



TO: Scott Swisher, Ed.D.
Deputy Commissioner of Education

FROM: Donlynn Rice, Senior Administrator, Curriculum and Instruction
Rich Katt, CTE State Director

SUBJECT: Repeal of 92 NAC 45, Vocational Student Organizations

Proposed Board Action:

Approve the repeal of 92 NAC 45; Vocational Student Organizations

Background Information:

Rule 45 is being proposed to be repealed due to the adoption of LB410, passed by the 2013 Nebraska Legislature, which repealed statutes 79-297, 79-298, 79-299 and 79-2, 100 R.R.S. Since these were the basis for Rule 45, it is appropriate to repeal Rule 45.

A hearing was held on September 12, 2013. No testimony was received.

Estimated Cost:

None

Supporting Documentation Included:

See attached file for hearing record

For Additional Information on this item:

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Roger D. Breed, Ed.D., Commissioner
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TO: State Board of Education

FROM: Scott Summers, Legal Counsel III *SS*
Commissioner's Appointed Staff Person to Conduct a Rule Hearing on the proposed repeal of Title 92, Nebraska Administrative Code, Chapter 45, *Vocational Student Organizations*

DATE: September 12, 2013

RE: Summary of Hearing on Proposed REPEAL of 92 NAC 45

On August 9, 2013, the State Board of Education authorized the Commissioner to set a hearing date and location as well as designate a staff person to conduct a hearing on the adoption of proposed repeal of 92 NAC 45. By a memorandum dated August 9, 2013, the Commissioner appointed me to conduct this rule hearing on September 12, 2013 commencing at 10:00 a.m. After the proper legal notice was published, this hearing was at the Nebraska State Office Building, Nebraska Department of Education, State Board Meeting Room, 301 Centennial Mall South, Sixth Floor, Lincoln, Nebraska 68509.

Pursuant to State Board of Education Policy B9, what follows is a written summary of the hearing testimony.

An audio recording of the hearing is available if any members of the Board wish to hear the proceedings.

SUMMARY OF TESTIMONY ON THE PROPOSED REPEAL OF 92 NAC 45 Vocational Student Organizations

Scott Summers, staff attorney and the hearing official, called the hearing to order, read into the record the name of the newspaper in which a legal notice of the hearing was published and the date the notice appeared and outlined the procedures for the hearing. Mr. Summers then introduced NDE staff member, **Rich Katt, State Director, Nebraska Career Education**.

Mr. Katt introduced and explained the proposed repeal of this chapter. Mr. Katt explained that Rule 45 is being proposed to be repealed due to the adoption of LB 410, passed by the 2013 Nebraska Legislature, which repealed statutes 79-297, 79-298, 29-299, and 79-2,100 R.R.S. Since these were the basis for Rule 45, it is appropriate to repeal Rule 45.

No other oral or written testimony was received.

TITLE 92—NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 45—VOCATIONAL STUDENT ORGANIZATIONS

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TITLE 92—NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 45—VOCATIONAL STUDENT ORGANIZATIONS

001—General Information

001.01 Statutory Authority. This chapter is adopted pursuant to Sections 79-342 through 79-345 of the Revised Statutes of Nebraska (R.R.S.).

001.02 Scope of this Chapter. This chapter provides the basic regulations for state government sponsorship and supervision of the state chapters of the following vocational student organizations:

001.02A FFA;

001.02B Future Homemakers of America (FHA/HERO);

001.02C Future Business Leaders of America (FBLA);-

001.02D Vocational Industrial Clubs of America (VICA);-

001.02E DECA, an Association of Marketing Students;-

001.02F Health Occupation Student Association (HOSA);-

001.02G Young Farmers and Ranchers Educational Association (YFREA);-

001.02H Technology Student Association (TSA);-

001.02I Phi Beta Lambda (FBLA/PBL).

002—Definitions. As used in this chapter:

002.01 Board shall mean the State Board of Education.

002.02 Commissioner shall mean the State Commissioner of Education.

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

002.04 Local chapters shall mean organizations sponsored by schools that are affiliated with the state level vocational student organizations operated by the Department.

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~~002.05 National organizations shall mean the corporate bodies of the associations from which the Department receives a charter to operate the state chapters of vocational student organizations.~~

~~002.06 State chapters shall mean the state level vocational student organizations operated by the Department.~~

~~002.07 Vocational student organizations shall mean the specific organizations listed in 001.02 of this chapter and in state law.~~

~~002.08 State advisors shall mean the department staff who manage the operations of the vocational student organization.~~

~~002.09 State student officers shall mean state executive council, state officer team, state peer education team, or other positions identified in state operating policies adopted pursuant to this chapter.~~

~~003 Establishment of State Chapters. As provided in state law the Board may sponsor and direct the activities of state chapters of vocational student organizations. Before the Board assumes the responsibility for the operation of such state chapters, the following conditions must be met:~~

~~003.01 Contract with National Organization. Before the Board assumes responsibility for the operations of a state chapter, a written agreement with the national organization must be approved by the Board.~~

~~003.02 Approval of State Operating Policies. Before the Board assumes sponsorship and direction of a state chapter, the Board shall approve operating policies for the state chapter, which may include a constitution and bylaws for the state chapter. Such policies shall deal with the operations of the organizations as part of the internal management of the Department. Any policies that affect a private right or interest or which prescribe a penalty shall be presented to the Board for consideration of adoption as a regulation under the Administrative Procedures Act (84-901, R.R.S., et seq.). All other policies, and any changes thereto, shall be approved by the Board.~~

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~~003.03 Transfer of Finances. Before assuming sponsorship and direction for a state chapter, an agreement must be approved by the Board for the current state level association to transfer its assets to the Department to be held in cash accounts established for the exclusive use of each vocational student organization. Any funds held by the national organization for the state association must likewise be transferred to the Department. No funds shall be accepted until a satisfactory audit of the state chapter has been completed and all debts paid or identified. The Board will assume no liability for any actions or obligations of the private association, except as specified in the agreement.~~

~~003.04 Maintenance of Documents. All Board approved operating policies, including any constitution and bylaws, and contracts with the national organizations shall be public record, and copies of such policies, constitution and bylaws, contracts shall be maintained for public inspection in the central offices of the Department at a site to be determined by the Commissioner.~~

~~004 Advisory Committees. Upon assuming sponsorship of a state chapter, the Board may appoint, upon the recommendation of the Commissioner, one or more advisory committees for that state chapter to provide advice and recommendations regarding the programs of the chapter. The following provisions apply to such committees:~~

~~004.01 Committee members may be reimbursed for their expenses, including travel, lodging, meals, and other expenses as may be provided to state employees.~~

~~004.02 Such committees shall have no authority to financially obligate the state or expend funds on behalf of the organization.~~

~~004.03 Recommendations or reports of the advisory committees shall be provided to the Commissioner and his or her designated state advisor for the state chapter, and to the Board, when requested.~~

~~004.04 Advisory committees may be disbanded or restructured by the Board upon advice of the Commissioner at any time. All advisory committee members serve at the pleasure of the Board.~~

~~005 State Advisors. The Commissioner is authorized to appoint Department staff members to serve as advisors for state chapters. Such advisors shall, as authorized by the Commissioner:~~

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~~005.01~~ Manage the day to day affairs of the state chapters, including liaison with the national organization and local chapters.

~~005.02~~ Handle monies only in accordance with these regulations, state accounting procedures, and financial operating policies and procedures as developed by the Commissioner under section 007.01.

~~005.03~~ Supervise state student officers.

~~005.04~~ Engage in no outside financial transactions with the organization, schools, or students or business involved with the organization with whom the advisor is assigned to work or with any related organization.

~~005.05~~ Serve at the pleasure of the Commissioner.

~~006~~ — ~~State Student Officers.~~ As part of the operating policies, which may include a constitution and bylaws, to be approved by the Board for each organization, a system for selection of state chapter student officers may be included.

~~006.01~~ ~~Specific Provisions Regarding State Officers.~~ State student officers:

~~006.01A~~ May be reimbursed for their expenses, including travel, lodging, and meals.

~~006.01B~~ Shall have no authority to financially obligate the state or expend funds on behalf of the organization.

~~006.01C~~ Shall have no authority to act independently as an agent of the State of Nebraska, shall not be considered an employee of the State of Nebraska and shall take no actions on behalf of the state chapter without the prior approval and direction of a state advisor.

~~006.02~~ ~~Election, Appointment, or Removal of Student Officers.~~ State student officers shall be confirmed by the Commissioner and may be removed from office by the Commissioner for conviction of a crime, failure to attend meetings, failure to perform required duties of office, possession or use of alcohol or illegal drugs during organization activities, immoral or unprofessional conduct, or failure to follow directions of state officials.

~~007~~ — ~~Financial Management.~~ In accordance with state law, all financial transactions involving the state chapters of the vocational student organizations sponsored by the Board shall be handled through the state accounting system.

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~~007.01 Financial Policy and Procedure Manual. The Commissioner is authorized to develop a financial policy and procedure manual detailing the financial operations of the state chapters as part of the internal management of the Department. All staff, advisory committee members, and state student officers shall comply with the financial management procedures in such manual, which shall be a public record and subject to public inspection in the central offices of the Department at a site to be determined by the Commissioner.~~

~~007.02 Financial Activities that are Authorized by the Board. The Board authorizes the Commissioner to supervise the following types of activities by the state chapters and coordinate the financial management of such activities, including:~~

~~007.02A Periodic conferences, meetings, and functions to train, recognize, and reward student participation;~~

~~007.02B Providing scholarships and suitable awards to outstanding student participants;~~

~~007.02C Coordinating activities of state chapters with activities of related local or national organizations;~~

~~007.02D Organizing and supervising travel to and from meetings, both inside and outside of the state;~~

~~007.02E Preparing and issuing publications concerning such organizations;~~

~~007.02F Training state and local organization leaders and officers;~~

~~007.02G Collecting dues from local organizations and members and paying dues to national organizations;~~

~~007.02H Procure insurance, at the option of the Board and the Department, for student members or officers of such organizations; and~~

~~007.02I Expenditures which include, but are not limited to, purchasing trophies, gifts to honorees, scholarships, prizes, national dues, entertainment at state conferences, food, lodging, and beverages.~~

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~~007.03 Financial Approval and Reporting.~~ The Board shall approve all contracts and individual expenditures in excess of \$10,000 involving the state chapters. The Commissioner and/or his or her designees shall have the authority to approve all other expenditures and shall provide an annual report on all such expenditures to the Board as part of an annual financial report for each state chapter.

~~008 Local Chapters.~~ When the Board assumes control of a state chapter, through agreement with a national organization, it shall have the authority to grant charters to local chapters in Nebraska.

~~008.01 Sponsorship.~~ Each local chapter shall be sponsored by an educational institution, which shall be entirely responsible for the operation of the local chapter and the supervision of its members and officers.

~~008.02 Claims Involving Local Chapters.~~ Each local chapter and its officers and sponsors shall not be entitled to indemnification from the Department for any of their actions. Any claims against the local chapter or local chapter officers or sponsors shall be the responsibility of the sponsoring educational institution or the individuals involved, and not the State of Nebraska.

~~009 Alumni and Adult Members.~~ Some national organizations may allow alumni or adult members who are no longer enrolled in educational institutions. If national organizations allow educational institutions to sponsor alumni chapters, those chapters shall be the sole responsibility of such institutions. If local chapters allow adult, non-students to participate in their activities, that is also totally the responsibility of the sponsoring institution. The Department assumes no responsibility for the supervision or control of adult or alumni members of national organizations.