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

FROM: Margaret Worth, General Counsel

SUBJECT: Policy Review Information Item

PROPOSED BOARD ACTION

State Board Policies G5, G6 and B4 for review.

BACKGROUND INFORMATION

State Board Bylaw B8 requires that all State Board Policies, including Bylaws, Internal Policy Directives and General Education Policies, be reviewed by the Board every four years. Pursuant to the review schedule implemented by the State Board's Policy Committee, State Board Policies G5, G6 and B4 are submitted for review.

If the Commissioner, Board President or any Board member believes that action or referral to the Policy Committee is necessary in connection with these Policies, an appropriate motion may be placed on the Agenda for the February Board meeting.

Pursuant to B8, Policies G5 will expire on September 5, 2012 and G6 will expire on October 6, 2012, unless revised or reaffirmed prior to that date. Policy B4 will remain in effect indefinitely until revised or rescinded.

Estimated Cost

Supporting Documentation Included: Board Policies B8, G5, G6, and B4.

For additional information on this item: Call Margaret Worth (402) 471-0310 or e-mail Margaret.Worth@nebraska.gov

Policy, Bylaw, and Position Statement Development

The State Board may change its existing policies, bylaws or position statements or adopt new policies, bylaws, or position statements at any time, on its own motion or upon recommendation by the Commissioner.

All State Board policies, bylaws and position statements shall be included on the State board's webpage.

All State Board policies, bylaws and position statement are to be reviewed by the Board every four years and the Commissioner will recommend a subsequent review date when each new policy is proposed.

The State Board's general education policies or position statements (designated by the letter "G") shall expire four years after their adoption unless revised or reaffirmed by the State Board prior to expiration. Starting on October 6, 2010, general education policies or position statements that are more than four years old shall expire on October 6, 2012, unless revised or reaffirmed prior to that date.

The State Board's procedural bylaws (designated by the letter "B") and the State Board's internal policy directives (designated by the letter "D") shall remain in full force and effect until amended or rescinded by the State board.

The General Counsel will review all Board policies, bylaws and position statements annually for compliance with state law.

All State Board resolutions, except those honoring an individual, shall contain an expiration date.

Board Action History

- 12/10/76
  Prior BD-1 (Statement of Board authority and foremost consideration.)
  Prior BDA-2 (Systematic procedures for policy adoption.)
  Prior BDE-2 (Annual policy review.)

- 12/7/84 – Prior 9311 BOP
  (Replace 1976 policies with statement that Board can change or adopt policies at any time.)

- 12/8/95 – Prior B8
  (Added 5-vote requirement and 3-year minimum review.)

- 6/7/02 – Prior B8
  (5-vote requirement deleted.)

- 9/7/06 – B8
  (Added references to bylaws and position statements, changed 3 to 2 year reviews, added annual General Counsel law review.)

- 10/6/10 – B8
  (Changed 2 to 4 year reviews and clarified expiration dates of policies, bylaws and position statements approved by the State Board.)

Cross-References

- 79-301(2) – The State Board's duty to form policy.

- 79-315 – The State Board's power to organize itself.

Policy for School Counseling in Nebraska

The State Board of Education encourages the implementation of local school counseling programs based on the Nebraska School Counseling Program Model, which is in direct alignment with the ASCA-American School Counselor Association's National Model for Comprehensive School Counseling Programs. School counseling programs should be delivered system-wide for all students in grades K-12, based on developmentally appropriate essential learnings (standards).

School counseling programs should teach:

Learning skills that lead to academic development;
Earning skills that lead to career development; and
Living skills that lead to personal and social development.

School counseling programs' content should be delivered to students and parents through:

Curriculum, including classroom guidance lessons;
Individual student planning, including Personal Learning Plans;
Responsive services, including small group or individual counseling as necessary; and
Systems support, including activities and materials.

The role of the professional school counselor should be to:

Design and implement a comprehensive school counseling program for all students;
Teach, monitor student data and plan closing-the-gap activities for increased achievement of all students;
Provide leadership to accomplish the school district's mission and school improvement plan; and
Report and interpret students' results in achievement, attendance and behavior.

The State Board of Education emphasizes that school counselors are bound by the same requirements for confidentiality and parental access to, and the same restrictions on release of, student information that apply to other school personnel. These restrictions and requirements include those contained in the Family Educational Rights and Privacy Act, the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, and Nebraska Revised Statute 79-2,104.

Board Action History

- 2/10/80 – PRIOR JE
  (Previous Student Guidance Program Policy repealed when 1984 Policy Manual was adopted.)
- 6/7/02 – G5 (NEW)
  (Based on policy statement adopted 10/8/99.)

Cross-References

- 92 NAC 10
- 92 NAC 14
- 92 NAC 21
- 92 NAC 24
- 92 NAC 51
- G6
- 34 CFR 99 (FERPA)
- 34 CFR 104.36 (§504)
- 34 CFR 300.610 – 300.627 (IDEA)
- Neb. Rev. Stat. 79-2,104

Policy Statement on Parental Notification and Consent

The Nebraska State Board of Education, in its policy statement concerning School Counseling in Nebraska, emphasized the essential role of parents. The following statements address the collaborative effort of school counselors and parents I assisting students' growth and development.

1. Parents Right and Responsibilities

The School Counselor should:

a. Respect the rights and responsibilities of parents/guardians for their children and should notify and involve parents before referring students to outside programs and services, including medical services, except in cases where services are standard and routine, or when notification represents a risk to the well being of the student. In cases where school-based health clinics exist, parents/guardians should be notified before referral to the clinic is made.

b. Adheres to laws and local policies when assisting parents experiencing family difficulties that interfere with the student's effectiveness and welfare, and should be sensitive to cultural and social diversity among families.

2. Parents and Confidentiality

The School Counselor should:

a. Inform parents of the counselor's role with emphasis on the confidential nature of the counseling relationship between the counselor and student.

b. Provide parents with accurate, comprehensive and relevant information in an objective and caring manner, as is appropriate and consistent with ethical responsibilities to the student.

c. Make reasonable efforts to honor the wishes of parents and guardians concerning information that he/she may share regarding the student.

d. Acquire written authorization from parents for release of information, specifying the records to be released, reasons for such release, and to whom the records would be released.

Examples of Standard & Routine Services:

- information on post-secondary study options (armed forces, tech schools, colleges, apprenticeships, community colleges, etc)
- financial aid
- job service
- career information
- academic referral (to library, website, university, etc.)
- letter of recommendation
- volunteer work prospects
- leisure activities option
- people to interview for career perspective
- contacts for information pertaining to academic projects

Example of Potential Risk to the Well Being of the Student:

- cases of abuse/neglect when parent is suspected perpetrator
- information on alateen when parents may be the alcohol/drug abuser & student wants information
- threat of physical harm by the parent
- cases where parents may be involved in illegal activities & student requests assistance

Board Action History

- 6/7/02 – G6 (NEW)
  (Based on policy statement adopted 2/11/2000.)

Cross-References

- 92 NAC 10
- 92 NAC 14
- 92 NAC 21
- 92 NAC 24
- G5

Legal Assistance

The State Board or individual State Board members may request legal opinions from the Attorney General and/or the General Counsel's Office by forwarding their request to the Commissioner. The Commissioner is responsible for preparing the question and necessary background information and forwarding the question to the Attorney General and/or General Counsel. The Commissioner shall provide all Board members with copies of the request. Any written opinion provided by the Attorney General or General Counsel's Office as a result of a question by any Board member shall be provided by the Commissioner to all of the members of the Board.

This policy does not restrict individual Board members from directly requesting an Attorney General's opinion, but they should, as a courtesy, provide copies of such requests to the other Board members and Commissioner.

The General Counsel's Office represents the Department and not individual Board members or staff members. The General Counsel or one of his or her assistant attorneys shall serve as legal advisor to the Board and Commissioner at State Board meetings. When the General Counsel's Office will be representing the Commissioner of Education in a contested case in which the Board is the decision maker, the Commissioner will notify the Board President and Attorney General, so that the Board may secure alternate legal representation from the Attorney General's Office or another source approved by the Attorney General.

The primary role of the General Counsel's Office shall be to provide day-to-day legal assistance to the Department, including the Board, Commissioner and staff. The Commissioner and General Counsel are responsible for making certain that the Board is fully informed of all pending legal matters and legal issues affecting the Department.

Individual Board members may obtain general legal information directly from the General Counsel's Office. The Commissioner will be kept informed of the essence of conversations between Board members and General Counsel's staff, except when such staff is representing the Board in a contested case in which the Commissioner is party, or as otherwise directed by the Board. When requested, the General Counsel's Office will outline the strongest legal arguments on each side of an issue before the Board for any Board member.

Board Action History

- 12/10/76 – Prior LDCC
  (Attorney General Relations)
- 12/7/84 – Prior 9125 BOP
  (Renumbered LDCC, text unchanged.)
- 12/8/95 – Prior B4
  (Complete revision, adding details about Attorney General opinion requests and role of Agency Legal Counsel's Office.)
- 5/12/00 – Prior B4
  (Added additional details about Attorney General opinion requests.)
- 9/7/06 – B4
  (Replaced Agency Legal Counsel title with General Counsel.)

Cross-References

- 84-205 – Attorney General Opinions.