



Guide for the Provision of School Mental and Behavioral Health Services

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Introduction

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Authority: Individuals with Disabilities Education Act (IDEA), Protection of Pupil Rights Amendment (PPRA), Family Educational Rights and Privacy Act (FERPA), and Nebraska Administrative Code, Chapters 24, 27, 52, and 52.

This guidance document establishes requirements and expectations for Nebraska public school districts to develop and implement policies and practices that protect parent rights and ensure compliance with federal and state law in the provision of school mental and behavioral health services. The purpose of this guidance is to support school districts in providing appropriate mental and behavioral health supports for students in the school setting while maintaining transparency, collaboration with families, and adherence to legal requirements.

Document Control

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Purpose

This document provides guidance to Nebraska school districts to ensure that mental and behavioral health services are implemented in compliance with federal and state law while protecting parent rights, ensuring transparency, and supporting student educational success.

Legal Authority

School districts must comply with the Protection of Pupil Rights Amendment (PPRA), Family Educational Rights and Privacy Act (FERPA), Individuals with Disabilities Education Act (IDEA), Nebraska Rule 51, and applicable Nebraska licensure statutes governing mental health professionals.

District Responsibilities

School districts must ensure services are educationally appropriate, provided by licensed professionals, and implemented in a manner consistent with federal and state law.

Consent Requirements

School districts must obtain informed written parental consent prior to conducting evaluations or providing individualized mental or behavioral health services, except in emergency situations.

Confidentiality and Records

School districts must protect student mental health records consistent with FERPA and IDEA confidentiality provisions and may not disclose information without proper consent.

Implementation

School districts must develop procedures ensuring compliance with consent, notice, confidentiality, and parent participation requirements.

Parent Rights

Parents have the right to provide or refuse consent, inspect materials, review records, and participate in decisions regarding mental and behavioral health services provided to their child.

Guide for the Provision of School Mental and Behavioral Health Services

Authority

This guidance is issued pursuant to the Nebraska Department of Education's general supervisory authority under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1412(a)(11), and Neb. Rev. Stat. § 79-113, which require the Nebraska Department of Education to ensure that all public school districts comply with applicable federal and state education laws and regulations governing the provision of educational and related services to students.

This guidance provides information regarding the implementation of school-based mental and behavioral health services consistent with:

- I. The Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. § 1232h;¹
- II. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g;²
- III. The Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq.;³
- IV. IDEA implementing regulations, 34 C.F.R. Part 300;⁴
- V. Nebraska Department of Education Rule 51, 92 NAC Chapter 51;⁵ and
- VI. Nebraska statutes governing licensed mental health professionals, Neb. Rev. Stat. § 38-2101 to 38-2132.⁶

This guidance is intended to assist school districts in protecting parent rights, ensuring transparency, and maintaining compliance with federal and state requirements governing student mental and behavioral health services.

Educational Purpose of School-Based Mental and Behavioral Health Services

School-based mental and behavioral health services must serve an educational purpose and support student access to and progress in the educational environment.

IDEA defines psychological services and related services as supportive services required to assist a child with a disability to benefit from special education.^{3 4}

School-based services are not intended to replace medical or clinical mental health treatment. When appropriate, school districts may refer families to licensed external providers.

District Transparency and Accountability Requirements

School districts must maintain transparency regarding mental and behavioral health services and ensure compliance with federal and state law.

PPRA requires districts to develop and provide parents with policies governing student privacy and participation in mental health evaluations and screenings.¹

IDEA and Nebraska Rule 51 require districts to provide procedural safeguards notices and ensure compliance with parent rights protections.^{4 5}

Local school boards maintain authority over district operations and must ensure programs comply with applicable laws. Neb. Rev. Stat. § 79-526 and § 79-529.

Each school district must adopt and maintain local board-approved policies and procedures that ensure adherence to all applicable federal and state requirements governing the provision of school mental and behavioral health services.

At a minimum, local policies must address:

- I. Parental consent requirements for evaluations, screenings, and services;
- II. Parent notice and participation rights;
- III. Confidentiality and records management consistent with FERPA and IDEA;
- IV. Student privacy protections under PPRA;
- V. Qualifications and scope of practice for personnel providing services;
- VI. Procedures for crisis intervention and parent notification;
- VII. Documentation and record retention requirements; and
- VIII. Oversight mechanisms to ensure ongoing compliance.

Local policies must be reviewed periodically and updated as necessary to reflect changes in federal law, state statute, administrative code, or Nebraska Department of Education guidance.

Districts are responsible for ensuring that all administrators and staff implementing mental and behavioral health services are trained on applicable policies and procedures. Adoption of local policy does not relieve districts of their obligation to comply with governing law; rather, it serves as the primary mechanism through which compliance is operationalized at the district level.

Failure to establish or implement appropriate local policies may result in findings of noncompliance under the Department's general supervisory authority.

Required District Implementation Actions

To ensure compliance with federal and state law, Nebraska school districts must:

- I. Obtain written parental consent prior to mental health evaluations and services.
- II. Provide Prior Written Notice consistent with IDEA and Rule 51.
- III. Provide parents access to materials, records, and screening instruments.
- IV. Protect confidentiality of student mental health information.
- V. Ensure services are provided by properly licensed professionals.
- VI. Ensure services serve an educational purpose.
- VII. Maintain transparency regarding mental and behavioral health programs.
- VIII. Provide procedural safeguards and ensure parent participation.

Failure to comply with these requirements may result in findings of noncompliance and corrective action under the Department's general supervisory authority.³

Emergency Situations

School personnel may respond to emergency situations involving immediate threats to student safety. However, emergency intervention does not eliminate the requirement to notify parents or obtain consent for ongoing services.

IDEA disciplinary and safety provisions recognize the authority of schools to protect student safety while maintaining procedural safeguards.⁴

Parents must be notified promptly following any emergency mental health intervention.

Protection of Student Privacy and Confidentiality

Mental and behavioral health records maintained by school districts constitute education records protected under FERPA and IDEA confidentiality provisions.^{2 4}

School districts may not disclose personally identifiable information without parental consent except as permitted by law.²

PPRA further limits the collection of sensitive psychological information without parental consent.¹ School districts must implement procedures to ensure the confidentiality, security, and appropriate use of student mental health information.

Scope of Practice and Professional Responsibilities

Mental and behavioral health services provided in schools must be delivered by appropriately licensed professionals acting within the scope of their professional licensure and applicable legal and ethical standards.

Nebraska law governs the licensure and scope of practice of mental health professionals.⁶ School psychologists and other licensed personnel must also comply with IDEA requirements and Nebraska Rule 51 when providing psychological services.^{4 5}

School personnel who are not licensed mental health professionals may not provide clinical mental health treatment but may assist in identifying concerns and facilitating referrals.

See [Roles of School Personnel Providing Mental and Behavioral Health Services](#).

Foundational Principle: Parents as Primary Decision-Makers

Federal and state law recognize parents and legal guardians as the primary decision-makers regarding their child's education and mental and behavioral health services.

The Protection of Pupil Rights Amendment (PPRA) prohibits school districts from requiring students to participate in surveys, analyses, or evaluations that reveal information concerning mental or psychological problems, family relationships, religious beliefs, sexual attitudes, illegal or self-incriminating behavior, or other protected information without prior parental consent.¹

IDEA and its implementing regulations similarly require parental consent prior to the provision of psychological services and related services, including mental and behavioral health services provided as part of special education.^{3 4}

Nebraska Rule 51 further requires that informed parental consent be obtained prior to evaluation and provision of special education and related services and affirms the right of parents to participate in all educational decision-making affecting their child.⁵

School districts must ensure that parents are fully informed, meaningfully involved, and provided the opportunity to consent to or refuse services consistent with these legal protections.

Requirement for Prior Written Parental Consent

School districts must obtain written parental consent prior to conducting psychological evaluations, mental health screenings, behavioral assessments, or providing individual or group mental or behavioral health services when such activities involve individualized evaluation, data collection, or intervention.

IDEA regulations require parental consent prior to conducting an initial evaluation and prior to the provision of special education and related services.⁴ Nebraska regulations similarly require informed consent prior to evaluation or service provision.⁵

Under PPRA, parental consent is also required prior to student participation in psychological evaluations or screenings that collect protected information.¹

Informed consent must include:

- I. A description of the proposed service or evaluation;
- II. The purpose of the activity;
- III. The records to be created and maintained;
- IV. The individuals providing services; and
- V. Notice that consent is voluntary and may be revoked at any time.^{4 5}

School districts must ensure that consent is obtained in the parent's native language or other mode of communication and that parents fully understand the proposed activity.⁴

Parent Right to Notice and Participation

School districts must ensure meaningful parent participation in all decisions regarding identification, evaluation, placement, and provision of special education services.

IDEA requires school districts to provide Prior Written Notice whenever proposing or refusing to initiate or change the identification, evaluation, educational placement, or provision of a free appropriate public education (FAPE).⁴ Nebraska regulations impose the same requirement.⁵

Prior Written Notice must include:

- I. A description of the proposed or refused action;
- II. An explanation of the reasons for the action;
- III. A description of evaluation procedures or records used; and
- IV. A statement of parent rights and procedural safeguards.^{4 5}

These notice requirements ensure transparency and protect the parent's ability to make informed decisions.

Parent Right to Inspect Materials and Review Records

Parents have the right to inspect and review instructional materials, mental health screening instruments, and student education records.

PPRA provides parents the right to inspect any survey or evaluation instruments prior to their administration.¹ FERPA provides parents the right to inspect and review their child's education records, including mental and behavioral health records maintained by the school district.²

IDEA and Nebraska Rule 51 also require school districts to allow parents to inspect and review all education records related to their child.^{4 5}

School districts must provide access to such records without unnecessary delay and prior to meetings involving educational decision-making.

Professional Certification Standards and Accountability

Rule 27 (Title 92, Nebraska Administrative Code, Chapter 27) establishes statewide professional practices criteria for all holders of teaching certificates. These standards are adopted by the Nebraska State Board of Education and reflect expectations for ethical conduct, competence, and professional responsibility. School psychologists hold a teaching certification and are subject to the criteria found in Rule 27. Violations of the criteria can serve as a basis for disciplinary actions, including admonishment, reprimand, suspension, or revocation of a teaching certificate.

Any individual or organization with information about an alleged violation of the standards in Rule 27 may file a signed complaint with the Nebraska Department of Education's Commissioner. The complaint must be on the prescribed form and notarized. The complaint and investigation process for alleged professional practices is governed by Rule 28 (Title 92, Nebraska Administrative Code, Chapter 28).

Once a complaint is submitted, there is a process where the complaint is reviewed and potentially investigated. Based on the complaint and various circumstances the complaint may lead to a formal hearing and potential action regarding the teaching certificate.

Additional information regarding the complaint process, including the complaint form, can be found on the Nebraska Department of Education website: <https://www.education.ne.gov/cc/complaint-form/>.

Conclusion

The Protection of Pupil Rights Amendment, IDEA, FERPA, and Nebraska Rules 51 establish clear and enforceable protections for parent rights in the provision of school mental and behavioral health services.

School districts must ensure that mental and behavioral health services are implemented in a manner that protects parent rights, ensures transparency, and complies with all applicable federal and state legal requirements.

Parents retain primary authority regarding decisions affecting their child's mental and behavioral health, and school districts must respect and uphold these rights.

Legal References/Citations

¹ Protection of Pupil Rights Amendment, 20 U.S.C. § 1232h(b)–(c).

² Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; 34 C.F.R. Part 99. ³ Individuals with Disabilities Education Act, 20 U.S.C. § 1400, 1401, 1412.

⁴ IDEA implementing regulations, 34 C.F.R. § 300.300, 300.322, 300.503, 300.610–300.627.

⁵ Nebraska Department of Education Regulations, Special Education, 92 NAC 51-007.06, 51-009.03, 51-009.05, 51-009.07, and 51-009.11.

⁶ Nebraska Mental Health Practice Act, Neb. Rev. Stat. § 38-2101 to 38-2132.

Roles of School Personnel Providing Mental and Behavioral Health Services

Multiple professionals may contribute to the provision of mental and behavioral health services within Nebraska public schools. These professionals must operate within the scope of their certification, licensure, and applicable legal requirements.

The following sections describe expectations for personnel commonly involved in providing these services.

School Psychologist

Nebraska Statutes Governing Psychology Licensing and Practice

Definitions and Scope

38-3109 — *Definition of Psychologist*

Defines “psychologist” as a person licensed to practice psychology in Nebraska or another jurisdiction with equivalent credentials.

Permitted Practice

38-3113 — *Other practices and activities; act construed*

Clarifies exceptions and how the Psychology Practice Act is interpreted.

- I. Teaching psychology or conducting research
- II. Professionals licensed in other fields working within their scope
- III. Clergy acting in ministerial roles
- IV. Persons certified as school psychologists by the State Board of Education may use the title school psychologist and practice psychology within an educational setting (regular employment under the Board of Education) — but only as employees, not as independent contractors.
- V. This provision helps distinguish licensed school psychologists working in schools from those practicing independently in the clinical/health system.

Licensure Requirements

38-3114 — *Applicant for License; Qualifications*

Sets basic requirements for licensure as a psychologist:

- I. Doctoral degree in psychology from an APA-accredited program
- II. Two years of supervised professional experience (one internship, one postdoctoral)
- III. Passage of required examinations (written/oral or national standardized exam)

38-3122 — *Provisional License*

Permits individuals who need to complete supervised postdoctoral hours to obtain a provisional license while meeting experience requirements.

Temporary Practice

38-3119 — *Temporary Practice Permitted*

Allows out-of-state licensed psychologists to practice temporarily (up to 30 days per year) in Nebraska, provided the requirements in the other jurisdiction are equal or higher than Nebraska’s requirements, and the department is notified.

Nebraska Administrative Regulations (Rules for Implementation)

172 Nebraska Administrative Code (NAC) Chapter 155 — *Psychology Licenses*

These regulations, adopted by the Department of Health and Human Services under the Psychology Practice Act and the Uniform Credentialing Act, govern:

- I. Scope and authority for credentialing psychologists and related roles (e.g., psychological assistants, associates, provisional licensed psychologists, special licensed psychologists) in Nebraska.
- II. Definitions related to credential types and practice terminology.
- III. Registration requirements for psychological assistants and others under supervision.

These regulations fill in practice requirements that the statutes establish broadly, such as examinations, supervision, credentials, and registration processes.

School Psychologist Certification Through the Nebraska Department of Education (NDE)

Certification Requirements:

The NDE oversees certification for school psychologists — separate from professional licensure under the Psychology Practice Act.

The school psychologist endorsement (Title 92 NAC, Chapter 24) governs credentialing for educators providing psychological services within schools. It typically requires:

- I. At least 60 graduate semester hours beyond a bachelor's degree
- II. 1,200 clock hours of supervised internship, including significant school-based experience

This certification (endorsement) allows psychologists to practice within the educational context serving birth–age 21 students, distinct from state licensure under the Health Occupations statutes.

How These Work Together

Authority	Purpose
Nebraska Statutes (Chap. 38)	Establish legal minimum requirements for licensing psychologists, including training, supervision, and scope of practice.
172 NAC 155	Implements statutes with specific regulatory details on credentialing, examinations, and supervising roles.
NDE Certification Rules (92 NAC 24)	Govern educational credentialing (school psychologist endorsement) separate from general psychology licensure.
Administrative Procedure Act	Provides the framework for how regulations are adopted and legally enforced.

Key Distinctions

- I. Psychology Licensure (DHHS / Credentialing Board) under General Health Occupations — required to practice psychology independently in clinical or non-school settings.
- II. School Psychologist Endorsement (NDE) — required for employment in schools to provide school psychological services as part of the educational team.
- III. School psychologists certified by the NDE may practice psychology *within the school context* without individual licensure under the Psychology Practice Act (per §38-3113).

Rules of Practice for School Psychologists in Nebraska

Legal Authority & Scope

State Education Standards: School psychologists providing services in Nebraska public schools must meet all requirements set forth in the Nebraska Department of Education (NDE) Rules for Special Education Programs - 92 NAC Chapter 51 (Rule 51) and educator certification regulations – 92 NAC Chapter 24 (Rule 24) governing qualifications and duties of personnel.

Professional Licensure: When providing psychological services as defined in state law, practitioners must also comply with the Nebraska Psychology Act and associated licensure regulations under the Nebraska Department of Health and Human Services (DHHS), Division of Behavioral Health Licensing.

Interstate Compact Compliance: Nebraska participates in the School Psychologist Interstate Licensure Compact, enabling licensed school psychologists to hold equivalent licenses in member states when criteria are met.

Certification & Qualification Requirements

Teacher Certification: A school psychologist must hold a valid Nebraska teaching certificate with an approved *school psychology endorsement*. Endorsement requirements include appropriate graduate coursework and supervised internship in school psychology as defined by NDE.

Licensure vs. Certification: Certification through NDE qualifies the individual to serve as a school psychologist in Nebraska schools. If a practitioner provides services outside the educator role (e.g., psychological testing beyond educational evaluation), additional psychologist licensure through DHHS may be required.

Internship Requirements: Individuals must complete a supervised internship (minimum 1,200 hours with at least 600 hours in a school setting) in compliance with NDE credentialing standards.

Professional Practice Standards

Professional Practice Requirements: School psychologists employed in Nebraska schools shall hold a valid Nebraska School Psychologist certificate issued pursuant to Title 92, Nebraska Administrative Code, Chapter 24 (Rule 24). School psychologists shall provide services consistent with the roles and responsibilities associated with this certification, including assessment, consultation, intervention, and data-based problem solving to support students' academic achievement and social, emotional, and behavioral functioning.

Ethical and Professional Conduct: School psychologists shall comply with the professional conduct expectations for certificated personnel established under Rule 24 and applicable Nebraska statutes and regulations governing educators. Practitioners shall maintain professional competence, safeguard the confidentiality of student records and information, avoid conflicts of interest, and provide services within the scope of their preparation, certification, and assigned professional responsibilities.

Certification Maintenance and Professional Development: School psychologists shall maintain valid certification through the renewal requirements established in Rule 24. Practitioners are expected to participate in ongoing professional learning and development activities necessary to maintain certification and ensure the effective delivery of school psychological services in Nebraska schools.

Service Delivery & Responsibilities

Direct & Indirect Services: School psychologists provide a continuum of services including psychoeducational assessment, consultation, intervention planning, progress monitoring, and systems support to students, families, educators, and administrators.

Ethical Assessment Practices: Assessment methods must be evidence-based, culturally responsive, and appropriate to the student's needs. Practitioners should use valid instruments and ensure accurate interpretation aligned with educational planning.

IEP Team Participation: School psychologists are expected to actively contribute to multidisciplinary teams, including data interpretation, eligibility determination, and individualized education program (IEP) development.

Consultation & Collaboration: Professionals should collaborate with educators, families, and related service providers to design and implement effective interventions that support student achievement and behavioral needs.

Compliance & Accountability

Regulatory Adherence: All practice must be consistent with Nebraska Rules for Special Education (Rule 51 & Rule 52) and relevant federal laws including IDEA, ensuring procedural safeguards and appropriate implementation of services.

Licensure Reporting: Practitioners must maintain active, unencumbered certification/licensure as required by state law. Any disciplinary action or restrictions must be communicated to proper authorities as required by licensure rules and compacts.

Coordination with State Standards: The scope of practice must align with Nebraska standards for professional practice, certification, and licensing, ensuring services are delivered legally and ethically in school environments.

Professional Integrity & Public Trust

Beneficence and Responsibility: Consistent with ethical principles, school psychologists shall uphold the welfare of students and families, advocate for required services, and promote safe, supportive learning environments.

Confidentiality and Rights: Practitioners must respect student rights under FERPA, IDEA, and relevant ethical codes, safeguarding confidential information and ensuring informed consent where applicable.

Protection of Pupil Rights Amendment (PPRA): School psychologists shall comply with the Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. § 1232h, and its implementing regulations at 34 CFR Part 98. School psychologists shall protect the rights of parents and eligible students in connection with the administration of surveys, assessments, evaluations, and other activities that involve the collection of personal or sensitive information. School psychologists shall ensure that required notice, informed consent when applicable, and the opportunity for inspection of materials are provided in accordance with federal and state law. School psychologists shall conduct all professional activities in a manner that safeguards student privacy, protects confidentiality, and respects the rights of parents and eligible students.

Scope of Practice for School Psychologists in Nebraska

The scope of practice for school psychologists in Nebraska is established through Nebraska educator certification requirements under Nebraska Department of Education Rule 24 (92 NAC Chapter 24) and through the regulatory framework governing the provision of special education services under Nebraska Department of Education Rule 51 (92 NAC Chapter 51). School psychologists employed in Nebraska public schools must hold appropriate certification issued by the Nebraska Department of Education and must provide services consistent with the responsibilities and limitations associated with that certification.

Within the educational setting, school psychologists support students' access to and participation in the educational program by addressing academic, behavioral, and social-emotional factors that affect learning. Their responsibilities may include conducting evaluations consistent with the requirements of the Individuals with Disabilities Education Act (IDEA) and Nebraska Rule 51, consulting with educators and families regarding student learning and behavior, and assisting school teams in the development and implementation of educational interventions and supports. All services provided by school psychologists within Nebraska public schools must maintain a clear connection to the student's educational program and must be implemented in accordance with applicable federal and state education laws and regulations.

Primary Domains of Practice

Assessment & Evaluation

School psychologists conduct psychoeducational assessments to determine eligibility for special education services. This includes:

- I. Administering and interpreting standardized and non-standardized instruments
- II. Assessing cognitive, academic, behavioral, social-emotional, and adaptive functioning
- III. Synthesizing data into clear, meaningful reports that support team decision-making
- IV. Ensuring assessments are valid, reliable, nondiscriminatory, and culturally responsive

Consultation & Collaboration

School psychologists partner with families, teachers, administrators, and other professionals to:

- I. Provide interpretation of assessment results
- II. Support individualized and system-wide problem solving
- III. Facilitate communication and coordination across stakeholders
- IV. Promote inclusive and supportive practices

Intervention & Instructional Support

Practitioners design, implement, and monitor evidence-based interventions aligned to student needs and instructional goals, including:

- I. Provide interpretation of assessment results
- II. Support individualized and system-wide problem solving
- III. Facilitate communication and coordination across stakeholders
- IV. Promote inclusive and supportive practices

Behavioral Practices

School psychologists deliver and support functional behavior assessments and positive behavior supports, working to:

- I. Identify antecedents and functions of behavior
- II. Develop behavior intervention plans (BIPs)
- III. Reduce risk and increase pro-social skills

Mental and Behavioral Health Services and Interventions

School psychologists understand the biological, cultural, developmental, and social influences on mental and behavioral health, behavioral and emotional impacts on learning, and evidence-based strategies to promote social-emotional functioning.

School psychologists, in collaboration with others:

- I. Design,
- II. Implement, and
- III. Evaluate services that promote resilience and positive behavior, support socialization and adaptive skills, and enhance mental and behavioral health.

Prevention & Crisis Response

School psychologists contribute to crisis prevention and response efforts, including:

- I. Early identification of student needs
- II. Response to trauma and crisis events
- III. Supportive environments that enhance student well-being

System-Level Support & Leadership

At broader levels, school psychologists assist with:

- I. Data analysis for program improvement
- II. Policy development and compliance
- III. Professional development for educators
- IV. Systemic change to improve outcomes for all students

Limitations and Boundaries of Practice

Educational Context

Within the school setting, the practice of school psychology is focused on educationally relevant functions. Activities must be tied to student academic and behavioral outcomes and not extend into clinical practice beyond educational need unless the practitioner holds appropriate medical or psychological licensure.

Licensure Distinctions

- I. NDE Certification qualifies a practitioner to serve as a school psychologist within public schools.
- II. DHHS Licensure under the Nebraska Psychology Act is required for practices defined under the psychology scope of practice (e.g., psychological diagnosis or psychotherapeutic treatment that extends beyond educational evaluation or psychoeducational interventions).

Ethical and Legal Requirements

School psychologists shall:

- I. Practice within the bounds of their training and credentials
- II. Adhere to applicable state and federal law, including IDEA, FERPA, and applicable DHHS regulations
- III. Maintain confidentiality and informed consent protocols
- IV. Avoid dual relationships that could impair professional judgment

Legal Citations – School Psychologists in Nebraska

- ¹ Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400–1482; implementing regulations at 34 C.F.R. Part 300. Governs special education eligibility, related services (including psychological services), parental consent, IEP development, procedural safeguards, and confidentiality requirements.
- ² Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99. Protects the privacy of student education records, including psychological and evaluation records maintained by school districts.
- ³ Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. § 1232h; 34 C.F.R. Part 98. Governs parental notice, inspection rights, and consent requirements related to surveys, evaluations, and the collection of sensitive student information.
- ⁴ Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; 34 C.F.R. Part 104. Prohibits disability discrimination and requires schools to provide reasonable accommodations and supports to qualified students with disabilities.
- ⁵ Nebraska Department of Education Regulations – Special Education (Rule 51), 92 NAC Chapter 51. Establishes Nebraska’s state requirements for identification, evaluation, service delivery, IEP procedures, and procedural safeguards under IDEA.
- ⁶ Nebraska Department of Education Regulations – Educator Certification (Rule 24), 92 NAC Chapter 24. Governs certification and endorsement requirements for school psychologists and other education personnel.
- ⁷ Nebraska Department of Education Regulations – Rule 24, 92 NAC Chapter 24. Establishes additional personnel and program standards applicable to public school operations and compliance.
- ⁸ Nebraska Psychology Practice Act, Neb. Rev. Stat. § 38-3101 to 38-3132 (or current codified sections). Defines the practice of psychology in Nebraska and establishes licensure requirements, scope of practice, and disciplinary authority for psychologists.
- ⁹ Uniform Credentialing Act, Neb. Rev. Stat. § 38-121 to 38-1,142. Governs credentialing, regulation, investigation, and discipline of licensed health professionals under the Nebraska Department of Health and Human Services (DHHS).
- ¹⁰ 172 Nebraska Administrative Code (NAC), Chapter 155 – Psychology Licensure Regulations. Provides regulatory standards for licensure, supervision, examination, and scope of practice for psychologists in Nebraska.
- ¹¹ School Psychologist Interstate Licensure Compact, Neb. Rev. Stat. § 79-8,401 et seq. (if codified in Nebraska statutes). Authorizes interstate recognition of school psychologist licenses among member states subject to statutory requirements.
- ¹² Nebraska Administrative Procedure Act, Neb. Rev. Stat. § 84-901 to 84-920. Governs the promulgation and enforcement of state agency regulations affecting educator certification and professional licensure.
- ¹³ Nebraska Revised Statutes § 79-113. Establishes the general supervisory authority of the Nebraska Department of Education over public schools and compliance with applicable law.

School Counselor

Rules of Practice for School Counselors and Counseling Programs Within Public Schools

Legal Authority Governing the Scope of Practice for School Counselors

The scope of practice for school counselors in Nebraska public schools is governed by state statute, administrative regulation, and federal law. These authorities collectively establish school counseling as an essential educational service, define qualification requirements, and protect parent and student rights.

State Statutory Authority: Nebraska Revised Statutes § 79-2,107 establishes student personnel services—including school guidance and counseling—as a fundamental component of public education. The statute charges the State Board of Education with supervisory authority to ensure appropriate student support services are provided statewide. School counseling services therefore operate as part of the educational mission of Nebraska public schools.

Nebraska Revised Statutes § 79-258 authorizes school personnel to provide counseling services with appropriate written parental consent. This provision reinforces the principle that parents retain primary authority regarding decisions affecting their child and establishes the requirement that individualized counseling services involving personal or sensitive matters be supported by informed parental consent.

Regulatory Authority: Title 92, Nebraska Administrative Code, Chapter 24 (Rule 24) governs endorsement and certification requirements for school counselors. These regulations establish the qualifications necessary to serve in the role, including required graduate preparation and supervised field experiences. Compliance with Rule 24 ensures that counseling services are delivered by properly credentialed professionals within the educational setting.

Federal Legal Protections: The Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. § 1232h, protects parent and student rights concerning the collection of sensitive personal information through surveys, evaluations, or related activities. School counselors must ensure required notice, consent, and inspection rights are provided when applicable.

The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, safeguards the privacy of student education records, including counseling records maintained by school districts. School counselors must maintain confidentiality and limit disclosure of personally identifiable information consistent with federal law.

The Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., and its implementing regulations at 34 C.F.R. Part 300, govern the provision of special education and related services. School counselors may participate in evaluation, eligibility, and IEP processes and must ensure compliance with parental participation requirements, procedural safeguards, and confidentiality standards.

Student Personnel Services Supervision (§ 79-2,107)

Nebraska law charges the State Board of Education with supervising and providing leadership to ensure that *appropriate student personnel services* are provided in the state's public schools. This explicitly includes school guidance and counseling services, as well as testing and other non-instructional student support services.

- I. Neb. Rev. Stat. § 79-2,107: "Student personnel services shall include school guidance, counseling, testing services, and all other necessary and appropriate noninstructional services for students..."

This statute is the primary *statutory basis* for school counseling as an integral student support service.

Supervision and Coordination by the State Department of Education (§ 79-2,107)

Under the same statute, the Nebraska Department of Education (NDE) is charged with general supervision and coordination of student counseling services in the context of educational programs.

This reinforces that school counseling is part of the educational mission of public schools and not an optional add-on, and it provides state-level legal authority for NDE guidance and accountability.

Teaching and Certification Requirements (Rule 24)

Nebraska's Title 92 NAC 24 (Rule 24) defines endorsement requirements for school counselors, which are part of the legal framework for who may serve as a school counselor:

- I. School counselors must hold an appropriate Nebraska teaching certificate with a school counseling endorsement (e.g., PK-12 or grade-specific).
- II. Endorsement requires graduate coursework and field experience specific to school counseling practice (e.g., internship hours, counseling theory/practice, developmental counseling skills).

These regulatory requirements are legally binding on schools regarding qualifications to serve as counselors.

Administrative Role Under General Personnel Statute (§ 79-258)

Nebraska law governing administrative and teaching personnel authorizes educators to take actions reasonably necessary to assist students, which includes counseling, when there is written parental consent for such services.

- I. Neb. Rev. Stat. § 79-258: Allows teachers and administrators to provide counseling or refer students for counseling when there is written consent.

This statute supports, in a general way, the ability of school staff—including counselors—as part of educational practice to engage in counseling that promotes student success.

Professional Standards and Guidance (NDE Policy & National Standards)

Nebraska's educational policy documents and NDE-adopted standards (such as the [State Board of Education's School Counseling Policy](#)) define expected professional roles and responsibilities including:

- I. Designing comprehensive counseling programs,
- II. Academic, career, personal/social development services,
- III. Data analysis and outcome reporting,
- IV. Responsive services consistent with student needs,
- V. Confidentiality and family engagement.

These policies reflect the legal framework established by statute and are adopted under the authority of the State Board of Education.

How Nebraska Law Governs School Counselors

Statutory Basis

- I. Neb. Rev. Stat. § 79-2,107 – Establishes counseling as a fundamental component of *student personnel services* provided by schools.
- II. Neb. Rev. Stat. § 79-258 – Provides general authority for counseling actions with consent.

Regulatory Requirements

- I. Title 92 NAC Chapter 24 – Certifies who may be employed as a school counselor.

Policy Alignment

- I. [State Board of Education School Counseling Policy](#) – Directs comprehensive program design and professional expectations aligned with statute.

How Nebraska Law Governs School Counselors

Within Nebraska:

- I. School counseling must be part of a supervised student support service structure aligned with § 79-2,107.
- II. Counselors must hold proper endorsement/teaching certification to serve in that role.
- III. Schools must obtain parental consent consistent with broader counseling practice in the educational context under § 79-258 when applicable.
- IV. Districts should align program development and evaluation with NDE guidance and policy, which reflects statutory intent and educational goals.

Scope of Practice for School Counselors

Purpose and Authority

This document provides guidance to Nebraska public school districts on the scope of practice for school counselors, ensuring alignment with federal and state laws, regulations, and professional standards. School counselors are an essential component of a district's student personnel services, providing academic, career, and personal/social development supports in a manner that respects parent rights, confidentiality, and educational objectives.

Foundational Principle: Parent Rights

School counselors provide services in accordance with parent authority and consent. Parents and guardians must:

- I. Be fully informed of counseling activities in their child's education;
- II. Provide voluntary written consent prior to participation in individualized or group counseling services that collect personal, psychological, or behavioral information;
- III. Retain the right to revoke consent at any time;
- IV. Have access to curriculum, materials, and assessment tools used in school counseling programs.

PPRA and FERPA provide federal protections for student privacy, while Nebraska statutes require parental consent for individualized counseling interventions.¹⁴⁵

Roles and Responsibilities

School counselors in Nebraska public schools provide a continuum of services aligned with educational goals. Responsibilities include:

Academic Development

- I. Assist students in goal setting, course selection, academic planning, and postsecondary transition planning.
- II. Collaborate with teachers, administrators, and parents to support students' academic progress.

Career Development

- I. Provide career exploration, workforce readiness planning, and postsecondary guidance.
- II. Facilitate access to community resources, internships, and higher education information.

Personal/Social Development

- I. Deliver individual and group counseling on social-emotional, behavioral, and personal development topics.
- II. Promote positive relationships, conflict resolution skills, emotional resilience, and coping strategies.

Identification and Referral

- I. Identify students who may need additional mental or behavioral health services.
- II. Facilitate referrals to appropriate school or community-based mental health providers in compliance with parent consent.

Program Management

- I. Develop and implement comprehensive school counseling programs aligned with state and national standards (e.g., ASCA National Model).
- II. Collect and analyze data to evaluate program effectiveness and inform improvements.

School counselors must not provide clinical treatment outside the educational scope unless licensed to do so under state law.

Professional Standards and Ethical Practice

School counselors shall:

- I. Practice in accordance with Nebraska certification requirements (92 NAC, Chapter 24);³
- II. Adhere to ethical standards set forth by the American School Counselor Association (ASCA) and other recognized professional bodies;
- III. Maintain confidentiality consistent with FERPA, PPRA, IDEA, and state law;⁴⁵⁶
- IV. Engage in professional development to ensure competence in current counseling practices.

Violations of professional or ethical standards may result in disciplinary action under Nebraska certification regulations.

Educational Purpose of Services

Counseling services must support students' academic success and educational development. All interventions should:

- I. Enhance learning outcomes, engagement, and school connectedness;
- II. Address social-emotional and behavioral needs in the context of the educational environment;
- III. Complement, not replace, clinical mental health services provided by licensed healthcare providers.

Transparency and Accountability

School districts must:

- I. Provide clear information to parents, students, and staff about counseling programs, services, and limitations;
- II. Publicly post program descriptions, policies, and procedural guidance on the district website;
- III. Maintain records of counseling services in compliance with FERPA, IDEA, and state confidentiality regulations;
- IV. Report annually to the school board on program effectiveness, student outcomes, and alignment with district educational goals.

District Implementation Requirements

To ensure compliance with law and professional standards, Nebraska school districts must:

- I. Ensure all school counselors hold proper certification and endorsement.³
- II. Obtain parental consent before providing individualized counseling services.¹²
- III. Provide parents access to counseling materials, program descriptions, and student records.⁴⁵
- IV. Maintain confidentiality and privacy protections for all student data.
- V. Ensure school counselors provide services consistent with educational goals and professional ethical standards.
- VI. Establish referral pathways for students needing services beyond the school counselor's scope.

Legal Citations – School Counselors

¹ Neb. Rev. Stat. § 79-2,107 – Student Personnel Services.

² Neb. Rev. Stat. § 79-258 – Counseling with Parental Consent.

³ Title 92 NAC Chapter 24 – Certification and Endorsement Requirements for School Counselors.

⁴ Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. § 1232h.

⁵ Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

⁶ Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq.; 34 C.F.R. Part 300.

Licensed Mental Health Practitioner

Rules of Practice for Licensed Mental Health Practitioners Employed by School Districts

Legal Authority & Scope

Licensed Mental Health Practitioners (LMHPs) employed by Nebraska public school districts must practice in compliance with the Nebraska Mental Health Practice Act (Neb. Rev. Stat. § 38-2101 to 38-2132), the Uniform Credentialing Act, and applicable regulations of the Nebraska Department of Health and Human Services (DHHS). LMHPs employed in educational settings must also comply with federal education laws including the Individuals with Disabilities Education Act (IDEA), the Family Educational Rights and Privacy Act (FERPA), and the Protection of Pupil Rights Amendment (PPRA), as well as Nebraska Department of Education (NDE) regulations governing special education and student services (92 NAC Chapters 51).

Licensure & Qualification Requirements

LMHPs must hold a current, active, and unencumbered Nebraska license issued by DHHS authorizing independent or supervised mental health practice within the scope defined by state law. Practitioners must comply with continuing education requirements, supervision requirements (if provisionally licensed), and all ethical standards applicable to their credential. Employment by a school district does not alter the practitioner's obligation to comply with professional licensure requirements.

Scope of Practice Within Educational Settings

When employed by a school district, LMHP services must support the educational mission of the district. Services may include individual or group counseling, behavioral health interventions, crisis response, consultation with staff, and participation on multidisciplinary teams. Services provided within the school must align with student educational needs and, when applicable, Individualized Education Programs (IEPs) or Section 504 plans. LMHPs may provide clinical mental health treatment consistent with their licensure; however, districts must clearly define whether services are delivered as part of the educational program or through separate agreements with families.

Parent Rights, Consent, and Confidentiality

School districts must obtain informed written parental consent prior to initiating individualized mental health services, except in emergency situations involving immediate risk to student safety. Parents retain the right to inspect materials, review records, and revoke consent. Records maintained by the school district are education records protected under FERPA and IDEA confidentiality provisions. LMHPs must ensure compliance with both FERPA and applicable state confidentiality laws governing mental health professionals.

Collaboration and Professional Responsibilities

LMHPs employed by school districts are expected to collaborate with school psychologists, school counselors, administrators, teachers, and families to promote coordinated supports for students. Practitioners must clearly communicate the scope and limits of their services, avoid dual relationships that impair professional judgment, and practice within the bounds of their training and licensure. Where services extend beyond the educational scope, referral to community-based providers may be appropriate.

Accountability and Reporting

LMHPs remain subject to oversight by DHHS and applicable credentialing boards. Any disciplinary action, restriction, or lapse in licensure must be reported to the employing district in accordance with state law and district policy. School districts must ensure transparency regarding the role of LMHPs within the district and maintain documentation demonstrating compliance with federal and state legal requirements.

Scope of Practice for Licensed Mental Health Practitioners (LMHPs) Employed by School Districts

The scope of practice for Licensed Mental Health Practitioners (LMHPs) employed by Nebraska public school districts reflects the integration of professional clinical licensure standards and the educational mission of public schools. LMHPs function within school systems to provide mental and behavioral health services that support student access to, participation in, and progress within the educational environment.

Primary Domains of Practice

Clinical Assessment and Diagnosis

LMHPs may conduct clinical interviews, behavioral health assessments, and diagnostic evaluations consistent with their licensure and training. Assessment activities may include identification of mental health disorders, trauma-related concerns, emotional disturbances, or other behavioral health conditions affecting educational functioning. All assessment activities must comply with parental consent requirements and applicable federal and state confidentiality laws.

Therapeutic Intervention and Treatment

LMHPs may conduct clinical interviews, behavioral health assessments, and diagnostic evaluations consistent with their licensure and training. Assessment activities may include identification of mental health disorders, trauma-related concerns, emotional disturbances, or other behavioral health conditions affecting educational functioning. All assessment activities must comply with parental consent requirements and applicable federal and state confidentiality laws.

Crisis Response and Risk Assessment

LMHPs may conduct suicide risk assessments, threat assessments, and crisis intervention services in collaboration with school administration and multidisciplinary teams. Practitioners must follow district safety protocols and ensure timely parent notification consistent with law and policy.

Consultation and Systems Collaboration

LMHPs collaborate with school psychologists, school counselors, educators, administrators, families, and community providers to coordinate comprehensive supports. This includes consultation regarding behavioral strategies, participation in IEP and Section 504 teams, and support for Multi-Tiered Systems of Support (MTSS).

Referral and Care Coordination

When student needs extend beyond the services appropriately delivered within the school environment, LMHPs assist families in identifying and connecting with community-based mental health providers, ensuring continuity of care and coordination of services.

Educational Alignment and Boundaries

Educational Nexus Requirement

Services provided by LMHPs in school settings must maintain a clear connection to the student's educational access, participation, or benefit. School-based services are not intended to replace long-term outpatient or inpatient clinical treatment.

Distinction Between School-Based and Independent Clinical Practice

While LMHPs hold independent clinical licensure, services provided as employees of a school district must operate within district policy and federal education law requirements. If services are delivered outside the educational role (e.g., private clinical treatment contracts), clear documentation and separation of records must be maintained.

Consent and Confidentiality Obligations

LMHPs must obtain informed written parental consent prior to initiating ongoing therapeutic services, except in emergency circumstances. Records maintained by the district are subject to FERPA and IDEA confidentiality requirements, in addition to professional confidentiality obligations under Nebraska law.

Ethical and Legal Responsibilities

LMHPs employed by school districts shall:

- I. Practice within the bounds of their licensure, competence, and professional training.
- II. Adhere to the Nebraska Mental Health Practice Act and applicable DHHS regulations.
- III. Comply with IDEA, FERPA, PPRA, and Nebraska Department of Education regulations.
- IV. Maintain appropriate documentation and records consistent with legal requirements.
- V. Avoid dual relationships and conflicts of interest that impair professional judgment.
- VI. Engage in ongoing professional development to maintain competency.

National Standards and Best Practices

LMHPs should follow nationally recognized professional standards applicable to their credential (e.g., American Counseling Association, National Association of Social Workers, American Association for Marriage and Family Therapy, or other relevant professional bodies). These standards reinforce ethical practice, cultural responsiveness, evidence-based intervention, and protection of client rights within the educational context.

Legal Citations – Licensed Mental Health Practitioners

- ¹ Nebraska Mental Health Practice Act, Neb. Rev. Stat. § 38-2101 to 38-2132.
- ² Uniform Credentialing Act, Neb. Rev. Stat. § 38-121 to 38-1,142.
- ³ 172 Nebraska Administrative Code (NAC), Chapter 94 (or applicable DHHS chapter governing LMHP licensure).
- ⁴ Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400–1482; 34 C.F.R. Part 300.
- ⁵ Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99.
- ⁶ Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. § 1232h; 34 C.F.R. Part 98.
- ⁷ Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; 34 C.F.R. Part 104.
- ⁸ Nebraska Department of Education Regulations — Special Education (Rule 51), 92 NAC Chapter 51.
- ⁹ Nebraska Department of Education Regulations — Educator Certification (Rule 24), 92 NAC Chapter 24.
- ¹⁰ Neb. Rev. Stat. § 79-2,107 — Student Personnel Services.
- ¹¹ Neb. Rev. Stat. § 79-258 — Counseling with Parental Consent.
- ¹² Nebraska Administrative Procedure Act, Neb. Rev. Stat. § 84-901 to 84-920

Enforcement and Compliance Authority

School districts and personnel providing mental or behavioral health services within Nebraska public schools shall comply with all applicable federal and state laws, regulations, and professional standards governing the provision of educational and related services to students.

The Nebraska Department of Education exercises general supervisory authority over public schools pursuant to Neb. Rev. Stat. § 79-113 and the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.

§ 1412(a)(11). Under this authority, the Department may monitor, investigate, and take appropriate action to ensure that school districts and educational personnel comply with all applicable legal requirements related to student services, including the provision of mental and behavioral health supports within the educational environment.

Failure by a school district to comply with the requirements described in this guidance, or with applicable federal or state law governing student mental and behavioral health services, may result in findings of noncompliance and the imposition of corrective actions as determined by the Department. Such actions may include, but are not limited to:

- I. Compliance monitoring or program review;
- II. Required corrective action plans;
- III. Mandatory policy revisions or procedural changes;
- IV. Required professional development or staff training;
- V. Targeted technical assistance; or
- VI. Other administrative actions necessary to ensure compliance with applicable legal requirements.

Nothing in this guidance limits the authority of the Nebraska Department of Education to initiate compliance reviews, investigations, or enforcement actions when credible information indicates that a school district or educational personnel may be acting outside the scope of their legal authority or in violation of applicable law.

Individuals holding Nebraska educator certificates are subject to the professional practices criteria established by the State Board of Education under Rule 27 (Title 92, Nebraska Administrative Code, Chapter 27). Alleged violations of these standards may be investigated and adjudicated pursuant to the procedures set forth in Rule 28 (Title 92, Nebraska Administrative Code, Chapter 28). Sanctions for violations may include admonishment, reprimand, suspension, limitation, or revocation of a Nebraska teaching certificate.

When mental or behavioral health services are provided by individuals licensed under Nebraska health professions statutes, those individuals remain subject to the jurisdiction and disciplinary authority of the Nebraska Department of Health and Human Services under the Uniform Credentialing Act and applicable professional licensing statutes. Violations of licensure requirements, ethical standards, or scope of practice limitations may result in investigation and disciplinary action by the appropriate licensing authority.

School districts retain responsibility for ensuring that all personnel providing services to students operate within the scope of their certification, licensure, and assigned professional responsibilities. Districts must ensure that services are delivered in accordance with applicable legal requirements governing parental consent, confidentiality, procedural safeguards, and professional scope of practice. Failure of district personnel to comply with these requirements may result in employment or disciplinary actions consistent with district policy and applicable law.

Nothing in this document shall be construed to limit the rights of parents, students, employees, or other individuals to file complaints or seek remedies through administrative, regulatory, or judicial processes when violations of federal or state law are alleged.