

PLEASE NOTE: Support documentation for agenda items can be accessed through the posted [Agenda](#).

**NEBRASKA STATE BOARD OF EDUCATION
Nebraska Department of Education
Minutes of the State Board of Education Meeting
April 12-13, 2012**

MINUTES OF THE WORK SESSION – Thursday, April 12, 2012

The State Board of Education met for purposes of a work session on Thursday, April 12, 2012, beginning at 2:00 p.m. The work session was held at the State Office Building in the State Board Meeting Room in Lincoln, Nebraska. Publicized notice of the work session was given by posting notice on the Department’s website on the internet; emailed to news media requesting notification and posting a copy of the agenda in the Office of the Commissioner of Education, which gave the date, time and location of the meeting.

1. CALL TO ORDER

- 1.1 President Scheer called the meeting to order at 2:03 p.m. Roll call showed the following members present: Lynn Cronk, Jim Scheer, Mark Quandahl, Rebecca Valdez, John Sieler, Patricia Timm, Molly O’Holleran, and Robert Evnen. Commissioner Breed was also present.
- 1.2 President Scheer announced the placement of the Open Meetings Act.

2. REPORTS AND DISCUSSIONS Call to order at 2:03 p.m.

President Scheer announced the reorganization of the Agenda. Discussion Items 2.7 and 2.8 will be addressed first followed by Discussion Item 2.21.

- 2.7 Russ Inbody and Scott Summers, Department of Education representatives, discussed the proposed revised Rule 91 (92 NAC 91), *Regulations Governing Driver Qualifications and Operational Procedures for Pupil Transportation Vehicles*.
- 2.8 Russ Inbody and Scott Summers, Department of Education representatives, discussed the proposed revised Rule 92 (92 NAC 92), *Regulations Governing the Minimum Equipment Standards and Safety Inspection Criteria for Pupil Transportation Vehicles*.
- 2.2 Standards, Assessment and Accountability

2.2.1 Pat Roschewski, Department of Education representative, introduced Dave Chayer, Vice President of Psychometrics, Data Recognition Corporation (DRC). Dr. Chayer provided an overview of NeSA Standard Setting processes for writing and science.

2.1 Legislative Update

2.1.1 Brian Halstead, Department of Education representative, provided a Legislative update for state and federal legislation.

2.1.3 Discuss the proposed revisions to Rule 10 (92 NAC 10), *Regulations and Procedures for the Accreditation of Schools*, requiring the recitation of the Pledge of Allegiance. Vice President Mark Quandahl will offer a motion during the business meeting of the Board to include the suggested language in Rule 10.

2.2 Standards, Assessment and Accountability

2.2.1 Pat Roschewski, Department of Education representative, provided an update on Accountability including the enactment of LB 870, to provide for an accountability system to measure school performance under the Quality Education Accountability Act.

President Scheer called for a break at 3:15 p.m. The meeting resumed at 3:33 p.m.

2.2.2 John Moon, Department of Education representative, discussed the Data Recognition Corporation (DRC) Contract. (Handout: Nebraska Assessment: Solicitation Number NDE 08-449-01)

2.2.3 Donlynn Rice, Department of Education representative, provided a Social Studies Standards update. (Handout: PowerPoint – Social Studies Standards Revision Update, dated April 12, 2012)

2. Reports and Discussions

2.3 Freida Lange, Department of Education representative, discussed continuing accreditation status of Educational Service Units for the 2012-2013 School Year under Rule 84 (92 NAC 84), *Regulations for Educational Service Units*.

2.4 Freida Lange, Department of Education representative, discussed continuing approval status of Nonpublic schools for the School Year 2012-2013 under Rule 14 (92 NAC 14), *Regulations and Procedures for the Legal Operation of Approved Nonpublic Schools*.

- 2.5 Early Childhood Education Program Evaluation Report for 2010-11. President Jim Scheer removed this item from the April agenda and placed it on the May 8, 2012, State Board Business Meeting as a Presentation.
- 2.6 Margaret Worth, Department of Education representative, discussed the proposed Hearing Draft of revisions to Rule 55 (92 NAC 55), *Rules of Practice and Procedure for Due Process Hearings in Special Education Contested Cases*.
- 2.9 Patricia Timm, State Board of Education member, discussed the recommended revisions to State Board Policy B8, *Policy Development*.
- 2.10 Donlynn Rice and Jim Havelka, Department of Education representatives provided an update on the Educator Effectiveness. (Handout: PowerPoint: Educator Effectiveness: Developing Model Evaluation Systems, dated April 12, 2012)

There being no further business to come before the Board, President Scheer adjourned the work session at 4:43 p.m.

MINUTES OF THE BUSINESS MEETING – Friday, April 13, 2012

The State Board of Education met for purposes of a meeting on Friday, April 13, 2012, beginning at 9:00 a.m. The meeting was held at the State Office Building in the State Board Meeting Room in Lincoln, Nebraska. Publicized notice of the meeting was given by posting notice on the Department's website on the internet; emailed to news media requesting notification and posting a copy of the agenda in the Office of the Commissioner of Education, which gave the date, time and location of the meeting.

1. CALL TO ORDER

- 1.1 President Scheer called the meeting to order at 9:03 a.m. Roll call showed the following members present: Lynn Cronk, Jim Scheer, Mark Quandahl, Rebecca Valdez, John Sieler, Patricia Timm, Molly O'Holleran, and Robert Evnen. Commissioner Breed was also present.
- 1.2 President Scheer led the Pledge of Allegiance.
- 1.3 President Scheer announced the placement of the Open Meetings Act.

2. APPROVAL OF THE MINUTES

Motion by Rebecca Valdez, second by Patricia Timm: To approve the minutes of the March 5-6, 2012, meeting in Lincoln, Nebraska.

Voting Yes: Cronk, Scheer, Quandahl, Valdez, Sieler, Timm, O'Holleran, Evnen.

The motion passed.

3. APPROVAL OF THE AGENDA

Motion by Robert Evnen, second by John Sieler: To approve the agenda as published.

Voting Yes: Cronk, Scheer, Quandahl, Valdez, Sieler, Timm, O'Holleran, Evnen.

The motion passed.

4. PUBLIC PARTICIPATION

- Coby Mack, representing LIBA, appearing in support of requiring the recitation of the Pledge of Allegiance
- Richard Zierke – appearing in support of requiring the recitation of the Pledge of Allegiance
- Jay Sears – Nebraska citizen – appearing in support of requiring the recitation of the Pledge of Allegiance, but to also include all school systems in Nebraska
- Jeremy Murphy – Nebraska Catholic Conference – requesting due process in the adoption of the pledge of allegiance requirement in Rule 10

7. ACTION ITEMS

7.05 Motion by Mark Quandahl, second by Robert Evnen: That this board grant the Commissioner authority to approve a hearing draft of Rule 10 (92 NAC 10), *Regulations and Procedures for the Accreditation of Schools*, to appoint a hearing officer, and set a date, time and place for a hearing for the addition of requirements relating to the recitation of the Pledge of Allegiance. The proposed change is as follows:

003.12 Each public school district shall require each such district's schools to establish a period of time during the school day, when a majority of pupils is scheduled to be present, during which pupils will be led in the recitation of the Pledge of Allegiance in the presence of the flag of the United States of America, in grades kindergarten through twelve. Pupil participation in the recitation of the Pledge of Allegiance shall be voluntary. Pupils not participating in the recitation of the Pledge shall be permitted to silently stand or remain seated but shall be required to respect the rights of those pupils electing to participate.

Voting Yes: Cronk, Scheer, Quandahl, Valdez, Sieler, Timm, O'Holleran, Evnen

The motion passed.

- 7.1 Motion by Molly O'Holleran, second by Mark Quandahl: To approve the accreditation of Educational Service Units for the 2012-2013 School Year under Rule 84 (92 NAC 84), *Regulations for Educational Service Units*

Pat Timm acknowledged the work of the ESUs in working with NDE.

Voting Yes: Cronk, Scheer, Quandahl, Valdez, Sieler, Timm, O'Holleran, Evnen

The motion passed.

- 7.2 Motion by Patricia Timm, second by Molly O'Holleran: To approve Nonpublic Schools for the School Year 2012-2013 under Rule 14 (92 NAC 14), *Regulations and Procedures for the Legal Operation of Approved Nonpublic Schools*

Voting Yes: Cronk, Scheer, Quandahl, Valdez, Sieler, Timm, O'Holleran, Evnen

The motion passed.

- 7.3 Motion by Patricia Timm, second by Rebecca Valdez: To grant the Commissioner the authority to approve a hearing draft of Rule 55 (92NAC 55), *Rules of Practice and Procedure for Due Process Hearings in Special Education Contested Cases*, and set a date, time and place for a hearing, and to appoint a hearing official to conduct the hearing on behalf of the State Board.

Voting Yes: Cronk, Scheer, Quandahl, Valdez, Sieler, Timm, O'Holleran, Evnen

The motion passed.

- 7.4 Motion by Lynn Cronk, second by Patricia Timm: To approve the proposed revised Rule 91 (92 NAC 91), *Regulations Governing Driver Qualifications and Operational Procedures for Pupil Transportation Vehicles* with changes noted on the [Errata Sheet](#).

Russ Inbody, Department of Education representative, acknowledged the work of Janice Eret on Rules 91 and 92.

Voting Yes: Cronk, Scheer, Quandahl, Valdez, Sieler, Timm, O'Holleran, Evnen

The motion passed.

- 7.5 Motion by Robert Evnen, second by Rebecca Valdez: To approve the proposed revised Rule 92 (92 NAC 92), *Regulations Governing the Minimum equipment*

Standards and Safety Inspection Criteria for Pupil Transportation Vehicles as presented.

Voting Yes: Cronk, Scheer, Quandahl, Valdez, Sieler, Timm, O'Holleran, Evnen

The motion passed.

8. CONSENT AGENDA

Motion by Robert Evnen, second by Molly O'Holleran: To remove Item 8.4.4 for separate vote.

Voting Yes: Cronk, Scheer, Quandahl, Valdez, Sieler, Timm, O'Holleran, Evnen

The motion passed.

8.4.4 Motion by Robert Evnen, second by Patricia Timm: To affirm the Order of Dismissal in NDE Case No. 11-13, *Lancaster County School District 0001, a/k/a Lincoln Public Schools v. Nemaha County School District 0029, a/k/a Auburn Public Schools and Dr. Roger Breed*, in his capacity as Commissioner of the Nebraska Department of Education.

Voting Yes: Cronk, Scheer, Quandahl, Valdez, Sieler, Timm, O'Holleran, Evnen

The motion passed.

Motion by Patricia Timm, second by Mark Quandahl: To approve the Consent Agenda.

Voting Yes: Cronk, Scheer, Quandahl, Valdez, Sieler, Timm, O'Holleran, Evnen

The motion passed.

10. BOARD REPORTS, DATES AND DISCUSSION ITEMS

10.3 Reports from Robert Evnen, Mark Quandahl and John Sieler, who attended the 2012 NASBE Legislative Conference, March 22-23, 2012, at the Washington Marriott at Metro Center, Washington, DC.

10.3.2 Report from Jim Scheer, Molly O'Holleran and Lynn Cronk who attended the Nebraska Rural Community Schools Association (NRCSA) Spring Conference, on March 22-23, 2012, at the Holiday Inn, Kearney, Nebraska.

- 10.4 Mark Quandahl, Chair of the Legislative Committee, reported on the success this year of the working relationship with policy makers.
- 10.5 Patricia Timm, Chair of the Policy Committee, reported on the status of the policy on Global Competence. (Handout: Draft Policy Statement for Developing Global Competence)
- 10.6 Robert Evnen, Chair of the State Accountability Ad Hoc Committee, reported on the meeting held April 12, 2012.

Robert Evnen requested the dates for the July meeting be changed to **July 10-11**. After discussion, President Scheer moved the date of the July meeting to July 10 and 11. Mark Quandahl will not be available to attend.

- 10.8 Jim Scheer, Chair of the Commissioner's Appraisal Committee requested that Board members complete evaluation forms and return them to him by April 25.
- 11.4 Commissioner Breed advised members of the NASBE Nominations for Board of Directors for the offices of President Elect and Area Directors. President Scheer encouraged participation in NASBE.

President Scheer called for a break at 10:32 a.m. The meeting resumed at 10:40 a.m.

5. HEARINGS

- 5.1 A hearing was held in NDE Case No. 12-05, *Commissioner v. Jessica L. Wheeler*. [Minutes of the hearing are attached.](#)

7. ACTION ITEMS

Motion by Robert Evnen, second by Patricia Timm: In *Commissioner v. Jessica L. Wheeler*, NDE Case No. 12-05, that this Board approve the proposed Settlement Agreement in which the parties agree to a one-year suspension of Respondent's teaching certificate, and to adopt the Final Order proposed by Legal Counsel.

Voting Yes: Cronk, Scheer, Quandahl, Valdez, Sieler, Timm, O'Holleran, Evnen

The motion passed.

There being no further business to come before the Board, President Scheer adjourned the meeting at 10:48 a.m.

STATE BOARD OF EDUCATION

State Board Meeting Room
State Office Building, Sixth Floor
301 Centennial Mall South
Lincoln, Nebraska 68509

MINUTES OF HEARING

Roger D. Breed v. Jessica L. Wheeler
Case No. 12-05
10:30 a.m.

The State Board of Education met on April 13, 2012, in the State Board Meeting Room, Sixth Floor, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska, for the purpose of holding a hearing on Case No. 12-05, *Commissioner v. Jessica L. Wheeler*. Publicized notice of the hearing was given by posting notice on the Department's website on the internet; e-mailed to news media requesting notification and posting a copy of the agenda in the Office of the Commissioner of Education, which gave the date, time and location of the hearing. Specific notice of the hearing was provided to the parties involved in the proceeding.

Board President Jim Scheer declared a quorum present and called the hearing to order at 10:43 a.m. The following State Board of Education members were present:

Jim Scheer	Patricia Timm	Robert Evnen	Mark Quandahl
Rebecca Valdez	John Sieler	Molly O'Holleran	Lynn Cronk

President Scheer noted that the Board was provided with the Settlement Agreement signed by the Petitioner and Respondent which is marked by the State Board as Exhibit 1. A copy of the Notice of Hearing was marked as Exhibit 2. Hearing no objections, the Exhibits were received.

Brian Halstead, General Counsel, appeared on behalf of the Commissioner of Education in support of the Settlement Agreement containing a one-year suspension of Respondent's teaching certificate.

The Respondent was not present nor represented by Counsel.

There being no further testimony, President Scheer adjourned the hearing on Case No. 12-05 at 10:47 a.m.

TITLE 92
CHAPTER 91

**REPLACEMENT ERRATA SHEET FOR RULE 91
WITH PROPOSED LB1039 LANGUAGE**

only the flashing stop hazard warning signal flasher lights when receiving or discharging pupils if a school bus loading area warning sign is displayed. Such signs shall not be directly attached to any school bus but shall be free standing and placed at the rear of a parked school bus or line of parked school buses. No school district shall utilize a school bus loading area warning sign unless such sign complies with the requirements of Section 60-6,176 R.R.S.: (AM 1796 LB 1039)

005.03A1 Under Section 60-6,176 R.R.S., the Department of Roads, by rule and regulation, is to adopt and promulgate uniform standards for school bus loading area warning signs. Such standards shall include requirements for the size, material, construction, and required wording. No school district shall use a school bus loading area warning sign unless such sign complies with all rules and regulations adopted and promulgated by the Department of Roads. The cost of any sign shall be an obligation of the school district.

005.03B Additionally The following procedure shall be observed when controlling traffic with a school bus during the process of loading and unloading:

005.03A B1 Use rearview mirror system to check all traffic.

005.03B2 Reduce the school bus speed with minimal brake usage and without greatly interrupting the flow of traffic.

005.03C Activate the amber school bus alternately flashing yellow warning signal lights. (AM 1796 LB 1039)

005.03C1 Not less than 500 feet or more than 1,000 feet from the bus stop in any area outside the corporate limits of any city or village.

005.03C2 At least 300 feet and not more than 600 feet from the bus stop within the corporate limits of any city or village.

005.03D During the stopping process, allow sufficient area to the right of the bus so that children and other passengers may clear the bus safely.

005.03E After the school bus has stopped, place the transmission in "Park". If there is no "Park" shift point, place the transmission in "Neutral" and set the parking brake at each stop.

005.03F Check to see if traffic is able to stop, activate the alternating flashing red warning lamps, and extend stop arm.

005.03G Check to see if road is clear in both directions or that all traffic is stopped. When the road is clear and all traffic has stopped, open door to load and unload children and other passengers.