



**Matthew L. Blomstedt, Ph.D., Commissioner**  
**Scott Swisher, Ed.D., Deputy Commissioner**

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TO: State Board of Education

FROM: Scott Summers, Legal Counsel III   
Commissioner's Appointed Staff Person to conduct a rule-making hearing on revisions to Title 92, Nebraska Administrative Code, Chapter 11 (Rule 11), *Regulations for the Approval of Prekindergarten Programs Established by School Boards or Educational Service Units and for the Issuance of Early Childhood Education Grants*

DATE: June 3, 2015

RE: Summary of Hearing on Proposed Revisions to 92 NAC 11

*On April 17, 2015, 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 rule-making hearing on the adoption of proposed revisions to 92 NAC 11. By a memorandum dated May 1, 2015, the Commissioner appointed me to conduct the rule-making hearing on June 2, 2015, commencing at 1:30 p.m. (CT). After the proper legal notice was published, the hearing was held at the Nebraska State Office Building, 301 Centennial Mall South, 6<sup>th</sup> floor, State Board Meeting Room, Lincoln, NE. 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 for members of the Board.*

#### **SUMMARY OF TESTIMONY ON THE PROPOSED REVISIONS TO 92 NAC 11**

**Scott Summers**, staff attorney and the hearing official, called the hearing to order, read into the record the name of the newspaper in which legal notice of the hearing was published and the date the notice appeared, and outlined the procedures for the hearing. Mr. Summers opened the hearing for testimony. Mr. Summers then introduced NDE staff member, **Melody Hobson, Senior Administrator, NDE Early Childhood**.

**Ms. Hobson** introduced and explained the proposed revisions. Specifically, Ms. Hobson testified that a number of definitions were added or updated; the Prekindergarten Program Approval Process has been updated; Program and Staff Requirements for Prekindergarten Programs serving Children Birth to Kindergarten Eligibility Age in a Center-Based Program were updated; and a new section was added regarding Home-Based Programs.

Summary of Rule 11 Hearing  
Page Two  
June 3, 2015

Four non-substantive changes are being proposed as well: In the Alphabetical Table of Contents "Requirements for Prekindergarten Programs Established by School Boards or Educational Service Units **should be listed as section 004** instead of section 005 and the word "**Prekindergarten**" should be added in the title of section 005, both of these changes reflect what is in the Numerical Table of Contents. In Section 002.10, to be consistent with the rest of the definition language the phrase "shall mean" will be changed to "means." Finally, in Section 002, definitions past 002.10 will be renumbered to be sequential.

Ms. Hobson has received written testimony from **Mel Clancy, Board Chair, Nebraska Early Childhood Education Endowment Fund (Sixpence); Ben Anderson, First Five Nebraska; Patti Estaniqui, Family Education Manager, Sarpy County Cooperative Head Start; Jeff Hoelsing, Superintendent, Randolph Public Schools; and Samuel Meisels, Ed.D., Founding Executive Director, Buffett Early Childhood Institute.** These will be included as part of this record and are attached to this Summary.

A copy of Ms. Hobson's written testimony is attached.

**Ben Anderson, First Five Nebraska.** Mr. Anderson thanked NDE for all of the work in revising Rule 11. First Five knows it has been a very long process but feels that the Department has put forth a good rule, particularly when it comes to covering home visiting for the first time. They think that the changes that address home visiting are realistic and practical and recognize where we are as a state when it comes to our early child workforce particularly in our rural areas and for professional that are bilingual and work with families that don't speak English. It is their recommendation that the rule be adopted but with two specific changes that "are not substantive in nature." While the changes are not substantive, they are important and First Five feels they will have a significant impact on how the rule is implemented and impacts early childhood programs across Nebraska.

First, the definition of "at risk." Currently the definition includes children who qualify for free and reduced lunch. There have been changes at the federal level, changes in how children qualify for free and reduced lunch and because of those changes the reference in the current rule no longer makes sense. However, high quality early childhood programs make a huge difference for low income children; not just those living in poverty. So taking out any reference to family income that would apply to low income children not living in "poverty," which is what the current proposed revisions do, has the potential to have a serious impact in communities that do currently offer early childhood programs to children up to 185% of the federal poverty level. First Five is also aware that NDE Pre-K programs aren't designed to be categorical economic assistance programs, where if you have a certain income level you automatically qualify for services in the program. That is not what they are asking for. Instead they are merely asking that the term "poverty" be replaced with a clause that will indicate schools can use a family's low income status, not just poverty status, in designing their programs. It is also important to note that the term "at risk" is a term that appears in the statutes and Legislative history covering the NDE Early Childhood Grant Programs and have always indicated that low income students should be prioritized in those programs. Changing the definition in this way would be a step backwards.

The second change that First Five is requesting is that the definition of "Partnership Agreement" be modified in a way that would encourage many different types of entities to enter into the partnership agreements to operate prekindergarten programs in collaboration and cooperation with the school districts. Those types of entities could include health care entities or now, with the passage of LB 547, child care providers. First Five is aware that attorneys who currently review the transactions or contracts governing the partnerships of these programs have expressed concerns with those agreements being used in a way that would construe the collaborative efforts of those parties as a partnership as defined by the *Nebraska Uniform Limited Partnership Act* which opens up a whole host of rights, duties and obligations for the parties that you don't necessarily want to be signing up for. Some of those include a share of the profits or losses of the entities.

With that said, First Five is in favor of the rule being adopted with those two non-substantive changes as stated in their written comments.

**Amy Bornemeier, Administrator - Sixpence, representing the Board of Trustees of Sixpence, Nebraska Early Childhood Education Endowment Fund.**

Ms. Bornemeier offered what they feel are non-substantive changes and read the written testimony of Mel Clancy, Board Chair (see attached). In summary, the Board thanks NDE for the work in supporting the quality of early care and education. The Board offered three recommendations: **1)** Requesting that the definition of "poverty" for the purpose of identifying at-risk in Section 002.01 include "185% of the Federal Poverty Level, as adjusted annually." **2)** Requesting that the use of the term "partnership" in Section 002.26 be closely examined due to the potential difficulties around its legal definition and; **3)** Revisiting the qualifications for home visitors to ensure professionals in the field of home visiting have the skills and experience necessary for the significant role that that family educator plays. Additional work in this area will be needed to ensure a quality early childhood workforce that meets the needs of Nebraska's children.

**Jim Kent, Superintendent, Dundy County - Stratton Schools.** Mr. Kent thanked the Department for their time in working on this revision, especially Melody, with whom he has had multiple conversations. There is no doubt that preschool is important. However, it is hard to write a rule that covers all of the needs and all of the factors that exist in a state like Nebraska. He would ask the Department to consider some flexibility in the ages of children that are allowed in preschools, knowing that there are things that stand in the way of that, particularly legislation. His district is a non-equalized district, receiving no state aid. Three years ago the only preschool in his town closed. His district tried multiple avenues of encouraging someone else to open a preschool. No one did so they expanded their existing special ed preschool to include anyone who wanted to come. That preschool has never been full; however, this year they did let a five year old or a kindergarten age eligible student into preschool, which "got us into some difficulties with the Department." Through conversations with various people they learned that "there is no flexibility" in that situation even though there is not another preschool in town, and not another preschool in the county. Mr. Kent encouraged the Department to work with the Legislature to give some flexibility in those situations somewhere short of losing the accreditation of the program.

No other written or oral testimony was received.

Rule 11 Hearing  
Tuesday, June 2, 2015  
Introductory Comments  
Melody Hobson, Early Childhood Administrator  
Nebraska Department of Education

Rule 11: Regulations for the Approval of Prekindergarten Programs Established by School Boards of educational Service Units and for the Issuance of Early Childhood Education Grants has been revised to be inclusive of prekindergarten programs providing non- special education related home-based services and also for center-based programs for children birth to age three. The following is a synopsis of notable changes included in this revision.

**Definitions:** A number of definitions have been added or updated. For example the term “early childhood education programs” has been changed throughout the document to “prekindergarten programs”. Definitions related to home-based programs and home visiting services have been added, as have the terms “Home Visitor” and “Home Visiting Specialist”.

**Clarifying language:** Throughout the document, language has been added or requirements have been modified to make requirements clearer.

**Prekindergarten Approval:** The Prekindergarten Program Approval Process has been updated. The requirement of an “Intent to Operate” statement has been added. This requires that school districts and Educational Service Units (ESUs) inform NDE prior to operating a new prekindergarten program. Updated references to current reporting requirements including the deletion of references to obsolete reports were made.

**Regulations for a Center-Based Program:** Program and Staff Requirements for Prekindergarten Programs serving Children Birth to Kindergarten Eligibility Age in a Center-Based Program were updated. The term “parents” was replaced with the word “families”. The requirements for a certificated teacher who lacks a current early childhood teaching endorsement was modified. Wording regarding the plan to get the appropriate endorsement was clarified, and the number of credit hours a teacher must take annually to obtain the appropriate endorsement was increased from (3) three hours to (6) six hours. Additionally, a sub-section of requirements for programs that serve infants and toddlers was added.

**Home-Based Programs:** A new section was added to Rule 11. A growing number of school districts are providing home-based programs for prekindergarten children (birth to kindergarten eligibility age) and their families. Two staff positions, Home Visiting Specialist and Home Visitor were added and defined. Additionally, minimum qualifications for both of these positions were added.

Finally, several non-substantive changes will be made to the hearing draft.

1. Alphabetical Table of Contents: The Section “Requirements for Prekindergarten Programs established by school Boards or Educational service Units will be labeled as section **004** instead of section 005.
2. Alphabetical Table of Contents: The section “Program and Staff Requirements for Programs Serving Children Birth to Kindergarten Eligibility in a Center-Based Program” will be amended to read “Program and Staff Requirements for **Prekindergarten** Programs Serving Children Birth to Kindergarten Eligibility in a Center-Based Program.

3. On page 2, the word **shall mean** will be changed to “means” in item 002.10. The item will read “Established, when used with reference to prekindergarten programs established by a school board or educational service unit **means** a prekindergarten program that is operated by a school district or educational service unit directly; or by contract with another entity; or in coordination, cooperation, collaboration or partnership agreement with another entity”.
4. Finally, on page 2, items past 002.10 will be renumbered to be sequential. There is a numbering error.

I will be happy to provide clarification or more information, as needed, during the remainder of the hearing. Thank you.



June 2, 2015

Matthew L. Blomstedt, Ph.D.  
Commissioner of Education  
Nebraska Department of Education  
301 Centennial Mall South  
Lincoln, NE 68509-4987

Re: Notice of Rule-Making Hearing  
Title 92, Nebraska Administrative Code, Chapter 11 (Rule 11) *Issuance of Certificates and Permits to Teach, Counsel, Supervise, and Administer in Nebraska Schools.*

Dear Commissioner Blomstedt:

Please allow this correspondence to serve as First Five Nebraska's written comments to the Nebraska Department of Education's (NDE) proposed revisions to Title 92, Nebraska Administrative Code, Chapter 11 (Rule 11) *Regulations for the Approval of Prekindergarten Programs Established by School Boards or Educational Service Units and for the Issuance of Early Childhood Grants*. We thank you for your consideration and commitment to providing high-quality educational opportunities for Nebraskans, from cradle to career.

### **FIRST FIVE NEBRASKA**

First Five Nebraska's work is driven by neuroscience and data. We focus exclusively on policies impacting children from 0 through age 8 who are at risk of failing in school, and the high-quality early childhood experiences that close the achievement gap for those children. We would like to thank NDE for its work on the proposed revisions to Rule 11, and its commitment to ensuring our youngest children have access to high-quality early childhood education.

### **PROPOSED REVISIONS TO RULE 11**

We kindly request that the State Board of Education and NDE adopt its proposed revisions to Rule 11 with the non-substantive suggested changes to sections 002.01 and 002.26 described below.

#### **Section 002.01 Definition of At Risk**

Currently Rule 11, Section 004.01A defines "at risk" by utilizing the "categories specified in Sections 005.01B1 through 005.01B4." Moreover, Section 005.01C states that no more than "thirty percent of the funds granted to each early childhood education program under this Chapter may be used to offset program costs for children who are not identified in Sections 005.01B1 through 005.01B4" or who are not supported with other special education or early intervention funding. Sections 005.01B1 through 005.01B4 describe "at risk" children as:

005.01B1 Children whose family income qualifies them for participation in the federal free or reduced lunch program.

005.01B2 Children who reside in a home where a language other than spoken English is used as the primary means of communication.

005.01B3 Children whose parents are younger than eighteen or who have not completed high school.

005.01B4 Children who were born prematurely or at low birth weight as verified by a physician.

The proposed revisions to Rule 11 eliminate Sections 005.01B1 through 005.01B4, and add the following definition:

002.01 At risk when used with reference to a child means the child is experiencing conditions or factors which could have a negative impact on his or her development or learning, including low birth weight, poverty, being a child of teen parents or parents who did not graduate from high school, or living in a home whose occupants have limited ability to speak and understand English.

We note that the proposed definition no longer includes “children whose family income qualifies them for participation in the federal free or reduced lunch program.” Current federal guidelines allow children whose family income is at or below 185% of the federal poverty level to qualify for free or reduced lunch. First Five Nebraska respectfully requests that the proposed definition is revised to more clearly include low-income children whose family income is at or below 185% of the federal poverty level.

In reviewing the definition, it is important to consider that the term “at-risk” is also contained in Nebraska Statute § 79-1103. That statute governs the uses and priorities of the Early Childhood Education Grant Program. Paragraph 79-1103(c) states, “[t]he second priority shall be for new grants and expansion grants for programs that will serve *at-risk* children who will be eligible to attend kindergarten the following school year.” The term “at-risk” is also contained in Nebraska Statute § 79-1104.02. That statute governs the uses and priorities for the Early Childhood Education Endowment Fund known as Sixpence. That section states, in part, “[g]rants provided by this section shall be to school districts and cooperatives of school districts for early childhood education programs of *at-risk* children.” Neither of these statutes, nor the other statutes that relate to early childhood education in Nebraska currently defines the term “at-risk.”

Accordingly, school districts, educational service units, and other entities interested in working with school districts and educational service units, solely rely upon Rule 11 to determine what constitutes “at risk” when establishing prekindergarten programs. By taking out a reference to low-income students that qualify for free or reduced lunch, and replacing it with the term “poverty” creates the risk that some school districts and educational service units may

no longer prioritize services for low-income students who may not technically be living in poverty.

As an additional consideration, while the term “at-risk” is undefined in statute, a review of the legislative history of § 79-1101 through 79-1104.05 reveals that the legislature always intended for the term at-risk to include children living in low-income households, not just those living in poverty. For example, in 2005 the Nebraska Legislature passed LB577, which introduced the term “at-risk” into Nebraska Statute § 79-1103. A review of the floor debate hearing transcript on LB577 shows that the legislature intended the term at-risk as used in § 79-1103 to include children who qualified for free and reduced lunch.

Further, the Education Committee hearing transcript on LB577 includes testimony from Dr. Julia Torquati from the University of Nebraska, as well as Dr. Helen Raikes who at that time was testifying on behalf of the Gallup Organization, the University of Nebraska, and as a consultant with the U.S. Department of Health and Human Services. Both Drs. Torquati and Raikes spoke about how growing up in a low-income household places a child at risk of failing in school, and that early childhood education has been shown to benefit low-income children—not just children living in poverty. The pages including the discussion on the definition of “at-risk” and the testimony of Drs. Torquati and Raikes are also attached.

Given the history of the term at-risk in early childhood in Nebraska, and the potential impact of excluding low-income children from the definition of at-risk, First Five Nebraska kindly suggests the revising the definition to state:

002.01 002.01 At risk when used with reference to a child means the child is experiencing conditions or factors which could have a negative impact on his or her development or learning, including low birth weight, ~~poverty~~ living in a low-income household as characterized by household income at or below 185% of the federal poverty level, being a child of teen parents or parents who did not graduate from high school, or living in a home whose occupants have limited ability to speak and understand English.

### **Section 002.26 Definition of Partnership Agreement**

First Five Nebraska notes that the term “partnership agreement” is currently defined by the Nebraska Uniform Limited Partnership Act in Nebraska Statute § 67-233. While the provisions of that Act do not apply to the Rule 11, it remains possible that Rule 11 and any agreements made between persons and/or entities pursuant to Rule 11 could be used by a court to establish the existence of a partnership as defined by the Act, even when one or more parties entering into such an agreement lacked the intent create such a partnership.

Attached to this letter is a copy of Nebraska Statute § 67-233. Not only does this section describe the term “partnership agreement,” but it also describes some of the various duties, interests, liabilities, obligations and rights between parties to a partnership agreement. As you can see, without further clarification in Rule 11, parties could unknowingly enter into an agreement that gives them a share of the profits and losses of a prekindergarten program covered by Rule 11.

This issue is particularly important because the collaboration and cooperation desired in the agreements described in Rule 11 should be encouraged. However, defining these agreements as “partnership agreements” without any further clarification could make some parties reluctant to enter into the agreements—particularly entities that we want to be at the table, like healthcare organizations and child care providers.

Accordingly, First Five Nebraska respectfully requests that NDE revise the definition of “partnership agreement” to include the underlined clause below:

002.26 Partnership agreement means a formal written agreement that describes the level and nature of commitment of each party to the prekindergarten program. The partnership agreement should describe the following: resources contributed by each partner; rights and responsibilities of each partner; and any other relevant information agreed upon by all parties. Nothing in Title 92, N.A.C., Chapter 11 shall be construed to create a partnership agreement as described in Nebraska Statutes § 67-233(10), confer the duties, interests, liabilities, obligations or other rights described in the other paragraphs § 67-233, or to otherwise require the application of Chapter 67 R.S.S. to the persons and/or entities entering into a partnership agreement described in Title 92, N.A.C., Chapter 11.

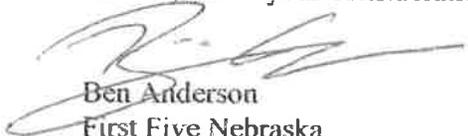
### **Home Visiting**

First Five Nebraska would also like to take the opportunity to recognize the tremendous effort and hard work NDE put into revising Rule 11 to cover home-visiting services. First Five Nebraska believes that parents are a child’s first and best teacher. Helping parents and families achieve high-quality interactions in the home will likely have the most significant impact in a child’s life. We applaud the work of NDE in this area and look forward to working with NDE in the future to ensure a high-quality early childhood workforce in the area of home-visiting.

### **CONCLUSION**

Thank you for allowing First Five Nebraska the opportunity to comment on the proposed revision to Rule 11. We appreciate your thoughtful evaluation of Rule 11 and its impact on professionals in early childhood education, school districts providing prekindergarten programs, and most importantly the children and families participating in prekindergarten programs.

Thank you for your consideration,



Ben Anderson  
First Five Nebraska

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Attachments

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May 25, 2005

LB 577

SENATOR MINES: Okay. And then my final question would be...we may run out of time, but I...the definition of "at-risk." I'm sure it's defined somewhere. I just don't understand what that might be. And I'll catch you on another time.

SENATOR RAIKES: Okay. Thank you.

SENATOR MINES: Thank you. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. Further discussion on the Raikes amendment. Senator Schimek, followed by Senator Fischer.

SENATOR SCHIMEK: Yes. Thank you, Mr. President, members. Senator Mines, I'd be happy to give you a little of my time if you'll then return it to me when you're finished with your questioning.

SENATOR CUDABACK: Senator Mines.

SENATOR MINES: Thank you, Mr. President. Thank you, Senator. If I could direct a question to Senator Raikes? I don't understand "at-risk" and that definition, and really am curious how we define who we're targeting.

SENATOR RAIKES: Okay. Let me work on that one. Before I do that, Senator, I'll call your attention to the Nebraska Early Childhood Education Grant Program annual evaluation report. I happen to have the one that was November of 2004, but it covers...so this is available every year, and goes through the evaluation that you talked about in your previous question.

SENATOR MINES: Thank you.

SENATOR RAIKES: You're right. "At-risk" is not defined in statute. But rather, it's left to regulation through the department. And I think the best way I can address what we're talking about there is from a report on the Nebraska Early Childhood Grant Program, which is in fact the gatekeeper. The programs target pre-kindergarten-age children, one, whose family income qualifies them for participation in the federal free or

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FLOOR DEBATE

May 25, 2005

LB 577

reduced lunch program; two, who are born prematurely or at low birth weight, as verified by a physician; three, who reside in a home where a language other than spoken English is used as a primary means of communication; and/or four, whose parents are younger than 18, or who have not completed high school.

SENATOR MINES: Perfect.

SENATOR RAIKES: Okay.

SENATOR MINES: Senator Schimek, I'd return the rest of your time. Thank you.

SENATOR SCHIMEK: Thank you. Thank you, Senator Mines. I wanted to be sure that that got on the record. And I knew I had it somewhere, but I assumed that Senator Raikes had it more readily than I did. But this probably will be the last time I speak. I don't want to prolong the debate or the discussion on this bill. But I do think it's important that we have the opportunity to say why this is so important. I'd just like to continue from earlier that states such as New Jersey have witnessed its investment in these programs pay off in big ways. There are approximately 39,000 children enrolled in early childhood education programs in the state of New Jersey. And a recent study focusing on these programs showed that these children did better with such concepts as understanding the letters...that letters form words, and how these letters sound, more so than those children who were not participants in the program. What is happening in that state simply confirms what so many now believe about education, that it is best to start early and expose these young students to as much as possible before they enter kindergarten. In Nebraska, as it's been pointed out, there are 11 full-day preschool classrooms engaged in this state-funded early education program, 31 part-day preschool classrooms, and only 10 full-day infant-toddler classrooms. And those go from all...from everywhere in the state, from Alliance to Walt Hill. I don't know if you all have this chart. I'd be happy to distribute it if you don't, if you'd like to see where these early childhood programs are. Ideally, we'd like to increase that number in Nebraska. Finally, a local advocacy group, Voices for Children, states

Transcript Prepared by the Clerk of the Legislature  
Transcriber's Office

Committee on Education  
February 1, 2005  
Page 7

LB 577

number of people following me who have more experience in these early childhood programs and will be able to give you information about the substance of that, but I would be happy to answer any questions about the population that we believe will benefit tremendously, and I think, finally, the realization that all of us will benefit tremendously as these children go to school better prepared to learn and, ultimately, will become more productive citizens. Thank you.

SENATOR BYARS: Any questions of the committee of Kathy? Any comments? Thank you, Kathy, for being here.

KATHY BIGSBY MOORE: Thanks.

SENATOR BYARS: Next proponent?

JULIA TORQUATI: (Exhibit 3) Hello. My name is Julia Torquati and I will spell that: T-o-r-q-u-a-t-i, and I'm an associate professor in the College of Education and Human Sciences at UNL, and I am speaking on behalf of LB 577. There are two points I'll make in support of investments in good-quality prekindergarten experiences for young children. First, developmental processes occurring in the preschool years represent a critical opportunity for children to learn rapidly and to develop social and self-regulation skills that are so important for success in elementary school. Humans have what is called an ecological brain because environmental stimulation is necessary for the formation of brain structures. Synaptogenesis, the formation of neural connections, peaks around 24 months of age, and as children engage in meaningful experiences such as caring relationships, symbolic play, listening to stories, engaging in conversations, building block structures, and experimenting with sand, clay, and paint, excess synapses are pruned to yield the most efficient pathways for information. It's a "use it or lose it" process. Synapses that are used are strengthened and those that are not used are eliminated. At the same time, the metabolism in the brain of a preschooler is two and a half times greater than that of an adult because the rapid formation and pruning of synapses requires a tremendous amount of energy. During this prime time, synapses are created more easily and efficiently than later. No wonder little people need naps. These early developmental processes present a unique and

Transcript Prepared by the Clerk of the Legislature  
Transcriber's Office

Committee on Education  
February 1, 2005  
Page 9

LB 577

irreplaceable opportunity to help children begin school on a success trajectory. Enriching experiences promote synaptic density and efficiency, and deprivation is associated with lower synaptic density, literally fewer connections within the brain. This is a primary reason for the promising results of early intervention which others provide testimony for today. When children experience high-quality early childhood education, their brains take full advantage of the opportunity by forming new connections, literally wiring themselves for learning. This is especially important for children who are more vulnerable because they come from low-resource families. This brings me to my second point. Children from low-resource families especially need enriching early childhood experiences to begin school on a success trajectory. There are two reasons for this. First, they are less likely to experience the kinds of cognitive stimulation observed in nonpoor families, such as being read to, having good conversations, and developmentally appropriate routines and play experiences. Low-income children tend to have less access to developmentally appropriate childcare programs, as well. Thus, they're deprived of enriching input. Second, low-income children tend to experience more stress in their lives, more transitions and instability. And in response, their endocrine systems produce stress hormones. These hormones can help children meet challenges when such challenges are infrequent. But children who are exposed to chronic stressors are more likely to have chronically elevated stress hormones, which are known to disrupt the process of synaptogenesis. Thus, because of both deprivation of environmental input and chronic stress, low-income children are less able to form dense and efficient synapses that support learning and less likely to begin school on a success trajectory. High-quality early childhood education programs can potentially ameliorate these challenges. Thank you.

SENATOR BYARS: Thank you very much for your testimony. Any questions of the committee? If not, thank you for being here. Next proponent? A most kind welcome to the committee.

HELEN RAIKES: (Exhibit 4) Thank you very much, Senator Byars. My names is Helen Raikes, that's spelled R-a-i-k-e-s. I am with the Gallup Organization, UNL, and I

Transcript Prepared by the Clerk of the Legislature  
Transcriber's Office

Committee on Education  
February 1, 2005  
Page 9

LB 577

consult with the U.S. Department of Health and Human Services. I speak on behalf of LB 577. I will address why Nebraska should invest more in early childhood education and why we can afford it even though the price tag is substantial. Early childhood programs have been found to be a highly effective investment, particularly so for low-income children who typically enter school approximately 10 to 15 points behind their peers on a standardized test. That is to say, if an average child had a score of 100, we might more typically see low-income children entering school at about 90 or 85. That is without the experience of early childhood programs. We now have hundreds of studies that help us understand the problems of low-income and vulnerable children, assess the effects of the intervention, and the costs and benefits of providing the programs. As a result, many states have made sizable investments in early childhood education, and Nebraska lags somewhat behind other states in that regard. Just to share with you about a couple of studies that are now famous, and bear with me if you've heard about these studies before. One such study was the Perry Preschool program. It provided part-day, high-quality education for three- and four-year-olds and home visits for the parents. The children were followed through school, and then followed up at age 27, and just recently again, at age 40. During the elementary and secondary school years, Perry School participants were less likely to be placed in special education programs. At 14, they had significantly higher average achievement scores than the control group. Over 65 percent of program participants graduated from regular high school, compared with 45 percent of the nonparticipants. At age 40, the participants earned \$5,000 a year on average more than the nonparticipants in the program. Only one-fifth as many program versus nonprogram participants were arrested five times or more by age 27. Cost and benefits were calculated then, and when the children were 20...had grown to age 27, the cost benefit ratio was calculated to be a return of \$8 on every dollar invested in the program. Interestingly enough, as we play out the longitudinal studies, the cost benefits even improve, so that at age 40, by the time the participants had grown to age 40, the cost benefit was now one to \$17. That is \$17 returned for every dollar invested. Other studies have found similar results. The Syracuse Preschool Program found 70 percent fewer problems with crime in the program than the control group. The Abecedarian Project found study

Transcript Prepared by the Clerk of the Legislature  
Transcriber's Office

Committee on Education  
February 1, 2005  
Page 10

LB 577

children had higher academic achievement, less grade retention, and similar results for education and crime as other studies have found. In fact, it's in crime reduction that cost benefit ratios particularly indicate the value of early childhood education programs. Economists now have recently come to the table, and they have calculated the economic benefits from early childhood programs on a more broad scale basis. Nobel laureate economist, James Heckman, demonstrates that early childhood programs produce early, even small changes that put children on different trajectories that plays out in improved human capital throughout the life span. Federal Reserve Bank of Minneapolis economist, Art Rolnick, calculations have led him to conclude that when policymakers have difficult decisions to make about where to invest in education, the early childhood education yields the best return of all educational investments that policymakers can support. Finally, Robert Lynch, of the Economic Policy Institute, in his new book, which some of you may have seen, Exceptional Returns, concludes that a commitment to high-quality early childhood education would cost a significant amount of money up front, but would have a substantial payoff in the future. He says, "such investing is likely to have an enormous positive effect on the U.S. economy by raising GDP, improving skills of the work force, reducing poverty, reducing criminality, and strengthening the United States' global competitiveness." Nebraska's investment in early childhood lags behind that of other states. By one estimate, we rank 34th in per capita investment relative to the number of children at age four needing services. We believe the evidence is in and it's time for Nebraska to expand its investment in its youngest children by supporting LB 577. Thank you. Do you have any questions?

SENATOR BYARS: Thank you, Ms. Raikes. Are there any questions from the committee? Senator Schrock.

SENATOR SCHROCK: Do you think the committee members here would be higher salaried if we'd have gone through a preschool program?

HELEN RAIKES: Would the GDP of the Legislature actually be higher if we'd had that opportunity? I can't answer that question specifically. But I think that the way the projections are made about improvements of GDP are in

Transcript Prepared by the Clerk of the Legislature  
Transcriber's Office

Committee on Education  
February 1, 2005  
Page 11

LB 577

reducing crime, and I don't believe that's so much of a problem in the Legislature. And also, but your point is right, too, about higher salaries and other societal costs.

SENATOR BYARS: Any other questions? Senator Stuhr.

SENATOR STUHR: Yes, I just have one comment, that I think we're always referring to low-income children as not having the advantages or the opportunities. I'm thinking also of some rural children who attend day care but are not the highest quality of day care.

HELEN RAIKES: Right.

SENATOR STUHR: So how do we address...I mean, they may not be low-income but they still don't have access to high-quality day care.

HELEN RAIKES: Right. That's a very good point and question to make. First of all, I think it's important to point out too that many low-income families bring many strengths, as well, to the table, and so when we are talking about the needs of low-income children, we're talking about probabilities, not about all children in all families. So I did want to clarify that point. But more to the heart of what you're asking, Senator Stuhr, it is true that in Nebraska about a third of our childcare is good-quality and supports development, so that means the rest is not. And many families, as Kathy Moore pointed out, are in need of childcare services. Hopefully, the solution to LB 577 and the grants will be that community collaborators will come together and address multiple aspects of early childhood within the community. I have high hopes that this will lead to kind of ripple effects within communities. It's also true that under these provisos that the grants can be carried out in the context of Head Start programs; that is, while the grantee is the school district or the ESU, the collaboration is occurring with many providers. So it could be that the services are delivered through Head Start or even through quality childcare programs. Carolyn Edwards, in just a moment, will address how it is that the grant are going to guarantee for quality though. Thank you.

SENATOR STUHR: Okay, thank you.

Transcript Prepared by the Clerk of the Legislature  
Transcriber's Office

Committee on Education  
February 1, 2005  
Page 12

LB 577

SENATOR BYARS: Thank you, Senator Stuhr. Any other comments or questions of Ms. Raikes? Thank you for your testimony.

HELEN RAIKES: Thank you.

SENATOR BYARS: Next proponent, please? And I still do hear a ringer going off on someone's cell phone intermittently, so whoever it is that has that cell phone, please turn it off completely or you will be instantly hung.

SENATOR SCHROCK: No lethal injection here.

CAROLYN POPE EDWARDS: (Exhibit 5) I hope that's not me. I am Carolyn Edwards, a Willa Cather professor of psychology and family and consumer sciences at the University of Nebraska-Lincoln. And I want to speak also on behalf of LB 577 and address the issue of quality in early childhood programs. The evidence from the series of very carefully conducted studies of childcare quality and lack of quality is in. Quality matters. The services in this bill would be high-quality because the bill mandates that the programs must meet Nebraska's Rule 11, and as part of that, would have to meet the standards of national accreditation such as by the National Association for the Education of Young Children. We all know why doctors and hospitals should provide medical services of the highest standards, to prevent disease and prolong life, and why roads and automobiles should be constructed and maintained at rigorous levels of safety and engineering, again to reduce accidents and injuries and needless loss of life. But compared to those areas of life, medicine, food, and roads, the American public is just beginning to understand the value of investing in good-quality early childhood education. I'm not saying every child deserves a needlessly luxurious Ferrari childcare center at the public expense. What I'm saying, to follow the metaphor, is that comfortable, inviting, functional, up-to-date, late model childcare should be provided for Nebraska children who meet the criteria of need. We know how to do it, as has been described with the collaborative resources and organizations that have already been mentioned. Carolee Howes at UCLA is one of the nation's premier childcare researchers, and her 1988 study of 81 centers, published in Developmental Psychology, found that programs with more teacher training,

**67-233. Terms, defined.**

For purposes of the Nebraska Uniform Limited Partnership Act:

(1) Certificate of limited partnership shall mean the certificate referred to in section 67-240 and the certificate as amended or restated;

(2) Contribution shall mean any cash, property, services rendered, or promissory note or other binding obligation to contribute cash or property or to perform services which a partner contributes to a limited partnership in his or her capacity as a partner;

(3) Event of withdrawal of a general partner shall mean an event that causes a person to cease to be a general partner as provided in section 67-255;

(4) Foreign limited partnership shall mean a partnership formed under the laws of any state other than this state or under the laws of any foreign country and having as partners one or more general partners and one or more limited partners;

(5) General partner shall mean a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and, if required, named as such in the certificate of limited partnership or similar instrument under which the limited partnership or foreign limited partnership is organized;

(6) Limited partner shall mean a person who has been admitted to a limited partnership as a limited partner as provided in the Nebraska Uniform Limited Partnership Act or, in the case of a foreign limited partnership, in accordance with the laws under which the limited partnership is formed;

(7) Limited partnership and domestic limited partnership shall mean a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners;

(8) Liquidating trustee shall mean a person, other than a general partner, but including a limited partner, carrying out the winding up of a limited partnership;

(9) Partner shall mean a limited or general partner;

(10) Partnership agreement shall mean any valid agreement, written or oral, of the partners as to the affairs of a limited partnership or foreign limited partnership and the conduct of its business;

(11) Partnership interest shall mean a partner's share of the profits and losses of a limited partnership or foreign limited partnership and the right to receive distributions of partnership assets;

(12) Person shall mean a natural person, partnership, whether general or limited and whether domestic or foreign, limited liability company, trust, estate, association, or corporation; and

(13) State shall mean a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

**Source:** Laws 1981, LB 272, § 1; Laws 1989, LB 482, § 6; Laws 1993, LB 121, §

400.



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June 1, 2015

Dr. Matthew Blomstedt, Commissioner  
Nebraska Department of Education  
301 Centennial Mall South  
P.O. Box 94987  
Lincoln, NE 68509-4987

RE: Title 92, Nebraska Administrative Code, Chapter 11 (Rule 11)

Dr. Blomstedt and the Nebraska State Board of Education,

On behalf of the Nebraska Early Childhood Education Endowment Fund Board of Trustees, thank you for your work in supporting the quality of early care and education. I appreciate the opportunity to comment on the proposed changes to Rule 11.

As you know, the Sixpence Early Learning Fund (known in statute as the Nebraska Early Childhood Education Endowment Fund) is an innovative public-private partnership that provides stimulating environments that spark learning through meaningful interactions for their young children (ages 0-3) who are at risk of failing in school. These early experiences are particularly critical when it comes to a long term solution to closing the achievement gap in Nebraska.

Since 2008, Sixpence has worked with local school districts and their partners on efforts to reach and serve our youngest, most at-risk Nebraskans with high quality early childhood experiences. Since that time and based on the feedback and experiences from both current Sixpence programs, as well as communities who would like to expand their early childhood services to include programming for infants and toddlers, it is abundantly clear that we need an increased number of qualified professionals to provide both center-based early care and education, as well as home-based Family Engagement/Support programs in Nebraska. Sixpence grantees struggle to find the workforce they need to continue their efforts, especially to meet the needs of non-English speaking families.

The staff from the Office of Early Childhood should be commended on seeking the input in the revision process of Rule 11 from the numerous school districts and their partners who work within these guidelines. As such, the proposed revisions have evolved and morphed since the Board's initial review.

There are three recommendations which the Sixpence Board of Trustees would like you to consider.

First, we respectfully request that the definition of *poverty* for the purpose of identifying *at-risk* in Section 002.01 include "185% of the Federal Poverty Level, as adjusted annually."

In addition, we request that the use of the term *partnership* in Section 002.26 be closely examined due to the potential difficulties around its legal definition.

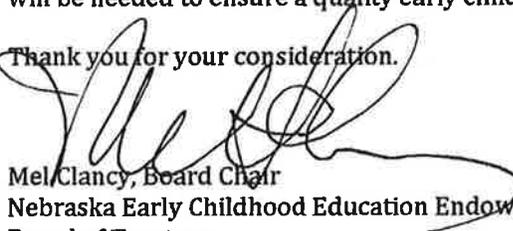
Finally, we also think it is important to understand the implications of the proposed Section 006.05C. Under this Section, a home visitor can be hired at any level (e.g., high school diploma) and obtain 12 semester hours or the equivalent in training or experience over two years. In addition, Section 006.05B does not require any post-secondary degrees. While this approach may be acceptable in the short-term, in the long-run, Nebraska will need to take steps to ensure professionals in the field of home visiting have the skills and experiences necessary for the significant role that that family educator plays.

For example, nationally accepted standards for Head Start recognize the need to have highly qualified home visitors working with families with multiple complex issues. According to the *Head Start Program Performance Standards*, home visitors working with infants and toddlers are required to have knowledge and experience in (1) child development and early childhood education; (2) principles of child health, safety, and nutrition; (3) adult learning principles; and (4) family dynamics. They must be skilled in communicating with and motivating people. They must have knowledge of community resources and the skills to link families with appropriate agencies and services. In addition, Early Head Start-Home Visiting staff must be able to effectively communicate, to the best extent possible, with children and families with no or limited English proficiency. Home visitors must be able to communicate with the families they serve either directly or through an interpreter. They should also be familiar with the ethnic background of these families.

It is our opinion that the qualifications allowed by Section 006.05B and 006.05C may fall short of sufficiently preparing home visitors for their responsibilities in providing 180 minimum contact hours per month (as required in Section 006.01) and delivering services that are based on family needs and interests and that focus on the child's development and positive family outcomes (as required in Section 006.02) using curricula that are research-based and designed to work with families that facilitate the optimal growth and development of children, and that are culturally appropriate for all families, and include a well-defined language development and early literacy emphasis, including the involvement of families in literacy activities (as required in Section 006.03).

With that in mind, we encourage NDE to continue to evaluate pathways towards securing a qualified early childhood workforce, particularly in the area of bilingual home visitors and educators. Additional work in this area will be needed to ensure a quality early childhood workforce that meets the needs of Nebraska's children.

Thank you for your consideration.



Mel Clancy, Board Chair  
Nebraska Early Childhood Education Endowment Fund  
Board of Trustees

Sarpy County Cooperative EHS and HS program which serves a consortium of public schools in the county supports draft Rule 11 which includes new language regarding home visiting based programs. We strongly believe in the importance of qualified early childhood staff and the important role home-based programs play in working with the family to support their child's development and connecting parents to community resources for continued education, getting employment, obtaining a medical and dental home, and other needs they may have or challenges they may face.

Currently we have home visiting staff that have Bachelors degree's in Early Childhood and Psychology as well as an Associate degree in Early Childhood and a Home Base CDA. Those who do not hold 4 year degrees have had extensive training throughout the years from Infant/Toddler Development to Approaches of Adult Learning, along with many years of direct services to families. These Home Visitors understand they will need to work towards getting the required course work as stated in draft Rule 11. Neither our program nor the public schools we serve at this time have the funds in our budgets to support the Home Visitor staff in obtaining those four year degrees or provide the subsequent increases in salaries comparable to the public schools. To do this, it would require us to close our home base program impacting 44 children and 67 parents.

The negative financial impact doesn't stop with programs closing or people losing jobs it continues to ripple out affecting the community in mortgage and rental payments, car loans, local buying power, not to mention loss of revenue for the many community businesses that provide services to the programs.

We have been experiencing hardships in our program as our Home Visitors are seeking other employment opportunities and have resigned their position because they don't hold the required Bachelor Degrees and/or do not have the financial resources to obtain it. As we look for staff to replace home visitors that have resigned their position, we have had to pass up great applicants because of specific BS degree requirements for a Home Visitor Specialist. Nursing, Sociology, Psychology, and Social Work degrees that qualify and are required recommended degree's may meet criteria for the family services portion of the home visitors position, however the lack of child development knowledge with infants and toddlers within those degree's is essential and needed!

Hiring a Home Visitor based on the current recommended educational requirements or accepted experience and course work of the Dept. of Education is risky as the educational requirements may change in the future and we would be back to face this dilemma again, which is a definite hardship! Because of this uncertainty, as a program we have decided to hire our new home visitor using the Home Visitor Specialist status as it would guarantee educational requirements for the future. The Home Visitor requirements are more reasonable and may be easier to find candidates for the position but we are driven to play it safe because of uncertainty. This decision presents another hardship as it is very difficult trying to hire a Home Visitor Specialist to work for Head Start salaries.

Another hardship is: clarity of "experience" as it does not indicate if "work" experience or "training" other than college semesters hours is accepted to meet home visitor's qualifications. They are not given "credit" for their years of experience working with parents and children, providing direct services to the families. So many years of "experience" should equal some college credit hours.

We have a home visitor that has been in the field with 10 years' work experience and have received extensive training through the years none of which is recognized by the Dept. of Education. For

example: credit is not given for Home Visitors who use and are trained in the researched based infant/toddler curriculum such as Parent As Teachers (PAT) - Foundational Curriculum and Teaching Strategies Gold (TSG) assessment system and has received her TSG Inter-rater Reliability Certification. Yet, with these educational requirements, she no longer qualifies as a home visitor. PAT as well as TSG both are essential and beneficial to our program, staff and families, as well as the Dept. of Education, as they are aligned with Nebraska's Early Learning Guidelines (Birth through 5 years old) and the Dept. use TSG as their assessment tool for Results Matters data, yet it isn't listed and/or recognized as accepted training or course work that would be honored.

We understand the intent to increase the educational requirements are from wanting highly qualified home visitors and that home visiting programs are as important as center based programs. We don't disagree with the intent but we don't want our program or any other program to close because budgets can't support it. If so, everyone loses!

Patti Estaniqui  
Family Education Manager  
Sarpy County Cooperative Head Start  
701 Olson Dr. Suite 111  
Papillion, Ne. 68123

Rule 11 Hearing - June 2<sup>nd</sup>, 2015

Concerns with the following definitions:

Section 002.22 – Kindergarten entrance age means five years of age on or before July 31 of the current school year.

Section 002.28 – Preschooler means a child age 3 years to kindergarten entrance age.

Under current Rule 11 and with the proposed Rule 11, a child who is born at 11:59 pm on July 31<sup>st</sup> is not age-eligible to attend preschool. However, a child born on August 31<sup>st</sup> at 12:01 a.m. is not only age eligible to attend a 4-year old preschool, but will also graduate, 14 years later, with the advantage of being one year older entering the workforce or college, than his or her peer who had the misfortune of being born two minutes earlier.

State law and Rule 10 currently have some flexibility built into kindergarten entrance. Statute 79-214 stipulates that the "district shall not admit any child into the kindergarten...unless the child has reached the age of five years on or before July 31<sup>st</sup>..." The statute goes on to allow that "The board shall admit a child who will reach the age of five years on or after August 1 and on or before October 15...", with clear stipulations.

On the other end of the kindergarten age spectrum, compulsory attendance is addressed in statute 79-201, which stipulates that "a child is of mandatory attendance age if the child (a) will reach six years of age prior to January 1 of the then-current school year..."

At a minimum, the above language gives parents a 19 month window (which, arguably, might be too large) on making the decision on when to enroll their child into kindergarten. With the preschool admittance age written as it is, that flexibility is lost. To get around this inflexibility, school districts are offering two years of kindergarten or a "kindergarten ½" class and then regular kindergarten. Children who are enrolled in a preschool earlier than a parent desires are later placed in a kindergarten program where the full intent is to retain that child for a 2<sup>nd</sup> year of kindergarten. This delay is done to help the child reach the developmental stage where parents feel comfortable starting them in a regular progression through grades 1 through 12.

This "hard and fast" deadline regarding eligibility for preschool programs is at odds with what is needed for parents. Parents of preschoolers need to have some flexibility built into Rule 11 that allows them to make the decision when they wish to have their child formally enter preschool (and later, kindergarten). Parents of these children tell me that not only are they concerned with when to enroll their child, but also when they would like their child to graduate from high school.

# Randolph Public Schools

"Creating our Future's Foundation"

I would suggest these changes (in italics) to the following definitions:

Section 002.22 – Kindergarten entrance age means five years of age on or before July 31 of the current school year *to January 1<sup>st</sup> of the following year.*

Section 002.28 – Preschooler means a child age 3 years to ~~kindergarten entrance age~~ *one year prior to the compulsory age of attendance.*

We would also support a narrower window of entrance for preschool than what is suggested above. It would be great if somehow parents would have the possibility of enrolling a child born up to 6 months before July 31<sup>st</sup>.

Lastly, in some of the literature found in Early Childhood pamphlets, the term "redshirting" is used to define the practice of parents delaying their children's entrance into school. The original term "redshirting" meant a delay or suspension of an athlete's participation in order to lengthen their period of eligibility, most specifically applied to collegiate athletics. I believe the term should be dropped from all early childhood literature, as it takes on a derogatory connotation when used in this context. It implies that parents are holding back their children for reasons other than developmental or academic concerns. In my experiences working with these young parents, nothing could be further from the truth.

Thank you for taking our input into changes in Rule 11. Randolph Public Schools just completed their first year of a 4-year old preschool and we were very happy with the results of this new program. We were lucky to be a grant school and we received much support from the Early Childhood staff at the Nebraska Department of Education. Our concerns with some of the long-standing definitions found in Rule 11 are not an indication of any dissatisfaction we might have with them. We are grateful for the guidance and support they provided us throughout this year and into the next.

Sincerely,



Jeff Hoelsing, Supt.  
Randolph Public Schools  
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June 1, 2015

Matthew L. Blomstedt, Ph.D.  
Commissioner of Education  
Nebraska Department of Education  
301 Centennial Mall South  
Lincoln, NE 68509-4938

Re: Notice of Rule-Making Hearing  
Title 92, Nebraska Administrative code, Chapter 11 (Rule 11), *Regulations for the Approval of Prekindergarten Programs Established by School boards or Educational Service Units and for the Issuance of Early Childhood Education Grants*

Dear Commissioner Blomstedt:

I would like to thank you, the NDE Office of Early Childhood, and the State Board of Education for your continued support of early childhood programs in the state. The current draft of Rule 11 contains significant improvements to the previous Rule and helps position Nebraska as a leader in the nation for early childhood. However, there are a few areas of concern that I would like to bring to your attention. My goal is not to delay implementation of the current draft, but to encourage the department to continue its hard work and cooperation with stakeholders across the state to meet their diverse needs.

Of particular concern, is the definition in section 002.01. *At risk when used with reference to a child means the child is experiencing conditions or factors which could have a negative impact on his or her development or learning, including low birth weight, poverty, being a child of teen parents or parents who did not graduate from high school, or living in a home whose occupants have limited ability to speak and understand English.* This definition does not define poverty and could be interpreted to exclude children who are receiving free or reduced lunch. The list of factors also does not include premature birth. I would suggest that the wording be changed to read, "including, but not limited to such factors as..." This flexibility would allow a more inclusive definition of at-risk children.

Also of concern is the requirement for Home Visitors in Sections 006.05B -- *Any home visitor assigned to work as a member of the program team shall have received at least twelve (12) semester hours of undergraduate or graduate credit in one or a combination of the following areas, or the equivalent in prior training or experience as determined by the Commissioner or his or her designee and Section 005.05C -- The program may use a home visitor who does not meet the twelve (12) semester hour requirement as long as the home visitor completes a minimum of six (6) semester hours or the equivalent in training or experience within the first year of employment and meets the full twelve (12) semester hour requirements before the end of the second year of employment.*

Start early. Start well.

This definition sets very minimal expectations for a professional working with children and families inside their homes. I am pleased that Nebraska takes home visiting seriously as a profession that should be defined in Rule (as contrasted to many other states), but am concerned with the minimal requirements for a person who works so closely with children and their families. I also understand the difficulties faced by programs in rural areas seeking to hire individuals from their community; finding someone with higher qualifications becomes very difficult. This definition seems to be a compromise between establishing higher qualifications (such as those for Home Visiting Specialist in Section 005.05A) and the need to be responsive to hiring needs across the state. I would hope that the Office of Early Childhood would continue conversations with higher education about preparing more qualified individuals for these positions while working with local entities to hire the best individual for the job.

Overall, I am pleased with the thought and commitment that NDE shows for early childhood systems in their draft of this Rule. Please let me know if I can be any further assistance.

Sincerely,

Samuel J. Meisels, Ed.D.  
Founding Executive Director

cc: Melody Hobson