



Wherefore, the State Board of Educations finds, decrees, orders and adjudges as follows:

1. The Joint Stipulation of the parties, including Verdigre Public Schools, is hereby approved, the parties, including Verdigre Public Schools, are ordered to perform the terms of the Joint Stipulation , and Petitioners' appeal is dismissed with prejudice, each party to pay their own costs.

2. The Hearing Officer's Recommendation of Dismissal is hereby adopted in all respects and made a part of this order by this reference to the same extent and with like effect as though such findings and recommendations were fully set forth verbatim herein.

Dated this 8th day of October, 1999.

**NEBRASKA STATE BOARD OF EDUCATION**

  
\_\_\_\_\_  
Douglas D. Christensen  
Secretary of the State Board of Education

The vote by the State Board of Education to approve the final Order in Case No. 99-14, on October 8, 1999, was 8 in favor, \_\_\_\_\_ against, \_\_\_\_\_ abstaining, \_\_\_\_\_ absent.

The individual State Board members voted as follows:


**IN FAVOR:** B. Peterson, K. Wilmot, K. Peterson, A. Mactier, R.Savage, S. Scherr, F. Meyer, K. Piller

**AGAINST:** \_\_\_\_\_  
\_\_\_\_\_

**ABSTAINING:** \_\_\_\_\_  
\_\_\_\_\_

**ABSENT:** \_\_\_\_\_  
\_\_\_\_\_

**DATE:** October 8, 1999.

  
\_\_\_\_\_  
Douglas D. Christensen,  
Commissioner of Education and  
Secretary of the State Board of Education

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Order was served upon the following:

Herman and Sue Wiebelhaus  
P.O. Box 81  
Center, NE 68724  
Petitioners

John F. Recknor  
P.O. Box 6145  
Lincoln, NE 68506-0145  
Attorney for Nebraska Unified School District No. 1 and  
Verdigre Public Schools

Verdigre Public Schools  
204 Second Street  
Verdigre, NE 68783

Nebraska Unified School District No. 1  
P.O. Box 269  
Orchard, NE 68764-0269

Creighton Public Schools  
c/o Fred R. Boelter, Superintendent  
Box 10  
Creighton, NE 68729

Dennis C. Tegtmeier  
Hearing Officer  
140 No. 8<sup>th</sup> Street  
Suite 250  
Lincoln, NE 68508

by placing same in the United States certified mail, return receipt requested, postage prepaid on the 12<sup>th</sup> day of October, 1999.

Brenda L. Nolan

**BEFORE THE STATE BOARD OF EDUCATION  
STATE OF NEBRASKA**

<b>HERMAN AND SUE WIEBELHAUS,</b>	)	<b>Cases No. 99-14</b>
<b>P.O. Box 81</b>	)	
<b>Center, Nebraska 68724</b>	)	
	)	
<b>Petitioner,</b>	)	<b>HEARING OFFICER'S</b>
<b>vs.</b>	)	<b>RECOMMENDATION OF</b>
	)	<b>DISMISSAL</b>
<b>NEBRASKA UNIFIED SCHOOL DISTRICT</b>	)	
<b>NO. 1</b>	)	
<b>P.O. Box 269</b>	)	
<b>Orchard, Nebraska 68764-0269,</b>	)	
	)	
<b>Respondent.</b>	)	

Petitioners filed this appeal pursuant to §005, Title 92, Chapter 7 of the Nebraska Administrative Code, and §79-239, *et seq.* R.R.S. (as amended to date), and in accordance with Title 92, Chapter 61 of the Nebraska Administrative Code naming Nebraska Unified School District No. 1 as the Respondent. Petitioners, in their appeal, requested that the State Board of Education enter an order allowing their daughter, Caitlin Wiebelhaus, to attend Creighton Public Schools, the option school district, as an option student for the 1999-2000 school year, and following school years under the Nebraska Enrollment Option Program.

Respondent, in response, made the following allegations:

1. Alleges that the Petitioners, Herman and Sue Wiebelhaus, did not timely file their Application for option enrollment in accordance with the statutory time lines.
2. The Verdigre Public Schools, which is a participant in the Nebraska Unified School District No. 1, has supplied its option enrollment policy to this Application. The said policy provides, in pertinent part, that "it will be the policy of the Board of Education of Nebraska Unified School District No. 1 to not waive the January 1 deadline for enrollment option applications for students requesting to option out of the school district."

3. Nebraska Unified School District No. 1 came into existence on June 1, 1999.
4. No application has been submitted to the Nebraska Unified School District No. 1 at the present time.
5. The Verdigre Public Schools is a duly constituted school district, existing under the laws of the State of Nebraska.

On September 2, 1999, a prehearing conference was held. Discussion was had during the prehearing conference concerning the issues in the case including but not limited to the jurisdictional issue as to whether Nebraska Unified School District No. 1 is a proper party to the appeal and whether Verdigre Public Schools should be substituted as the Respondent in this appeal. Attorney John Recknor advised the Hearing Officer that he was authorized to represent Nebraska Unified School District No. 1 and Verdigre Public Schools and enter Verdigre Public School's appearance in the appeal. During the prehearing conference, the Hearing Officer determined that all of the issues may be resolved with the signing of a joint stipulation and that it would not be necessary to have a hearing on the Petitioners' appeal. The Hearing Officer continued the hearing indefinitely until such time as he had had an opportunity to review the joint stipulation of the parties including Verdigre Public Schools.

On September 17, 1999, the Hearing Officer received and filed a Joint Stipulation and Entry of Appearance in which the Verdigre Public Schools entered its appearance in this appeal as the resident school district of Caitlin Wiebelhaus and the parties, including Verdigre Public Schools, stipulated as follows:

1. The Unified District was not the district of residence at the time an option enrollment application was filed by the Wiebelhauses.
2. The Verdigre Public Schools was the district of residence and should have been the

district which took action on the option enrollment application.

3. The Verdigre Public Schools did not initially take action, but has now taken action in this matter, approving the option enrollment application of the Wiebelhauses to go to Creighton Public Schools as the option district.

4. Undersigned counsel is authorized on behalf of the Verdigre Public Schools to indicate the express written release of the Wiebelhauses from the Verdigre Public Schools to the Creighton Public Schools, notwithstanding the fact that the Application for Option Enrollment was not timely filed with the Verdigre Board.

5. The Verdigre Public Schools herewith waives any objections to the timeliness of the option enrollment application, the timeliness of any appeal that could have been brought against the Verdigre Public Schools, and further waives any notice of hearing or any other procedural irregularities in these proceedings, and further agrees to waive any hearing which might otherwise be held in the matter, and agrees that the above-captioned case should be dismissed against Nebraska Unified School District No. 1.

6. It is agreed by and between the parties hereto, and understood by the parties to be agreed to by the Creighton Public Schools, that Caitlin Wiebelhaus shall be allowed to attend the Creighton Public Schools without being assessed tuition pending the above-captioned case being brought to a conclusion.

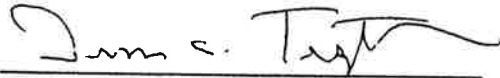
All of the parties, including representatives of Verdigre Public Schools, signed the Joint Stipulation and Entry of Appearance and further jointly stipulated that the Stipulation should be accepted and ratified by the Nebraska State Board of Education.

## RECOMMENDATION

The Hearing Officer has reviewed the Joint Stipulation and Entry of Appearance of Verdigre Public Schools and, based on his review of the complete file and applicable law, recommends that the State Board of Education approve the Joint Stipulation of the parties, including Verdigre Public Schools, and order the parties, including Verdigre Public Schools, to perform the terms of the Joint Stipulation and dismiss Petitioners' appeal with prejudice with each party to pay their own costs.

Dated this 28<sup>th</sup> day of September, 1999.

Respectfully submitted,



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DENNIS C. TEGTMEIER,  
Hearing Officer  
140 No. 8<sup>th</sup> Street, Suite 250  
Lincoln, NE 68508  
(402) 476-1829

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing Hearing Officer's Recommendation of Dismissal was duly served upon the following:

Herman and Sue Wiebelhaus  
P.O. Box 81  
Center, NE 68724  
Petitioners

Creighton Public Schools  
c/o Fred R. Boelter, Superintendent  
Box 10  
Creighton, NE 68729

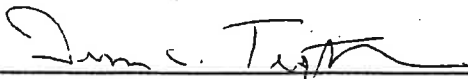
Nebraska Unified School District No. 1 and  
Verdigre Public Schools  
c/o John F. Recknor, Attorney  
2200 So. 40<sup>th</sup> Street  
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David C. Rasmussen  
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Doug D. Christensen  
Commissioner  
Nebraska Department of Education  
P.O. Box 94987  
301 Centennial Mall South  
Lincoln, NE 68509-4987

by placing same in the United States mail, postage prepaid on the 23<sup>rd</sup> day of September, 1999.

  
\_\_\_\_\_  
Dennis C. Tegtmeier, Hearing Officer