



Nebraska State Board of Education

Agency Management Policies

Adopted December 2, 2022

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AMP 2.00

Delegation to Commissioner

All administrative functions are the responsibility of the Commissioner who may delegate certain functions to members of the state staff. The Commissioner, or his or her designee, is responsible for faithfully executing the policies and directives of the State Board or seeing that they are executed by the staff.

When any law or regulation specifies that something is to be done by the State Board, the State Board may not delegate that to the Commissioner alone. Example: 79-760.06(3) R.R.S. states that “the state board shall designate priority schools...” The State Board itself is to do that (with the advice of the Commissioner).

When any law or regulation provides something is to be done “by the Department,” the Board may delegate that authority to the Commissioner, such as through a regulation. Example: 79-1065 R.R.S. states that “the State Department of Education shall adjust [state aid] payments provided under Chapter 79...” By regulation (NDE Rule 8), the State Board delegated that function to “the Commissioner or his her designee(s).”

Right to Overrule Decisions

The State Board reserves the right to overrule the decisions of the Commissioner.

State Government Relations

The Commissioner of Education shall keep the State Board of Education informed of all relevant pending legislation in the State Legislature.

Revision History

- Created: 1979
- Reviewed: 1984, 1995, 2006, 2009, 2011, 2015, 2019, 2022
- Approved: 12/02/2022

Board Action History

- 11/15/1979 – Prior CD
(Included one section now in D2, as well as delegation and right to overrule decisions.)
- 12/07/1984 – 2131 DO
(Transferred one section to what is now D2 and added state government relations.)
- 12/08/1995 – Prior D3
(Shortened)
- 11/03/2006 – D3
(One word change)
- 10/08/2009 – D3
(Language added addressing the Commissioner’s obligation to carry out both the policies and the directives of the State Board, consistent with LB 549 [Laws, 2009].)
- 03/03/2017 – D3(P3)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. D3 is now P3.)
- 08/09/2019 – P3
(Language added to clarify when an action is committed by law or regulation to the Board and when it is committed to the Department as-a-whole and may be delegated to the Commissioner’s decision.)
- 12/02/2022 – P3(AMP 2.00)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. P3 is now AMP 2.00.)

Cross-References

- 79-301 R.R.S.
- 79-305 R.R.S.
- 79-306 R.R.S.

Nebraska Department of Education
Agency Management Policies

- 79-318 R.R.S.

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AMP 2.01

Human Resources Policies

Personnel Policies and Administrative Memoranda

Pursuant to Section 79-306 of the Revised Statutes of Nebraska, the Commissioner of Education is the administrative head of the State Department of Education and has the authority to establish and maintain an appropriate system of personnel administration and such administrative rules and regulations as are necessary for the proper execution of duties and responsibilities placed upon him or her. Accordingly, the State Board authorizes the Commissioner to promulgate personnel policies and procedures at his or her discretion without subsequent approval by this Board, though the NDE Personnel Rules for employees exempt from the Bargaining Agreement shall be approved by the Board as these are subject to the Nebraska Administrative Procedures Act.

The Board also authorizes the Commissioner to promulgate a series of Administrative Memoranda detailing internal operating procedures for the Department at his or her discretion and to issue, revise, and update such Administrative Memoranda without subsequent approval by this Board.

The Board reserves the right, at any time, to direct the Commissioner to revise, reverse, or amend any personnel policy or Administrative Memorandum that he or she has promulgated or to include additional provisions as directed by the Board.

Professional Personnel Hiring

Section 79-318(3) R.R.S. provides that the State Board shall, upon the recommendation of the Commissioner of Education, appoint and fix the compensation of all new professional positions in the Department, including any Deputy Commissioner. A new professional position would need approval of the Board if such position, in the professional judgement of the Commissioner, requires specialized knowledge and intensive academic preparation and was not part of the organization of the Department previously approved by the Board.

The Commissioner may approve employment of any persons hired as a replacement Deputy Commissioner in the interim between Board meetings; however, appointments of a Deputy Commissioner are still subject to Board approval at the subsequent Board meeting.

Labor Negotiations

The Commissioner shall act as representative of the Board in all labor negotiations and shall appoint the bargaining team and chief negotiator. He or she shall advise the Board prior to, and on a regular basis, during negotiations. Bargaining Agreements shall be approved by the Board.

Equal Opportunity Employment and Nondiscrimination

As a matter of policy, the State Board of Education prohibits the following employment practices by the Department, which are unlawful under Section 48-1104 and 48-1004 of the Revised Statutes of Nebraska:

48-1104 R.R.S.

It shall be an unlawful employment practice for an employer:

- (1) To fail or refuse to hire, to discharge, or to harass any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, disability, marital status, or national origin; or
- (2) To limit, advertise, solicit, segregate, or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect such individual's status as an employee, because of such individual's race, color, religion, sex, disability, marital status, or national origin.

48-1004 R.R.S.

(1) It shall be an unlawful employment practice for an employer:

(a) To refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to the employee's terms, conditions, or privileges of employment, otherwise lawful, because of such individual's age, when the reasonable demands of the position do not require such an age distinction; or

(b) To willfully utilize in the hiring or recruitment of individuals for employment otherwise lawful, any employment agency, placement service, training school or center, labor organization, or any other source which so discriminates against individuals because of their age.

(4) It shall be an unlawful employment practice for any employer, employment agency, or labor organization to discharge, expel, or otherwise discriminate against any person because he or she opposed any unlawful employment practice specified in the Age Discrimination in Employment Act or has filed a charge or suit, testified, participated, or assisted in any proceeding under the act.

In addition, the Board also prohibits employment practices by the Department that are a violation of Federal law.

Revision History

- Created: 1977
- Reviewed: 1978, 1979, 1984, 1995, 2006, 2009, 2012, 2016, 2020, 2022
- Approved: 12/02/2022

Board Action History

- 03/11/1977 – Prior BIB
(Mentioned statute authorizing system of personnel administration in list of Commissioner's duties.)
- 07/07/1978 – Prior HAE
(Board appoints negotiating team and chief spokesman)
- 07/02/1979 – Prior GAAA
(Equal Opportunity Employment)

Board Action History (cont'd)

- 12/07/1984 – Prior 2231 DO
(Referenced personnel statute as in former BIB, and covered personnel policies, administrative memorandums, and State school policy manual)
- 12/07/1984 – Prior 4135.3 DO
(Same as former HAE)
- 12/07/1984 – 4118.11 DO
(Same as GAAA, without statute references)
- 12/08/1995 – Prior D4
(Combined 3 prior policies, but designated Commissioner to act as labor representative and to appoint bargaining team. Revised non-discrimination statement to cite statute.)
- 11/03/2006 – D4
(Deleted reference to State school policy manual and Personnel manual and added 48-004 R.R.S. reference.)
- 10/08/2009 – D4
(Amended to include Subsection (4) of 48-1004 R.R.S., which prohibits retaliation.)
- 03/03/2017 – D4(P4)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. D4 is now P4.)
- 09/04/2020 – P4
(Revisions providing further clarification to existing language that aligns with the Board's approval of the NDE Personnel Rules and also an addition that makes reference to the Department following not only state law concerning employment discrimination, but also Federal Law.)
- 12/02/2022 – P4
(Combined prior P6 with P4.)
- 12/02/2022 – P4(AMP 2.01)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. P4 is now AMP 2.01.)

Cross-References

- 79-306 R.R.S.
- 48-1004 R.R.S.

Cross-References (cont'd)

- 49-1104 R.R.S.
- 93 NAC 1-16

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AMP 2.02

Contracts, Grant, and Purchases

The State Board shall review and approve contracts and purchase of \$50,000 or more. The Board shall also review and approve the submission, receipt, or distribution of grants of \$50,000 or more.

Each month the Commissioner of Education shall provide the Board with a list of contracts and grants between \$10,000 and less than \$50,000 approved the preceding month. The Commissioner shall periodically provide the Board with a list of contracts and grants less than \$10,000.

Any federally-funded grants with a formula-based distribution to the Nebraska Department of Education or its sub-recipients are excluded from these requirements.

Revision History

- Created: 1976
- Reviewed: 1984, 1995, 2006, 2016, 2017, 2021, 2022
- Approved: 12/02/2022

Board Action History

- 12/10/1976 – Prior DDF
((\$10,000 or more Board approval and less than \$10,000 periodic list from Commissioner)
- 12/07/1984 – Prior 3324.1 DO
(SAME)
- 12/08/1995 – Prior D6
(SAME)
- 09/07/2006 – D6
(Board approval increased to \$25,000 and added monthly list of \$10,000 to \$25,000)
- 12/02/2016 – D6
(Board approval increased to \$50,000 and added monthly list of \$10,000 to \$50,000)
- 03/03/2017 – D6(P5)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. D6 is now P5.)

Board Action History (cont'd)

- 09/08/2017 – P5
(New language opens submission to the Board of their approval or review of all grants issued by NDE except for those federally funded and have a regulated formula component to awarding them to the sub recipients.)
- 12/02/2022 – P5(AMP 2.02)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. P5 is now AMP 2.02.)

Cross-References

- 79-301 R.R.S.
- 79-305 R.R.S.
- 79-306 R.R.S.
- 79-318 R.R.S.
- 79-319 R.R.S.

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AMP 2.03

Trust Funds

The State Board shall approve the receipt of any (all) property, real or personal, acquired by donation devise, or bequest, which is to be held in trust.

The State Board shall annually approve the Department's budgets for expenditures of trust money. Separate budgets shall be approved for expenditure from the unrestricted trust funds and from each restricted trust fund.

Expenditures may exceed the amount approved for any line item or budget category so long as the total amount of expenditures approved for each budget is not exceeded. Expenditures over the total amount budgeted and expenditures for additional line items or budget categories may be made if approved in advance by the State Board.

Revision History

- Created: 1976
- Reviewed: 1977, 1984, 1995, 1999, 2002, 2004, 2006, 2013, 2016, 2020, 2022
- Approved: 12/02/2022

Board Action History

- 12/10/1976 – Prior KHE
(Donations)
- 08/19/1977 – Prior AI
(NSVH policies, including Trusts)
- 08/19/1977 – Prior AH
(NSD policies, including Trusts)
- 12/07/1984 – Prior 6172.4 DO
(Replaced prior policies)
- 12/08/1995 – Prior D11
(Renumbered and deleted labor sections)

Board Action History (cont'd)

- 06/11/1999 – Prior D11
(Reduced to just approval of receipts, and expenditures over \$500)
- 06/07/2002 – Prior D11
(Corrected typo)
- 02/06/2004 – Prior D11
(Deleted \$500 or more expenditure approval and added two paragraphs regarding Trust budgets)
- 11/03/2006 – D11
(One wording change)
- 03/03/2017 – D11(P8)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. D11 is now P8.)
- 12/11/2020 – P8
(Reaffirmed by Board)
- 12/02/2022 – P8(AMP 2.03)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. P8 is now AMP 2.03.)

Cross-References

- 79-318(13) R.R.S.

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AMP 2.04

Audits

The Commissioner of Education is responsible for the performance of the Nebraska Department of Education. Financial audits of the Department of Education and its various programs are instrumental to the Department's efficient and effective operation.

The Commissioner of Education shall take the following steps in response to financial audits of the State Department of Education and its various programs:

- The Budget and Finance Committee will review the audit and report their deliberations and recommendations to the Board.
- Provide the State Board of Education with copies of audit reports from audits of the Department of Education and its various programs, descriptions of the Department's plans and actions for the correction or dispute of all audit findings identified in audit reports, and correspondence identifying the resolution of audit findings;
- For audit findings not disputed by the Department of Education, immediately identify and implement corrective action;
- Prepare and submit a management response to the auditing authority for each audit finding, which identifies the corrective action taken or the rationale for dispute of the finding; and
- Maintain documentation of 1) all audit reports and 2) all follow-up actions with regard to corrective action.

Revision History

- Created: 2003
- Reviewed: 2006, 2014, 2016, 2020, 2022
- Approved: 12/02/2022

Board Action History

- 10/03/2003 – Prior D13
(NEW)

Board Action History (cont'd)

- 11/03/2006 – D13
(Date change)
- 12/02/2016 – D13
(Added language that audits will be reviewed by the Budget and Finance Committee before going to the Board.)
- 03/03/2017 – D13(P10)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. D13 is now P10.)
- 12/11/2020 – P10
(Reaffirmed by Board)
- 12/02/2022 – P10(AMP 2.04)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. P10 is now AMP 2.04.)

Cross-References

- 79-301 R.R.S
- 79-305 R.R.S.
- 79-306 R.R.S
- 79-318 R.R.S.

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AMP 2.05

Certification Complaints and Investigations

Whenever it shall come to the attention of the Commissioner of Education that any person who holds a valid Nebraska certificate authorizing such person to teach or administer in the public, private, denominational, or parochial schools in this state, has been convicted of any felony, or any misdemeanor which involves abuse, neglect, or sexual misconduct, or it appears has violated any standard contained in the Professional Practices Criteria of 92 NAC 27, the Commissioner of Education shall proceed to file a complaint against such person, conduct an appropriate investigation into the matter, and proceed with the appropriate disciplinary action as warranted.

When a Petition filed by the Commissioner with the Professional Practices Commission results in a recommendation to the Board by the PPC, the PPC shall submit to the Board such written recommendation for suspension, revocation or support or opposition to a reinstatement request. The written recommendation shall include the PPC's findings of fact and conclusions of law as provided in 95 NAC 1. The Board will consider the matter and issue a final order.

In non-public certificate cases in which the Board has appointed a hearing officer, the hearing officer shall submit to the Board a record of the case together with a recommended decision, findings of fact, and conclusions of law in accordance with 92 NAC 28. The Board will consider the matter and issue a final order.

Revision History

- Created: 1980
- Reviewed: 1991, 1995, 2006, 2013, 2017, 2022
- Approved: 12/02/2022

Board Action History

- 10/01/1980 – Prior GBU
(Commissioner duties to file teacher complaints)

Board Action History (cont'd)

- 06/07/1991 – Prior 4112.21 DO
(Revised to reflect change in law and regulations)
- 12/08/1995 – Prior D8
(Added draft order references)
- 11/03/2006 – D8
(Deleted “moral turpitude” and added “abuse, neglect, or sexual misconduct”)
- 03/03/2017 – D8(P7)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. D8 is now P7.)
- 11/09/2017 – P7
(Language revised by General Counsel’s Office with consultation of the Attorney General’s Office to reflect current practices by NDE.)
- 12/02/2022 – P7 (AMP 2.05)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. P7 is now AMP 2.05.)

Cross-References

- 79-859 to 79-871 R.R.S
- 92 NAC 27, 28, and 29
- 92 NAC 1 and 2

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AMP 2.06

Ethics/Accountability & Disclosure

Board members, the Commissioner and Department staff are all subject to the provisions of the Nebraska Political Accountability and Disclosure Act (Sections 49-1401 et seq. of the Revised Statutes of Nebraska). The Commissioner is authorized to develop administrative and personnel policies dealing with ethics and conflicts of interest for Department staff, which may include requirements for the reporting of outside consulting income received by staff.

In addition to sections of the Act regarding campaign activities of Board members, the following sections should be of primary interest to the Board and staff of the Department:

49-1499.02. Executive branch; discharge of official duties; potential conflict; actions required.

(1) An official or employee of the executive branch of state government who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

(a) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict; and

(b) Deliver a copy of the statement to the commission and to his or her immediate superior, if any, who shall assign the matter to another. If the immediate superior does not assign the matter to another or if there is no immediate superior, the official or employee shall take such action as the commission shall advise or prescribe to remove himself or herself from influence over the action or decision on the matter.

(2) This section does not prevent such a person from (a) making or participating in the making of a governmental decision to the extent that the individual's participation is legally required for the action or decision to be made or (b) making or participating in the making of a governmental decision if the potential conflict of interest is based upon a business association and the business association exists only as the result of his or her position on a commodity board. A person acting pursuant to subdivision (a) of this subsection shall report the occurrence to the commission.

49-14,100. Advisory opinions; application; effect. Any person who is in doubt as to the propriety of action proposed to be taken by him may apply to the commission for an advisory opinion relating thereto, and the commission shall have authority to render such opinions. When an advisory opinion is issued pursuant to a complete and accurate request, such opinion shall be a complete defense to any charge of violation of sections 49-1493 to 49-14,104 as to any action taken strictly subject to the terms of such opinion.

49-14,101.01 Financial gain; gift of travel or lodging; prohibited acts; violation; penalty.

(1) A public official or public employee shall not use or authorize the use of his or her public office or any confidential information received through the holding of a public office to obtain financial gain, other than compensation provided by law, for himself or herself, a member of his or her immediate family, or a business with which the individual is associated.

(2) A public official or public employee shall not use or authorize the use of personnel, resources, property, or funds under his or her official care and control other than in accordance with prescribed constitutional, statutory, and regulatory procedures or use such items, other than compensation provided by law, for personal financial gain.

(3) Unless otherwise restricted by an employment contract, a collective-bargaining agreement, or a written agreement or policy approved by a government body, a public official or public employee may use a telecommunication system, a cellular telephone, an electronic handheld device, or a computer

under the control of the government body for email, text messaging, a local call, or a long-distance call to a child at home, a teacher, a doctor, a day care center, a baby-sitter, a family member, or any other person to inform any such person of an unexpected schedule change or for other essential personal business. Any such communication shall be kept to a minimum and shall not interfere with the conduct of public business. A public official or public employee shall be responsible for payment or reimbursement of charges, if any, that directly result from any such communication. An agency or government body may establish procedures for reimbursement of charges pursuant to this subsection.

(4) A public official shall not accept a gift of travel or lodging or a gift of reimbursement for travel or lodging if the gift is made so that a member of the public official's immediate family can accompany the public official in the performance of his or her official duties.

(5) A member of the immediate family of a public official shall not accept a gift of travel or lodging or a gift of reimbursement for travel or lodging if the gift is made so that a member of the public official's immediate family can accompany the public official in the performance of his or her official duties. . . .

(6) Except as provided in section 23-3113, any person violating this section shall be guilty of a Class III misdemeanor.

49-14,102. Contracts with governmental bodies; procedure; purpose.

(1) Except as otherwise provided by law, no public official or public employee, a member of that individual's immediate family, or business with which the individual is associated shall enter into a contract valued at two thousand dollars or more, in any one year, with a government body unless the contract is awarded through an open and public process.

(2) For purposes of this section, an open and public process includes prior public notice and subsequent availability for public inspection during the regular office hours of the contracting government body of the proposals considered and the contract awarded.

(3) No contract may be divided for the purpose of evading the requirements of this section.

(4) This section shall not apply to a contract when the public official or public employee does not in any way represent either party in the transaction.

[Subsection 5 does not apply to NDE contracts]

(6) This section prohibits public officials and public employees from engaging in certain activities under circumstances creating a substantial conflict of interest. This section is not intended to penalize innocent persons, and a contract shall not be absolutely void by reason of this section.

(7) This section does not apply to contracts covered by sections 49-14,103.01 to 49-14,103.06. *[These statutes cover contracts involving school districts and other local political subdivisions, for which different procedures are required.]*

Additional Board Policies

Board members, (in accordance with B11), the Commissioner, and staff shall consult with Legal Services on the subject of seeking an opinion from the Accountability and Disclosure Commission in any situation in which they may have a potential conflict of interest or are uncertain as to whether their planned actions may be a violation of the accountability and disclosure laws. Such opinion requests by staff shall be routed through the Commissioner's Office and Legal Services.

In particular, situations may arise in which staff wish to serve as officers or directors of corporations, foundations, associations, or other organizations which may do business with the Department. Except

where there is a clear statutory authority for the Commissioner and Department staff to serve in such a capacity, they should refrain from accepting such office without an opinion from the Accountability and Disclosure Commission if their Department duties and the private officer/director duties may create a potential conflict.

When Board members, the Commissioner, and staff serve as officers or directors in businesses or organizations in which there is no potential conflict under the accountability and disclosure laws, they nonetheless should do so on their own time and with their own resources, unless there is specific statutory authority for such activity. Resources of the State, including staff time shall not be used in support of private entities.

Occasionally the Board is requested to appoint staff or Board members as Board of Directors members for non-profit corporate board that may, or may not, eventually have financial dealings with the Department or may take positions on the regulatory operations of the Department. Absent specific statutory directive, the Board has no authority to appoint Board of Directors members for any corporation. If regular contact with the entity would be in the best interests of the Department, and is within the Constitutional and statutory authority granted to the Department, the Board may choose to assign Board members, the Commissioner, or staff to serve as regular liaisons with such organizations or corporations. Such liaisons may convey information and monitor and coordinate joint activities, but shall take no role in managing the affairs of the private entity.

The State Board of Education encourages opportunities to cooperate with other agencies and associations involved in education. The Commissioner, or designee, is directed to represent the State Board when such representation is appropriate. The State Board may also designate members of the Board to act as official or additional liaisons or representatives to agencies and associations.

It is the responsibility of the Commissioner to secure Board approval for joining associations or other formal groups when acting on behalf of the Board, whenever such membership involves the policy

function of the Board, and whenever a commitment of resources not previously approved by the Board is involved.

Revision History

- Created: 1995
- Reviewed: 2006, 2009, 2014, 2018, 2022
- Approved: 12/02/2022

Board Action History

- 12/08/1995 – Prior D12
(NEW)
- 11/03/2006 – D12
(Revised statute changes)
- 10/08/2009 – D12
(Amended to add language to specifically permit the use of certain state communication resources for essential personal business and to require reimbursement, consistent with LB 626 [Laws, 2009].)
- 09/05/2014 – D12
(Revised statute changes)
- 03/03/2017 – D12(P9)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. D12 is now P9.)
- 11/09/2017 – P9
(Added clarifying information regarding Board members seeking options from the Accountability and Disclosure Commission.)
- 12/02/2022 – P9(AMP 2.06)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. P9 is now AMP 2.06.)

Cross-References

- 49-1401 et seq. R.R.S.
- 49-1499.02 R.R.S.

Nebraska Department of Education
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- 49-14,100 R.R.S.

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AMP 2.07

Political Activities/Use of Resources

The Commissioner and Department employees shall not use or authorize the use of Department resources for the purpose of campaigning for or against the nomination or election of a candidate or the qualification, passage, or defeat of a ballot question, except as permitted by Neb. Rev. Stat. 49-14,101.02 and this Policy. "Department resources" means Department personnel, property, resources, or funds under the official care or control of the Commissioner or a Department Employee. The Commissioner and Department employees shall not engage in campaign activity for or against the qualification, passage, or defeat of a ballot question or the nomination or election of a candidate while on government work time or when otherwise engaged in official duties.

The Commissioner or a Department employee under his or her direct supervision may respond to specific inquiries by the press or the public as to his or her opinion regarding a ballot question or may provide information in response to a request for information.

The Commissioner and Department employees may, in the normal course of their duties, use public resources to research and prepare materials to assist the Department in determining the effect of a ballot question on the Department. The Commissioner and Department employees may not do mass mailings, mass duplication, or other mass communications at public expense for the purpose of qualifying, supporting, or opposing a ballot question. Mass communications shall not include placing public records demonstrating the consequences of the passage or defeat of a ballot question affecting the Department on existing Department web sites.

This Policy does not prohibit the Commissioner or Department employees from identifying themselves by their official titles.

The Commissioner and Department employees are not prohibited from campaigning for or against the qualification, passage, or defeat of a ballot question or the nomination or election of a candidate when

no Department resources are used and while not on government work time or when not otherwise engaged in official duties.

The Commissioner and Department employees shall not use or authorize the use of personnel, resources, property, or funds under his or her official care and control other than in accordance with prescribed constitutional, statutory, and regulatory procedures or use such items, other than compensation provided by law, for personal gain.

Revision History

- Created: 1977
- Reviewed: 1981, 1984, 1995, 2006, 2009, 2011, 2015, 2019, 2022
- Approved: 12/02/2022

Board Action History

- 08/19/1977 – Prior GAHB
(Reference to statute prohibiting political activity during office hours)
- 06/01/1981 – Prior KIA
(Use of resources and votes of censure)
- 12/07/1984 – Prior 1311.1 DO
(Same as KIA; GAHB not included in 1984 revisions)
- 12/08/1995 – Prior D1
(Same as 1311.1 DO, except it only includes Commissioner and staff and includes disciplinary action instead of censure, and Board provisions moved to B18)
- 11/03/2006 – D1
(Complete revision)
- 10/08/2009 – D1
(Amended to permit certain political activities consistent with LB 626 [Laws, 2009].)

Board Action History (cont'd)

Nebraska Department of Education
Agency Management Policies

- 03/03/2017 – D1(P1)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. D1 is now P1.)
- 11/08/2019 – P1
(After four-year review, Policy Committee recommended policy to be reaffirmed.)
- 12/02/2022 – P1(AMP 2.07)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. P1 is now AMP 2.07.)

Cross-References

- 49-14,101.01 R.R.S.
- 49-14,101.02 R.R.S.

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AMP 2.08

Records Access and Use

Pursuant to the Nebraska public records laws, the Nebraska Department of Education (NDE) will provide access to or copies of NDE records upon written request, unless the records are specifically required to be kept confidential or the records are permitted to be kept confidential and the NDE chooses to withhold them. [Neb. Rev. Stat. 84-712 through 84-712.09]

Pursuant to the federal Family Educational Rights and Privacy Act (FERPA), the Individuals with Disabilities Education Act (IDEA) and implementing regulations, the NDE will provide access to education records it maintains relating to an individual student to the student's parents or to the student if he or she qualifies as an "eligible student" under the Act. Access to such records will not be provided to others without the consent of the student's parents or of the eligible student, except as provided below.

The NDE may disclose information from students' education records if the information is not personally identifiable; for example, if the information is in aggregate form and appropriately masked. The NDE may disclose personally identifiable information from student records without the consent of a parent, guardian or eligible student permitted by FERPA and/or the IDEA subject to all other applicable privacy laws. [20 U.S.C. 1232g and 34 C.F.R. 99.]

Pursuant to Neb. Rev. Stat. 79-776 and the Memorandum of Understanding approved by the State Board on July 8, 2010, between the Nebraska Department of Education, the University of Nebraska, the Nebraska State Colleges, and the Nebraska Community Colleges; the NDE will share individual student data with these entities for the purposes of evaluation of and research related to public prekindergarten, elementary, secondary and postsecondary education to improve education in Nebraska to the extent and in the manner permitted by FERPA, subject to all other applicable privacy laws. In addition, Neb. Rev. Stat. 79-2,104(4) provides that whenever applicable law permits the sharing of student data, records and information amongst one another, then each school district, ESU, and learning community shall comply and that the State Board shall promulgate regulations to require this uniform sharing amongst districts, ESUs, learning communities and NDE. The State Board adopted NDE

Rule 6, “Regulations and Standards for Uniform Sharing of Student Data, Records and Information,” which first became effective 11/04/2014. The State Board provided that compliance with this Rule is a condition of continuing accreditation under NDE Rule 10 (for school districts) and Rule 84 (for ESUs).

When publicly disclosing aggregate data, the NDE will protect the confidentiality of all individuals’ information by, at a minimum, masking data cells containing fewer than 10 individuals or 100% of individuals (except as may be otherwise provided or allowed by law, regulation or interpretation of the United States Department of Education).

The State Board does believe that, to the extent permitted by and in accordance with all requirements of law and regulation, NDE should share student data, including when appropriate personally identifiable student information, with other public agencies and non-governmental entities when it determines such entities are conducting useful studies for or on behalf of educational agencies or institutions to (i) develop, validate or administer predictive tests; (ii) administer student aid programs; or (iii) improve instruction in Nebraska.

Individuals’ social security numbers will be collected and maintained only as permitted by Section 7 of the federal Privacy Act. [5 U.S.C. 552a (note)]

Information on students with disabilities will be maintained and protected as required by the Individuals with Disabilities Education Act and implementing regulations. [20 U.S.C. 1412(a) (8) and 1417(c), and 34 C.F.R. 300.123 and 34 C.F.R. 300.610 to 300.627]

Information on eligibility for free and reduced price meals or free milk (poverty information) will be maintained and protected as required by the federal National School Lunch Act and implementing regulations. [42 U.S.C. 1758 and 7 C.F.R. 245.8]

Records containing personal information regarding Vocational Rehabilitation (VR) Program clients and applicants for services shall be protected, used and maintained in accordance with federal VR program regulations, include 34 C.F.R. 361.38. Similarly, the Disabilities Determinations Service (DDS) office and the Assistive Technology Partnership (ATP) program shall comply with all requirements regarding confidentiality, use and access to personal information concerning clients and consumers.

Revision History

- Created: 2010
- Reviewed: 2013, 2017, 2022
- Approved: 12/02/2022

Board Action History

- 11/03/2010
(NEW)
- 01/07/2014 – G22
(Reaffirmed by State Board of Education.)
- 03/03/2017 – G22(P11)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. G22 is now P11.)
- 09/08/2017 – P11
(Added more specific language regarding how NDE should handle personally identifiable information regarding students that NDE may possess and come into contact with.)
- 12/02/2022 – P11(AMP 2.08)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. P11 is now AMP 2.08.)

Cross-References

- 84-712 through 84-712.09 R.R.S.
- 20 U.S.C. 1232g
- 34 C.F.R. 99

Cross-References (cont'd)

- 79-766 R.R.S.
- 79-2,104(4) R.R.S.
- 5 U.S.C. 552a
- 20 U.S.C. 1412(a) (8) and 1417(c)
- 34 C.F.R. 300.123
- 34 C.F.R. 300.610 and 300.627
- 42 U.S.C. 1758
- 7 C.F.R. 245.8
- 34 C.F.R. Part 361

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