	Section 005
Enrollment Option Program	Neb. Rev. Stat. §§ 79-318, 79-232 to 79-246	Section 008
Enrollment Requirements	Neb. Rev. Stat. §§ 79-215, 79-301, 79-302, 79-318, 79-319, 79-201 to 79-210	Section 003
Foreign/Foreign Exchange Students	Neb.Rev.Stat. § 79-215	Section 011
Forms	Neb. Rev. Stat. §§ 30-2604, 79-215 79-301, 79-302, 79-318, 79-319, 79-201 to 79-210	Section 012
General Information	Neb. Rev. Stat. §§ 79-215, 79-301, 79-302, 79-318, 79-319, 79-201 to 79-210	Section 001
Open Enrollment in a Learning Community	Neb.Rev.Stat. §§ 79-2101, 79-2102, 79-2110, 79-4,117 to 79-4,129	Section 009
Part-time Enrollment	Neb.Rev.Stat. § 79-2,136	Section 010

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 19 - SCHOOL ENROLLMENT

APPENDICES

Statement of Person in Legal or Actual Charge or Control Form	Appendix A
Sample Power of Attorney Form	Appendix B
Section 79-215 of the Revised Statutes of Nebraska (Student Admission)	Appendix C
Visa Information	Appendix D

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 19 - SCHOOL ENROLLMENT

001 General Information

001.01 Purpose of this Chapter. Article VII, Section 1 of the Constitution of the State of Nebraska states that: "The Legislature shall provide for the free instruction in the common schools of this state for all persons between the ages of five and twenty-one years." This Chapter is adopted under the constitutional and statutory authority of the State Department of Education, for the purpose of clarifying responsibilities of public school districts regarding school enrollment so that all persons who are constitutionally entitled to a free public education in Nebraska receive such an education upon request.

001.02 Scope and Application of this Chapter. This Chapter requires each public school district, as a condition of continued accreditation under Title 92, Nebraska Administrative Code, Chapter 10 (92 NAC 10), to enroll and serve persons, upon request, who are entitled to a free public education in that district. This Chapter also contains provisions for students seeking to transfer to other districts under the enrollment option program.

001.03 Statutory Authority. Article VII, Section 2 of the Constitution of the State of Nebraska and Section 79-301 of the Revised Statutes of Nebraska (R.R.S.) provide, in part, that: "The State Department of Education shall have general supervision and administration of the school system of the state and of such other activities as the Legislature may direct." This Chapter is adopted pursuant to the constitutional and statutory authority of the Department to prescribe regulations for the accreditation and operation of public schools under Sections 79-301, 79-302, 79-318, and 79-319 R.R.S.; plus Section 79-215 R.R.S., which permits the Department to adopt rules and regulations to carry out the Department's responsibilities under that statute.

001.04 Related regulations. Several other Nebraska State Department of Education regulation chapters in Title 92 of the Nebraska Administrative Code (NAC) deal with matters related to this Chapter. Chapter 10 deals with accreditation of public schools. Compliance with this Chapter is a condition of continued accreditation under Chapter 10. Chapter 17 deals with alternative education for students expelled under the Student Discipline Act. Chapter 51 is the primary regulation for the provision of special education services and reimbursement after a person is enrolled under this Chapter. Chapter 61 provides procedures for appeals under the enrollment option program and certain provisions of this Chapter. Chapter 81 deals with the General Educational Development (G.E.D.) examination and diplomas of high school equivalency. Regulations of the State Department of Health and Human Services regarding state wards and reimbursement are contained in Title 390, Nebraska Administrative Code, Chapter 10.

001.05 Construction of Enrollment Statutes and Regulations by School Districts. School districts shall liberally construe state statutes and these regulations pertaining to enrollment determinations. In regard to school enrollment determinations, the Nebraska Supreme Court has held that:

> "Statutes pertaining to our public schools should be liberally construed to the end that all persons of school age may enjoy their privileges . . . Solicitude for the education of its youth has always been characteristic of Nebraska. It is a settled policy of the state that every person of school age shall have an opportunity to attend its free schools." Martins v. School Dist., 101 Neb. 258 (1917).

002 Definitions. As used in this Chapter:

002.01 Adult shall mean a person nineteen years of age or older, except that, for the purposes of entering into binding contracts or leases, a person eighteen years of age or older who is not a ward of the state is legally responsible for the contract or lease. (see Sections 43-2101 and 43-245(1) R.R.S.).

002.02 Child shall mean an unmarried person under nineteen years of age who is not an emancipated minor (See Section 43-2101 R.R.S. and definition of emancipated minor at 002.06).

002.03 Commissioner shall mean the Commissioner of Education.

002.04 Department shall mean the State Department of Education, which is comprised of the State Board of Education and the Commissioner of Education.

002.05 District shall mean a Nebraska public school district, as defined in Section 79-101 R.R.S.

002.06 Emancipated Minor shall mean a person under nineteen years of age who is married or in the military, and it shall also mean a person under nineteen years of age who resides apart from his or her parents; is not under the care, custody, control, or supervision of his or her parents; and who receives no financial support or services from his or her parents and is responsible for securing his or her own support. The emancipation of a child is a question of fact, to be determined by the peculiar facts and circumstances of each case, and may be proved by circumstantial evidence, by an express agreement, or implied from the conduct of the parties. Emancipation may be terminated by a change of circumstances. For a general discussion of emancipation of minors, see Accent Service Company v. Ebsen, 209 Neb. 94 (1981), Wulff v. Wulff, 243 Neb. 616 (1993) and In re Petition of Anonymous, 279 Neb. 912 (2010).

002.07 Enroll shall mean admitting, allowing to attend, and providing services of the school to a person.

002.08 Guardian shall mean a legal guardian who has been appointed by a court or who has accepted a testamentary appointment, such as provided in Section 30-2605 R.R.S.

002.09 "Homeless children and youths" and "homeless student" shall mean a person who meets the definition of homeless children and youths in Title 42, United States Code, Section 11434a, which is:

002.09A An individual who lacks a fixed, regular, and adequate nighttime residence (within the meaning of 42 U.S.C. 11302(a)(1)); and

002.09B Includes:

002.09B1 Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency shelters; are abandoned in hospitals; or are awaiting foster care placement;

002.09B2 Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of 42 U.S.C. 11302(a)(2)(C));

002.09B3 Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

002.09B4 Migratory children (as defined in 20 U.S.C. 6399) who qualify as homeless for the purposes of this section because the children are living in circumstances described in subsections 002.09B1 through 002.09B3.

002.10 Legal or Actual Charge or Control shall refer to the status of parents, legal guardians, persons standing in loco parentis to a child, persons with a power of attorney that delegates parental authority, or any other person who has been entrusted with, or assumed, the day-to-day care and full-time supervision of, and responsibility for, a child.

002.11 In Loco Parentis shall refer to a situation in which a child, with the consent of a parent or legal guardian, goes to live with another person with the understanding that the person the child lives with is to care for the child and stands in the place of a parent or legal guardian. A person who stands in loco parentis to a child may demand from a school district every right to which his or her own natural child is entitled. (See Mizner v. School Dist. No. 11 of Sherman County, 2 Neb. (Unof.) 238 (1901)). A person standing in loco parentis to a child is one who has put himself or herself in the situation of a lawful parent by assuming the obligations incident to the parental relation without going through the formalities necessary to adoption, and the rights, duties, and liabilities of such person are the same as those of the lawful parent. The assumption of the relation is a question of intention, which may be shown by the acts and declarations of the person alleged to stand in that relation. (See Austin v. Austin, 147 Neb. 109 (1946), which is also referenced in a number of other cases, including State on Behalf of Hopkins v. Batt, 253 Neb. 852 (1998)).

002.12 Nonresident shall mean a person who does not have a residence in the district (see Section 002.14 for definition of Residence).

002.13 Parent shall mean the lawful father or mother of a child, including adoptive parents. A guardian or any other person in legal or actual charge or control of a child (see definition in Sections 002.08 and 002.10 of this Chapter) who enrolls a child in school under the provisions of this Chapter shall be considered to be acting as a parent for all education purposes, such as release of student records and the making of education decisions for the child unless otherwise restricted by law.

002.14 Residence shall mean that place in which a person is actually domiciled, which is one's established home and the place to which one intends to return when absent therefrom. It is the place where a person is actually living full-time, as opposed to vacationing or visiting. It should be noted that, pursuant to Section 79-215 R.R.S. and this Chapter, a child may have a residence for school enrollment purposes that is separate from the residence of his or her parents or guardian. An example of such a situation is when a child resides in a different district than his or her parents, under the legal or actual charge or control of an adult acting in loco parentis, or an adult who has a power of attorney under §30-2604 R.R.S. (See also the opinion of the United States Court of Appeals, Eighth Circuit, in the case of Horton v. Marshall Public Schools, 769 F.2d 1323 (1985)). It should also be noted that the Legislature has provided for several circumstances in which a person may enroll in a school district other than the district in which that person has a residence (See Section 79-215 R.R.S. in Appendix C). Lawful citizenship or presence does not determine residency.

002.15 Residency shall mean having a residence in a place.

002.16 Resident shall mean a person who has his or her residence in a place. It should be noted that the Legislature has specifically provided in Section 79-215 (1) R.R.S. that, except as otherwise provided in §79-215 R.R.S., a student is a resident of the school district where he or she resides and shall be admitted to any such school district upon request without charge. The Legislature has also provided in §79-215 R.R.S. for several circumstances in which a student either shall or may be enrolled in a school district in which they are not a resident. (See Appendix C). For example, a school board shall admit a student upon request without charge if at least one of the student's parents resides in the school district. (Section 79-215(2) R.R.S.).

002.17 Reside shall mean to live in a place that is one's residence.

002.18 Student shall mean all persons (including children, emancipated minors, and adults) between the ages of five and twenty-one who have not completed high school or received a diploma of high school equivalency and who a school district is required or authorized to enroll.

003 Enrollment Requirements. A public school district shall, upon request, enroll and provide free instruction to any person between the ages of 5 and 21 who has not completed high school, or received a diploma of high school equivalency, and who the school district is required to enroll under the provisions of Section 79-215 R.R.S., subject to the provisions of all other applicable requirements of state law and regulations related to enrollment and attendance. A text of that statute is included in Appendix C.

003.01 Other Statutory and Regulatory Requirements. Other requirements of state law related to enrollment include, but are not limited to: §§79-201 through 79-210 R.R.S. regarding compulsory education; §79-214 R.R.S. regarding kindergarten admission; §79-216 R.R.S. regarding children of members of the military or of federal employees living on national parks or monuments; §§79-217 through 79-223 R.R.S. regarding immunizations; §§79-254 through 79-294 R.R.S. regarding the Student Discipline Act; §79-266.01 R.R.S. regarding enrollment of expelled students; §79-526 R.R.S. regarding the duty of districts to make provisions for students entering at any time during the school year; and §43-2007 R.R.S., regarding Missing Children Identification Act dealing with birth certificates or other proof of identity. Other regulatory requirements related to enrollment include, but are not limited to, those listed in Section 001.04.

003.02 Prohibited prerequisites to enrollment. A student who is entitled to or may lawfully enroll in and attend a public school, or the parent, guardian or other person having charge or control of such student shall not, unless otherwise permitted by law, be made to present any documentation or do any act prior to the student being allowed to enroll or attend. Unless permitted by law, this prohibition includes, but is not limited to, requiring as a pre-condition to enrollment or attendance any of the following:

003.02A Submission of social security card or number, which is subject to the Federal Privacy Act (Title 5, U.S.C., Section 552a (note));

003.02B Presentation of a certified copy of a birth certificate or other proof of identity and age, which is subject to the Missing Children's Identification Act (Section 43-2007 R.R.S.). Under that Act, upon enrollment of a child for the first time in a public school district, the person enrolling the student, within 30 days, must provide a certified copy of the student's birth certificate or other reliable proof of identity and age as described in §43-2007.

003.02C Receipt by the district of transcripts, grades or other records from previously attended schools (see Section 79-2,105 R.R.S.).

003.02D The payment of any fee, including those fees authorized by the Public Elementary and Secondary Student Fee Authorization Act (Sections 79-2,125 to 79-2,135 R.R.S.), except for fees for enrollment or participation in the specific courses or activities allowed under Section 79-2,127 R.R.S..

003.02E Presentation of proof that a child who seeks to enroll or his or her parent, as defined in section 002.13 of this Chapter, is a citizen of the United States or is a legally admitted alien. See Plyler v. Doe, 457 U.S. 202 (1982); and also Section 011 of this Chapter.

003.03 Termination of Enrollment. If an enrolled student ceases to be eligible for required enrollment for free instruction under the provisions of Section 79-215 R.R.S., a district may terminate the enrollment of the student, or may continue the enrollment under the provisions of §79-215(4) R.R.S. or any other provision of §79-215 R.R.S. that may subsequently become applicable. When a student is a child of compulsory attendance age and is denied enrollment or his or her enrollment is terminated other than as the result of expulsion under the Student Discipline Act, the district, if it is not aware that the child is enrolled elsewhere, shall (a) report such circumstance to the attendance officer of the district in which the child should be enrolled or, if it cannot determine in what other district the child should be enrolled, report such action to the Department of Health and Human Services or law enforcement officials pursuant to Section 28-711 R.R.S.; and (b) cooperate with and assist such officials in attempting to ensure that the child is not neglected and is promptly re-enrolled in a school.

003.04 Students Entering During the School Year. A district shall make provisions for students that may enter at any time during the school year. A district that enrolls a student during the school year shall give the student the opportunity to earn full credit for the courses in which the student is enrolled if the student is able to demonstrate mastery of the subject matter and/or completion of course requirements, other than attendance, at a level required for other students to receive credit who have been enrolled throughout the period for which the credit is to be granted. The district may use a review of transcripts from prior schools attended, standardized tests, assessments, and/or teacher evaluations of student competency in the subject matter to make such a determination. A school district may use the same evaluation alternatives to award or recognize credit for past course work completed elsewhere and/or through demonstrated mastery of subject matter.

003.05 Students with diplomas or other certificates of completion from other states, territories or countries. If a person under age twenty-one seeks to enroll as is provided for in Sections 001.01 and 003 of this Chapter, and such a person already possesses or was granted a diploma or other certificate of completion of the school system or the course of studies of another state, territory or country, the district has authority, pursuant to §§79-201(3)(a) and 79-526 R.R.S. and Section 003.04 of this Chapter to make a professional educational determination regarding whether or not the person's completion of that course of studies is substantially equivalent to completion of the graduation requirements in §79-729 R.R.S. If so, the person is not required to be enrolled.

004 Contract Dispute Resolution. If two school districts cannot agree on the amount of a contract under subsection (10)(b) of §79-215 R.R.S. (see Appendix C of this Chapter for full text of the law), that statute provides, in part, that:

> ". . . the State Department of Education shall determine the amount to be paid by the resident district to the district in which such residential setting is located based on the needs of the student, approved special education rates, the department's general experience with special education budgets, and the cost per student in the district in which such residential setting is located."

004.01 Request for Determination. If the districts cannot agree on a contract amount, either district may submit a written request for determination of the amount to the Commissioner. The Commissioner may designate another person to make the determination on his or her behalf.

004.01A The Commissioner, or his or her designee, shall consider such information as may be provided by the districts in writing, or in any informal meetings the Commissioner, or his or her designee, may choose to conduct with representatives of both districts.

004.01B The Commissioner, or his or her designee, shall base their determination on the factors specified in §79-215(10)(b) R.R.S.

004.01C The determination by the Commissioner, or his or her designee, shall be provided to the districts in writing.

004.02 Appeal. If either district is dissatisfied with the determination of the Commissioner, or his or her designee, the determination may be appealed to the State Board of Education pursuant to 92 NAC 61.

005 Enrollment of homeless children and youths

005.01 General Requirements. A district shall follow all requirements for the education of the homeless under the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431 et. seq., including, but not limited to, the provision of comparable services to homeless children or youths enrolled, the designation of local agency education (district) homeless liaison, notification to the parents or guardians of homeless children and youth of the educational rights and opportunities available under law, and a district dispute resolution process for disputes regarding the educational placement of homeless children and youths.

005.02 Dispute Resolution Process. The district's dispute resolution process referred to in Section 005.01 shall provide for (a) the district's written response and explanation of a decision regarding any complaint or dispute of a parent, guardian or other person having legal or actual charge or control of a homeless child or youth within thirty (30) calendar days of the time such complaint or dispute is brought; (b) the enrollment of the homeless child or youth in the school where enrollment is sought during the time such dispute is being considered; and (c) notice of the right appeal as provided in Section 005.03 below.

005.03 Appeals. Any parent, guardian or other person having legal or actual charge or control of a homeless child or youth that is dissatisfied with the decision of a school district after the dispute resolution process may file an appeal with the Commissioner within thirty (30) calendar days of receipt of the decision. Such appeals are informal and shall be submitted to the Commissioner in writing stating the basis of the disagreement, and shall also include a copy of the district's written response and explanation of its decision as required in Section 005.02. The district shall be supplied a copy of the

written appeal by the Commissioner or designee and the district(s) may file a written response thereto within fifteen (15) calendar days of receipt of it. If either party requests a hearing, an informal hearing will be scheduled by the Commissioner or designee within thirty (30) calendar days after the expiration of the time by which the district is to respond. If no hearing is requested, the Commissioner shall decide the matter based on the submissions of the parties, and may also request further written information and clarification from the parties. The Commissioner or designee shall issue a written decision determining whether or not the provisions of the McKinney-Vento Act have been followed.

005.03C A party may appeal the decision of the Commissioner or designee by filing a Petition with the State Board of Education within thirty (30) calendar days of the receipt of the decision. Such appeal shall be governed by 92 NAC 61, and shall also determine whether or not the provisions of the McKinney-Vento Act have been followed.

006 Compulsory Attendance Enforcement. The compulsory education statutes contained in Sections 79-201 through 79-210 R.R.S. impose a number of duties on superintendents, principals, teachers, school board members, and attendance officers, as well as persons in legal or actual charge or control of children. State law provides that persons violating the provisions of those statutes shall be guilty of a Class III misdemeanor (See Section 79-210 R.R.S.).

007 Compliance as a Mandatory Condition for School Accreditation. Each public school district shall comply with all the provisions of this Chapter as a condition for accreditation. Failure to comply with this Chapter shall be treated as if it were a violation of a mandatory provision of 92 NAC 10, and may subject the district to loss of accreditation as provided in that chapter.

008 Enrollment Option Program. Pursuant to Sections 79-232 through 79-246 R.R.S. the Legislature has established the enrollment option program to enable any kindergarten through twelfth grade student to attend a school in a Nebraska public school district in which the student does not reside, subject to the limitations prescribed in Section 79-238 R.R.S. The enrollment option program statutes are available on the internet at http://nebraskalegislature.gov/laws/browse-chapters.php?chapter=79. The application, late application waiver/approval and cancellation forms for the enrollment option program are available from the Department, as provided in Section 79-237 R.R.S., and are available on the internet at http://www.education.ne.gov/FOS/OrgServices/EnrollmentOption/Index.html
Any appeals under Section 79-239 R.R.S. are governed by the provisions of 92 NAC 61.

008.01 Late Applications. In accordance with Section 79-237 R.R.S., no district may enroll as an option student any student whose application for enrollment option was submitted to the district after the March 15 deadline and did not contain a signed and dated release approval form. Such applications shall be considered incomplete. An option district may enroll an option student after such form is subsequently provided.

008.01A In addition to the consequences provided for violations of this Chapter, 92 NAC 8-006.02B provides authority for the Department to investigate violations of this section and to adjust a district's option funding if violations are found.

009 Open Enrollment in a Learning Community. A school board of any school district that is a member of a learning community shall admit nonresident students to the school district pursuant to the open enrollment provisions of a diversity plan in a learning community as authorized by Section 79-2110, and such admission shall be without charge. In any learning community established pursuant to §§79-4,117 through 79-4,129 and §§79-2101 through 79-2102 R.R.S., a diversity plan that provides for open enrollment in all school buildings in the learning community subject to specific limitations necessary to bring about diverse enrollments is to be established. The open enrollment statute pertaining to learning communities, (§79-2110), is available at http://nebraskalegislature.gov/laws/browse-chapters.php?chapter=79.

010 Part-time Enrollment. Pursuant to Section 79-2,136 R.R.S., each school board shall allow the part-time enrollment of students who are residents of the school district pursuant to subsections (1) and (2) of §79-215 R.R.S. and who are also enrolled in a private, denominational, or parochial school or in a school which elects pursuant to §79-1601 R.R.S. not to meet accreditation or approval requirements and shall establish policies and procedures for such part-time enrollment. Such policies and procedures may include provisions permitting the part-time enrollment of such students who are not residents of such school districts and may require part-time students to follow school policies that apply to other students at any time the part-time student is present on school grounds or at a school-sponsored activity or athletic event. Part-time enrollment shall not entitle a student to transportation or transportation reimbursements pursuant to §79-611 R.R.S.. Nothing in this section shall be construed to exempt any student from the compulsory attendance provisions of Sections 79-201 to 79-207 R.R.S.

011 Foreign/Foreign Exchange Students. In cases where a student seeks to enroll based on visa status, various federal laws, regulations and requirements may apply depending on the type of visa. A list of the most commonly occurring visa classifications involving K-12 students and several informational web sites regarding this topic are provided in Appendix F. Children and children of parents or guardians who are not citizens or legally present in the United States shall not be denied enrollment on that basis. See Section 003.02 of this Chapter.

011.01 J-1 "Exchange Visitor" Visas. Students enrolled under this program as foreign exchange students may be classified as "contract students" attending under Section 79-215(8) R.R.S. (see Appendix C). The district may waive tuition for these students.

012 Forms. Included as appendices to this Chapter are two forms.

012.01 Statement of Person Acting as a Parent Form (Appendix A). This form is to be used by a district for purposes of Section 79-215(13) R.R.S., which provides, in part, that:

> (13) On a form prescribed by the State Department of Education, an adult with legal or actual charge or control of the student shall provide the name of the student, the name of the adult with legal or actual charge or control of the student, the address where the student is residing, and the phone number and address where the adult may generally be reached during the school day. If the student is homeless or if the adult does not have a phone number and address where he or she may generally be reached during the school day, those parts of the form may be left blank and a box may be marked acknowledging that these are the reasons these parts of the form were left blank. The adult with legal or actual charge or control of the student shall also sign the form.

012.02 Sample Power of Attorney Form (Appendix B). This sample form is a power of attorney delegating powers of a parent under Section 30-2604 R.R.S. This form is included as a sample for adults in legal or actual control of a child who may find a form of this nature useful in specific situations. No person or district is required to use this form, or any power of attorney form, nor can a district mandate its use as a condition for enrollment of a child. Such a power of attorney may be effective for six (6) months at a time, although a new power of attorney may be created upon its expiration. It is recommended that a person consult their own attorney before using any legal form.

STATEMENT OF PERSON IN LEGAL OR ACTUAL CHARGE OR CONTROL OF A CHILD SUBMITTED TO _____ FOR PURPOSES OF SCHOOL ENROLLMENT
(School District Name)

The undersigned state that I am an adult in legal or actual charge or control of _____,
(Child's Name)
a child who resides in this school district at_____ OR
(Child's Address)
The child does not reside in this district, but a parent of the child,_____
(Parent's Full Name)
does reside in this district at_____
(Parent's address)

☐ I state that I am the child's parent, or

☐ I state that I have been entrusted with, or assumed, day-to-day care and full-time supervision of, and responsibility for, the child and have been given the authority to act as parent or guardian in educational matters as established by (check all that apply):

a) ☐ a court or testamentary appointment as a legal guardian (attach copy) and/or

b) ☐ a power of attorney delegating such parental powers (attach copy), and/or

c) ☐ through an in loco parentis designation by a parent in which I have been authorized to stand in the place of the parent in caring for and raising the child (attach any written documentation of such designation), and/or

d) ☐ through any contract or judicial or administrative proceeding placing the child in such a living arrangement (attach copy of such documents), and/or

e) ☐ through some other set of circumstances (please explain on a separate sheet).

I understand that I may be requested to provide additional information regarding this child. The names and current or last known address of his or her parents are:
_____
_____

I understand that I will be responsible for, and will be expected to make, decisions regarding education (including, but not limited to, records, discipline, and special education unless otherwise provided under special education laws and regulations), emergency medical care, and other matters for this child while in legal or actual charge or control of this child and I state that I have the authority to take such responsibility and to make such decisions and to so act. I also understand that I will have responsibilities under the state truancy laws to cause this child to attend school.

_____ Dated _____, _____.
Signature of Adult In Legal or Actual Charge or Control

_____ Home Phone:_____
Home Address of Adult in Legal or Actual Charge or Control

_____ Daytime Work Phone:_____
Daytime Work Address

NOTE: SECTION 79-215 R.R.S. PROVIDES THAT IF THE STUDENT IS HOMELESS OR IF THE ADULT DOES NOT HAVE A TELEPHONE NUMBER AND ADDRESS WHERE HE OR SHE MAY GENERALLY BE REACHED DURING THE SCHOOL DAY, THOSE PARTS OF THE FORM MAY BE LEFT BLANK AND A BOX MAY BE MARKED ACKNOWLEDGING THAT THESE ARE THE REASONS THESE PARTS OF THE FORM WERE LEFT BLANK. THE ADULT WITH LEGAL OR ACTUAL CHARGE OR CONTROL OF THE STUDENT SHALL ALSO SIGN THE FORM.

☐ This child is homeless, which is the reason items were left blank.
☐ This adult does not have a phone number or address where they may generally be reached during the school day.

Further Note: It is contrary to state law for persons to intentionally submit false information to a school district in an attempt to fraudulently obtain services of the district for themselves or another or to impede the district in its enrollment determination.

SAMPLE FORM

POWER OF ATTORNEY DELEGATING POWERS UNDER NEBRASKA REVISED STATUTES SECTION 30-2604

The undersigned, being residents of _____, Nebraska, state that we are the parent(s) or guardian(s) of _____, a minor, and hereinafter referred to as the "ward". Pursuant to Nebraska Revised Statutes Section 30-2604, we hereby delegate to _____ of _____, Nebraska, who is designated attorney-in-fact for this purpose, all powers delegable under Nebraska Revised Statutes Section 30-2604, regarding the care, custody and property of said ward including power to make decisions regarding the education of said ward (including but not limited to decisions regarding special education, discipline, and the individuals who may take said ward out of school prior to the dismissal hour), to consent to surgical operations and medical and dental treatment and to receive delivery or payment of money and property due said ward. This Power of Attorney does not delegate to the attorney-in-fact the power to consent to marriage of said ward or the adoption of said ward, if a minor.

This delegation is made for a period of six (6) months beginning _____, _____, or until written notice of earlier revocation signed by the parent(s) or guardian(s) is received by the designated attorney-in-fact and any person dealing with the designated attorney-in-fact regarding said ward.

This Power of Attorney shall not be affected by subsequent disability or incapacity of the undersigned parent(s) or guardian(s) and shall remain in effect, notwithstanding later disability or incapacity of the undersigned or later uncertainty as to whether the undersigned may be dead or alive.

Dated _____, _____.

_____
Parent (or Guardian)

_____
Parent (or Guardian)

STATE OF NEBRASKA)
) ss.
COUNTY OF)

Before me, a Notary Public, qualified in and for said county, personally came _____ and _____, known to me to be the identical person(s) and signed the foregoing instrument and acknowledged the execution thereof to be his/her/their voluntary act and deed. Witness my hand and notarial seal on _____, _____.

_____
Notary Public

My Commission Expires: _____, _____.

NOTE: THIS IS A SAMPLE FORM. IT IS RECOMMENDED A PERSON CONSULT THEIR OWN ATTORNEY BEFORE EXECUTING THIS OR ANY LEGAL FORM. THIS CHAPTER DOES NOT REQUIRE A PERSON OR SCHOOL DISTRICT TO USE THIS SPECIFIC FORM OR ANY POWER OF ATTORNEY FORM, NOR MAY A SCHOOL DISTRICT REQUIRE ITS COMPLETION AS A CONDITION FOR ENROLLING A CHILD.

Sections 79-215 of the Revised Statutes of Nebraska (Student Admission)

79-215. Students; admission; tuition; persons exempt; department; duties.

(1) Except as otherwise provided in this section, a student is a resident of the school district where he or she resides and shall be admitted to any such school district upon request without charge.

(2) A school board shall admit a student upon request without charge if at least one of the student's parents resides in the school district.

(3) A school board shall admit any homeless student upon request without charge if the district is the district in which the student (a) is currently located, (b) attended when permanently housed, or (c) was last enrolled.

(4) A school board may allow a student whose residency in the district ceases during a school year to continue attending school in such district for the remainder of that school year.

(5) A school board may admit nonresident students to the school district pursuant to a contract with the district where the student is a resident and shall collect tuition pursuant to the contract.

(6) A school board may admit nonresident students to the school district pursuant to the enrollment option program as authorized by sections 79-232 to 79-246, and such admission shall be without charge.

(7) A school board of any school district that is a member of a learning community shall admit nonresident students to the school district pursuant to the open enrollment provisions of a diversity plan in a learning community as authorized by section 79-2110, and such admission shall be without charge.

(8) A school board may admit a student who is a resident of another state to the school district and collect tuition in advance at a rate determined by the school board.

(9) When a student as a ward of the state or as a ward of any court (a) 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 pursuant to section 83-108.04 or (b) has been placed in any institution which maintains a special education program which has been approved by the State Department of Education and such institution is not owned or operated by the district in which he or she resided at the time he or she became a ward, the cost of his or her education and the required transportation costs associated with the student's education shall be paid by the state, but not in advance, to the receiving school district or approved institution under rules and regulations prescribed by the Department of Health and Human Services and the student shall remain a resident of the district in which he or she resided at the time he or she became a ward. Any student who is a ward of the state or a ward of any 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 pursuant to section 83-108.04 shall be deemed a resident of the district in which he or she resided at the time he or she became a foster child, unless it is determined under section 43-1311 or 43-1312 that he or she will not attend such

district in which case he or she shall be deemed a resident of the district in which the foster family home or foster home is located.

(10)(a) When a student is not a ward of the state or a ward of any court and is residing in a residential setting located in Nebraska for reasons other than to receive an education and the residential setting is operated by a service provider which is certified or licensed by the Department of Health and Human Services or is enrolled in the medical assistance program established pursuant to the Medical Assistance Act and Title XIX or XXI of the federal Social Security Act, as amended, the student shall remain a resident of the district in which he or she resided immediately prior to residing in such residential setting. The resident district for a student who is not a ward of the state or a ward of any court does not change when the student moves from one residential setting to another.

(b) If a student is residing in a residential setting as described in subdivision (10)(a) of this section and such residential setting does not maintain an interim-program school as defined in section 79-1119.01 or an approved or accredited school, the resident school district shall contract with the district in which such residential setting is located for the provision of all educational services, including all special education services and support services as defined in section 79-1125.01, unless a parent or guardian and the resident school district agree that an appropriate education will be provided by the resident school district while the student is residing in such residential setting. If the resident school district is required to contract, the district in which such residential setting is located shall contract with the resident district and provide all educational services, including all special education services, to the student. If the two districts cannot agree on the amount of the contract, the State Department of Education shall determine the amount to be paid by the resident district to the district in which such residential setting is located based on the needs of the student, approved special education rates, the department's general experience with special education budgets, and the cost per student in the district in which such residential setting is located. Once the contract has been entered into, all legal responsibility for special education and related services shall be transferred to the school district in which the residential setting is located.

(c) If a student is residing in a residential setting as described in subdivision (10)(a) of this section and such residential setting maintains an interim-program school as defined in section 79-1119.01 or an approved or accredited school, the department shall reimburse such residential setting for the provision of all educational services, including all special education services and support services, with the amount of payment for all educational services determined pursuant to the average per pupil cost of the service agency as defined in section 79-1116. The resident school district shall retain responsibility for such student's individualized education plan, if any. The educational services may be provided through (i) such interim-program school or approved or accredited school, (ii) a contract between the residential setting and the school district in which such residential setting is located, (iii) a contract between the residential setting and another service agency as defined in section 79-1124, or (iv) a combination of such educational service providers.

(d) If a school district pays a school district in which a residential setting is located for educational services provided pursuant to subdivision (10)(b) of this section and it is later determined that a different school district was the resident school district for such student at the time such educational services were provided, the school district that was later determined educational

services one hundred to be the resident school district shall reimburse the school district that initially paid for the ten percent of the amount paid.

(e) A student residing in a residential setting described in this subsection shall be defined as a student with a handicap pursuant to Article VII, section 11, of the Constitution of Nebraska, and as such the state and any political subdivision may contract with institutions not wholly owned or controlled by the state or any political subdivision to provide the educational services to the student if such educational services are nonsectarian in nature.

(11) In the case of any individual eighteen years of age or younger who is a ward of the state or any court and who is placed in a county detention home established under section 43-2,110, the cost of his or her education shall be paid by the state, regardless of the district in which he or she resided at the time he or she became a ward, to the agency or institution which: (a) Is selected by the county board with jurisdiction over such detention home; (b) has agreed or contracted with such county board to provide educational services; and (c) has been approved by the State Department of Education pursuant to rules and regulations prescribed by the State Board of Education.

(12) No tuition shall be charged for students who may be by law allowed to attend the school without charge.

(13) On a form prescribed by the State Department of Education, an adult with legal or actual charge or control of a student shall provide the name of the student, the name of the adult with legal or actual charge or control of the student, the address where the student is residing, and the telephone number and address where the adult may generally be reached during the school day. If the student is homeless or if the adult does not have a telephone number and address where he or she may generally be reached during the school day, those parts of the form may be left blank and a box may be marked acknowledging that these are the reasons these parts of the form were left blank. The adult with legal or actual charge or control of the student shall also sign the form.

(14) The department may adopt and promulgate rules and regulations to carry out the department's responsibilities under this section.

NOTE: Statute current as of effective date of this Chapter. Check statutes for subsequent revisions. Statute may be found on the Internet at:

http://nebraskalegislature.gov/laws/statutes.php?statute=79-215&print=true

VISA INFORMATION

Description of selected visa classifications:

B-1: Temporary visitor for business.

B-2: Temporary visitor for pleasure (a tourist).

F-1: Student.

F-2: Spouse or unmarried child of an F-1 student.

J-1: Exchange visitor ("foreign exchange student").

J-2: Spouse or unmarried child of a J-1 exchange visitor.

M-1: Vocational student or other nonacademic student.

M-2: Spouse or unmarried child of an M-2 vocational or other nonacademic student.

General Information about Student Visas

Note: The following general information and links to U.S. Government websites are provided as a starting point for school district officials and other individuals to obtain more detailed information regarding foreign student visas issued by the U. S. Government. This material is not intended as legal advice for school districts or for foreign students with visas or for their families. Provisions regarding student visas may be subject to change by the U. S. Government at any time, and the Nebraska Department of education does not provide legal advice to school districts or to individuals regarding visa issues. School districts should consult with their own legal counsels if they have questions regarding foreign exchange students or students with other types of visas.

Among the more common student visas that school districts may encounter are J and F visas. A discussion of those visas is provided at the following U. S. State Department website:

www.travel.state.gov/content/visas/en/study-exchange.html

The following U. S. State Department web site currently also provides a chart listing, and providing links to, numerous types of visas:

www.travel.state.gov/content/visas/en.html

Secondary school visitor exchange student J-1 visas are discussed at:

www.j1visa.state.gov/programs

The federal regulations for the Secondary School Student Exchange programs are located at Title 22, Code of Federal Regulations, Part 62, which can be accessed at the website listed above.

The U. S. Department of State also has the following information about the Student and Exchange Visitor Information System (SEVIS) at:

www.j1visa.state.gov/sponsors/current/sevis

The SEVIS website is located at:

https://www.ice.gov/sevis