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Memo

To: Public School District Superintendents and Special Education Directors

From: Amy Rhone, Administrator/State Director, NDE Office of Special Education

CC: Dr. Deborah Frison, Deputy Commissioner, NDE

Date: 10/17/25

Re: Public School District Policy on enrollment and unenrollment due to absences

It has come to the attention of the Nebraska Department of Education, Office of Special Education, that some school districts may have policies or practices that result in the disenrollment of students with disabilities when their absences exceed a predetermined number of days within the school year.

Nebraska Revised Statute §79-201 through 79-210 mandate that public schools in Nebraska must ensure regular attendance and can take actions when a student fails to attend school for a certain number of days without valid reason.

Under **Neb. Rev. Stat. § 79-209**, if a student accumulates **excessive absences**, the school district is required to intervene, and this may include notifying the student's parents or guardians and potentially making recommendations for corrective actions. The statute also provides guidelines for when a student can be considered **"truant"** or **"excessively absent"** from school.

Each school district may have its specific policy on how many days of absence trigger a review of the student's enrollment or attendance status, but the general framework for handling attendance issues is based on this statute. Districts typically develop attendance policies in line with this law to address chronic absenteeism or truancy.

Under the **Individuals with Disabilities Education Act (IDEA)**, a school district **cannot disenroll/unenroll a student with a disability solely due to excessive absences**. IDEA

provides specific protections for students with disabilities, and any disciplinary or enrollment decisions must comply with these protections.

Specifically, attendance for students with disabilities have the following considerations:

1. **Free Appropriate Public Education (FAPE)**: Under IDEA, students with disabilities are entitled to a **Free Appropriate Public Education (FAPE)**, which includes ensuring they have access to education even if they have excessive absences. A school district cannot deny a student with a disability their right to FAPE, even if the student is frequently absent.

2. **Excessive Absenteeism and IDEA**: If a student with a disability has excessive absences, the district is required to address the issue through the student's **Individualized Education Program (IEP)** and provide appropriate supports and services. This may include offering accommodations or interventions to help the student maintain consistent attendance.

3. **Truancy and Disciplinary Actions**: If the absences are related to behavior that is a manifestation of the student's disability, the district must follow specific procedures under IDEA. For example, if a student is repeatedly absent due to their disability (such as mental health issues or medical conditions), the district is not allowed to treat the absences as simple truancy and must provide supports to address the underlying cause.

4. **Manifestation Determination**: If the student's behavior (including excessive absenteeism) is being considered for disciplinary actions, the district must conduct a **manifestation determination review**. This process helps to determine whether the student's behavior is a direct result of their disability. If the behavior is determined to be a manifestation of the disability, the school cannot penalize the student in the same way as a non-disabled student for absences or other behavior issues.

5. **IEP Review**: In the case of excessive absenteeism, the school should convene an **IEP meeting** to discuss the issue, determine if the absences are due to the student's disability, and adjust the IEP as necessary to address the situation. This could involve providing additional services, supports, or accommodations to help the student improve attendance.

While schools can address excessive absenteeism in various ways, they **cannot disenroll a student with a disability solely for excessive absences**. The district must ensure that the student is still receiving the necessary services and supports under IDEA, and any decision regarding enrollment or disciplinary action must be in compliance with the student's IEP and the requirements of IDEA.