

**NEBRASKA DEPARTMENT  
OF EDUCATION**

# **RULE 53**

**REGULATIONS FOR SPECIAL EDUCATION RESIDENTIAL CARE**

**TITLE 92, NEBRASKA ADMINISTRATIVE CODE,  
CHAPTER 53**

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MARCH 9, 1986**

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



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CHAPTER 53 - SPECIAL EDUCATION RESIDENTIAL CARE

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001    Declaration of Responsibility

Neb. Rev. Stat. Section 43-626 declares, "Whenever a child must temporarily reside in a residential facility, boarding home, or foster home in order to receive an appropriate special education program the State of Nebraska shall provide for the ordinary and reasonable cost of the residential care during the duration of the special education program..."

002    Statutory Authority

Neb. Rev. Stat. Section 43-627.01 declares, "The State Department of Education shall adopt and promulgate rules and regulations to regulate costs under Section 43-626, to limit the program to handicapped children who require residential care to receive any benefit from their special education program, and to carry out Section 43-626 to 43-627.01..."

003    Administration of Program

The Special Education Office of the Nebraska Department of Education shall administer the requirements of Section 43-626 and 43-627.01 and 92 NAC 53 and shall establish such procedures and forms as are necessary to do so.

004    Inapplicability

The provisions of this Chapter regarding allowable residential costs and funding shall not apply to:

004.01    The Nebraska School for the Deaf;

004.02    The Nebraska School for the Visually Handicapped; and

004.03    The Nebraska Diagnostic Resource Center. (43-626)

005    Allowable Residential Costs

The Department of Education shall pay only for the ordinary and reasonable costs of residential care. Ordinary costs shall mean the expenses of food and preparation thereof, lodging including house parents, janitorial services, laundry, and utilities. Costs of ordinary residential care shall not include medical or dental expenses or expenses for related services which are part of the education program.

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006 Reasonable Food and Lodging Costs

The Department of Education shall pay only the reasonable costs of food and lodging. When determining reasonableness, factors will include but need not be limited to:

006.01 maximum rates jointly established annually by Nebraska Department of Education and Department of Social Services for residential care placements within the state.

006.02 the age, physical characteristics, and handicap of the particular student,

006.03 the residential cost on a per pupil basis. In determining the residential costs for a particular student only the following shall be used:

006.03A facility used for provision of food and lodging;

006.03B purchase and preparation of food;

006.03C utilities for and maintenance of facility used for food and lodging;

006.03D machinery and staff used to care for residents' clothing;

006.03E non-treatment staff such as houseparents or care attendants on duty during hours devoted to other than special education or related services.

007 Residential Placement Decisions

When determining whether a residential placement is allowable, the Department of Education and the resident school district shall take into account only the following factors in selecting an appropriate education program as close to the student's resident district as possible:

007.01 the student's education history. The school district's documentation of student's education history shall include:

007.01A student's entrance into school through the student's current education program;

007.01B placement or placement consideration not requiring residential care at each level of the following continuum:

007.01B1 consultant services within the regular class;

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- 007.01B2 instructional services within the regular class;
- 007.01B3 resource room services in addition to the regular class;
- 007.01B4 part-time regular class instruction in conjunction with self-contained special education placement;
- 007.01B5 full-time self-contained special class services on a regular school campus or in a special public or non-public day school facility;

007.02 School district documentation of efforts to locate or develop an appropriate non-residential education program.

007.03 The practicality of daily transportation. In determining when it is possible to use daily transportation for a particular child the following consideration shall be used.

007.03A The distance which must be traveled each day.

007.03B The time the traveling would require.

007.03C The effect of the transportation on the health and well-being of the student.

007.04 The handicaps of the student which require special education.

007.05 The type of educational programming needed for these handicaps.

007.06 The state approval or licensure of the proposed residential facility.

008 Non-Allowable Residential Placements

008.01 No school district shall make a placement in a special education program requiring residential care without advance consultation with the State Department of Education to review the child's needs and the availability and appropriateness of each possible placement in the continuum of alternative services except as required by other Nebraska or federal law.

008.02 If the parents or guardians of the handicapped student place the student in the residential program when the resident school district and the Department of Education determines placement is not allowable under the provisions of this Chapter, neither the resident school district or the Department of Education shall pay for any of the costs of the educational program, the costs of the transportation, or the cost of the residential care except as required by other Nebraska or federal law.

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009    State Level Decision

The Department of Education shall permit or deny a residential placement within thirty days after the receipt of necessary forms and information from a school district. Applications for approval of special education program placements requiring residential care shall be signed by the parent or legal guardian and submitted via the school district of which the student is a resident to the State Department of Education. If an application is denied, the parent or legal guardian shall be provided written notification by the State Department of Education of his or her right to appeal the decision pursuant to Sections 43-661 and 43-668 and right to name the State Department of Education as respondent in the appeal proceedings.