

NEBRASKA STATE BOARD OF EDUCATION MEETING NOTIFICATION AND AGENDA

- Meeting Date:** Thursday, October 5, 2023 2:30 p.m. (MT) / 3:30 p.m. (CT)
- Meeting Title:** State Board of Education Work Session Meeting and Notification and Agenda
- Location:** Gering Civic Center
Wildcat & Dome Rock Rooms
1050 M Street
Gering, NE 69341
- Agenda:** Except for emergency items added at the time of the meeting, the agenda will not be changed less than 24 hours prior to the start of the meeting and any changes will be immediately posted on the website. The Board will attempt to adhere to the sequence of the published agenda, but reserves the right to adjust the order of items if necessary and may elect to take action on any of the items listed.
- Interpreter:** If you need interpreter services or other reasonable accommodations, please contact the Nebraska Department of Education at (402) 471-5059 five (5) days prior to the meeting to coordinate arrangements.
- Website:** An electronic version of the agenda and support materials are available on the State Board of Education's Agenda page: www.education.ne.gov/stateboard/state-board-agendas/
- Lunch:** On Friday Thursday, October 5, 2023, the State Board of Education may also take a recess for lunch. The Board may resume work on the agenda at approximately 1:00 p.m.

1. CALL TO ORDER (The Board may take a recess)
President Gubbels
 - 1.1. Roll Call
President Gubbels
 - 1.2. Pledge of Allegiance
President Gubbels
 - 1.3. Announcement of the placement of the Open Meetings Act information
President Gubbels
2. BUSINESS
President Gubbels
 - 2.1. Review proposed changes to the Board Bylaws and Policies
President Gubbels

3. ADJOURNMENT
President Gubbels

The regularly scheduled meeting of the State Board of Education will reconvene at 9:00 a.m. tomorrow in this room.

BYLAWS

Bylaw Code and Title	Description of Proposed Change(s)
Bylaws-Table of Contents and Headings	<p>Heading: Change from “Department of Education” to State Board of Education Bylaws</p> <p>TOC: Update page numbers and Clarify Titles or Update Titles</p>
Board Member Notes:	
BLW 1- Definition and Application of Board Bylaws	<ul style="list-style-type: none"> *Clarify language in definition *Designate (Board) to represent the State Board of Education throughout the document
Board Member Notes:	
BLW2- State Board Officers to Board Officers	<ul style="list-style-type: none"> *Specify what officers are elected at January meeting *Designate (Commissioner) to represent the Commissioner of Education throughout the document *Clarify that “organize the Board” means elect officers * Add statement to indicate that majority vote of the members of the Board is required to elect officers. Previously not clear as to whether vote is majority of members present or of members of the Board
Board Member Notes:	
BLW3-Board Meetings	<ul style="list-style-type: none"> *Move statement referring to Open Meetings Act requirement as first statement to place emphasis on requirement. *Clarify language in publicized notice of meeting time and place * Remove Meeting Agendas, Consent Agendas, Board Meeting Minutes information from bylaw to Board Operating Policies—as a new policy BOP 1.14 Meeting Agendas and Minutes * Move language under Committee Meetings that is unrelated to when committees meet and also move who calls the committee meetings to BOP 1.14 *Remove statements that directly reference state laws (Emergency Meetings and Videoconferencing)
Board Member Notes:	
BLW4-Board Committees	<ul style="list-style-type: none"> *Clarify the purpose of Board committees *Use “Department” to refer to NDE throughout the documents *Clarify that Committee chairs report recommendations to the Board and that a Board vote is necessary to adopt any committee recommendation. *Delete sentence about Commissioner request for opinion from standing committee on proposal being recommended because the role of standing committees is to provide recommendations. *Delete phrase “and should be consulted by chair regarding committee matters as need arises” to reflect current practice that the role of the vice-chair is to preside over meetings in the chair’s absence. “As need arises” is ambiguous and not customary practice. *Clarify language about ad hoc committees as to who forms them, who appoints members and that ad hoc committees may be given a new directive. *Specific committee information was reordered and placed at beginning of bylaw.

Board Member Notes:	
BLW5-Parliamentary Procedure Authority /Rules of Order	<ul style="list-style-type: none"> *Change Procedure to Authority in title *Move "Votes will be conducted by roll call, with the order of members called rotated with each vote." *Omit "Copies of RONR may be provided to Board members" because unnecessary as part of bylaw.
Board Member Notes:	
BLW6-Review and Amendment of Board Bylaws	<ul style="list-style-type: none"> *Clarify language about when bylaw reviews are to be conducted and specify when report is made to Board. *Clarify "previous" notice to mean notice at the previous meeting before action.
Board Member Notes:	
BOARD OPERATING POLICIES	
Policy Code and Title	Description of Proposed Change(s)
BOP Table of Contents	<p>Heading: Change from Department of Education to State Board of Education Board Operating Policies</p> <p>TOC: Update page numbers, clarify titles and change titles and codes (numbers) to reflect reorganization of information and inclusion of new BOP</p>
Board Member Notes:	
BOP 1.00 Definition of Policies	<ul style="list-style-type: none"> *Delete introductory sentence because it is unnecessary *Change Operational to Operating *Clarify language such as duties vs responsibilities *Delete sentence on conduct and replaced with phrase "roles and responsibilities." *Clarify definition of Agency Management Policies
Board Member Notes:	
BOP 1.01 Position Statements, Resolutions, and Model Policies	<ul style="list-style-type: none"> *Delete statement indicating the positions statements are aligned with legislative and regulatory priorities because they are not all aligned with those priorities *Move "designated PS" so still included in policy *Delete "when requested or required by law" because the qualifier is unnecessary *Use "Department" consistently through document
Board Member Notes:	
BOP 1.02 Code of Conduct	<ul style="list-style-type: none"> *Delete "State" before "Board" to be consistent throughout document *Delete "regularly scheduled" meetings because attendance is important for all meetings including emergency or special meetings and committee meetings *Delete "Department" as appropriate option for notifying appropriate individuals of absence. *Add committee chair as appropriate option for notification if absence is from committee meeting *Remove references to other Board policies *Add stakeholders to those who are to be treated with kindness, civility... *Add professionalism as a treatment adverb *Specify that policy decisions are related to matters within the authority of the Board

	<ul style="list-style-type: none"> *State quasi-judicial vs “on contested cases...” *Use phrase “of the Board” vs. Board’s” and “of the Commissioner” * Delete Appendix A-Confidentiality and the State Board (Confidentiality and the State Board becomes a BOP) *Add “Comply with Board bylaws and policies as bullet under Policy Making, Decision Making, Individual Activity because it replaces reference to specific policies. All policies and bylaws are to be followed. *Clarify that responsibility is for quasi-judicial responsibility *Insert Section on Board Member Accountability
Board Member Notes:	
BOP 1.03 Public Statements by Board Members	<ul style="list-style-type: none"> *Use active language rather than passive language *Use consistent language throughout the document e.g., of the Board member
Board Member Notes:	
BOP 1.04 Board and Staff Relations/ Staff Research and Assistance	<ul style="list-style-type: none"> *Add Staff Research and Assistance information (updated) from BOP 1.05 *Use word “Department” consistently through document *Clarify and Update language to reflect how board member inquires for research or assistance are to be routed *Update legal assistance language to reflect responsibilities and process more accurately *Include information related to legal assistance from Appendix A Confidentiality and the Board in BOP 1.04
Board Member Notes:	
BOP 1.05 Staff Research and Assistance/Legal Assistance	<ul style="list-style-type: none"> *Delete BOP 1.05 *Move information on staff research to BOP 1.04 *Move Legal Assistance section to BOP 1.04 (legal assistance is a form of staff assistance)
Board member Notes:	
New BOP 1.05 Confidentiality and the Board	<ul style="list-style-type: none"> *Use “Board” consistently throughout document *Use “of the Board” and “of the Department” for parallelism and to be consistent throughout the document. *Use “Closed” session rather than “Executive” *Remove reference to bylaw
Board Member Notes:	
BOP 1.06 Public Participation at Board Meetings	<ul style="list-style-type: none"> *Delete opening paragraph as unnecessary and tangential to the policy. Use last sentence of the first paragraph as first sentence of policy *Use “Board” to be consistent throughout the document *Delete “as described below” as unnecessary *Reordered information to put like information together (Public addressing the Board) *Delete paragraph on video/audio public comment-this was pandemic specific *Move paragraph on non-dialogue so it precedes written public comment information *Omit paragraph on contested cases as not relevant to public participation at Board meetings
Board Member Notes:	
BOP 1.07 Reimbursement for Expenses	<ul style="list-style-type: none"> *Use Board and Department to be consistent throughout documents *Remove references to State Statute
Board Member Notes:	

BOP 1.08 Board Membership in Associations	<ul style="list-style-type: none"> *Change Title from School Boards Association to Board Membership in Associations *Omit Heading *Use Board to be consistent throughout documents
Board Member Notes:	
BOP 1.09 Task Forces and Advisory Committees of Councils	<ul style="list-style-type: none"> *Use “Board” vs. State Board and “of the Board” to be consistent throughout documents *Add accountability measure for two-year Board review of role, functions, and responsibilities of task forces and advisory committees or councils *Clarify the purpose of Commissioner appointed task forces and advisory committees or councils
Board Member Notes:	
BOP 1.10 Hear Officers	<ul style="list-style-type: none"> *Use “Board” to be consistent throughout the documents *Delete unnecessary paragraph on special circumstances *Delete reference to state statute *Rearrange paragraph wording for clarity related to option enrollment cases *Change bylaw to policy *Use Legal Services Office vs. Department’s Office of Legal Services
Board Member Notes:	
BOP 1.11 Rule Development	<ul style="list-style-type: none"> *Delete reference to Nebraska Administrative Procedures Act and replace with Board *Change Department to Board *Move paragraph on hearings and associated communication before information on legislative format *Use Board vs. State Board *Simplify language “approve”
Board Member Notes:	
BOP 1.12 Political Activity/Use of Resources/Accountability & Disclosure	<ul style="list-style-type: none"> *Use “Board” vs. State Board or State Board of Education
Board Member Notes:	
BOP 1.13 Computer Equipment/Internet Access and Electronic Mail Acceptable Use	<ul style="list-style-type: none"> *Use direct language in first sentence *Use “Department” vs. NDE *Add sentences indicating, to the extent possible, Board members use government email to conduct Board business *Delete excess language in 1. Acceptable Uses *Use “To violate” and to “misrepresent” for parallelism *Generalize language to “Department” *Use positive language to identify who is allowed to use NDE computer equipment, internet access/electronic mail *Change state government to department *Change Network Education & Technology Services to Department *Change NDE to department. *Delete “state” before Board

	<ul style="list-style-type: none"> *Omit reference to state statute *Omit unnecessary phrase “and will assist in any investigation...”
Board Member Notes:	
BOP 1.14 Meeting Agendas and Minutes	<ul style="list-style-type: none"> *Add information from BLW3 Board Meetings that addresses agendas, consent agenda and minutes as new BOP * Move first sentence that describes how the meeting agenda is developed *Remove reference to how Board members request agenda items *Rewrite paragraph to explain how agenda items may be added *Raise minimum dollar amount of renewal of contracts from 50,000 to 75,000 *Add Consent agenda contract renewals only on consent agenda for three consecutive times thereafter *Include information on committee meeting agendas moved from BLW3
Board Member Notes:	
BOP 1.15 (New Number) Revision and Amendment of Board Policies	<ul style="list-style-type: none"> *Change wording describing when board policies are reviewed and reported to the board *Add language that Board members may make recommendations for policy change *Include language to specify how policies are adopted and to be consistent with language on bylaw revisions
Board Member Notes:	
AGENCY MANAGEMENT POLICIES	
Policy Code and Title	Description of Proposed Change(s)
AMP Table of Contents, Renumber 2.06, 2.7, 2.08, 2.09 due to deletion of 2.05	Update page numbers
AMP 2.00 Delegation to Commissioner	<ul style="list-style-type: none"> *Move introductory sentence so it opens paragraph *Use Department consistently throughout the document. *Add sentence that expressly gives Commissioner authority to provide orientation for new Board members and provide an annual Board orientation *Make language in first sentence of second paragraph clear. *Remove reference to state statute *Use parallel language “...specifies that the Department is responsible for...” *Remove reference to state statute *Move sentence specifying that Board may overrule Commissioner decision *Omit sentence related to Commissioner keeping Board apprised of legislation in State Legislature
Board Member Notes:	
AMP 2.01 Human Resources Policies	<ul style="list-style-type: none"> *Omit reference to state statute *Use Commissioner and Department consistently throughout the document *Omit sentence stating that Board authorized Commissioner to promulgate personnel policies because unnecessary and redundant *Omit “administrative Memoranda detailing” because unnecessary *Clarify what is updated, not memoranda but internal operating procedures *Omit paragraph on Board right to direct Commissioner to revise, reverse, or amend personnel policy... *Use Board consistently throughout the document

	<ul style="list-style-type: none"> *Omit reference to state statute *Clarify definition of new professional position *Clarify that replacement Deputy Commission or new professional position hires are subject to approval as subsequent Board meeting *Use noun rather than pronoun (Commissioner vs. He or she) *Use general statement related to employment practices rather than referencing state law verbatim
Board Member Notes:	
AMP 2.02 Contracts, Grants, and Purchases	<ul style="list-style-type: none"> *Use Board consistently throughout the document *Raise minimum limit on contracts and grants that require Board approval *Add opportunity for contract approval for up to four years *Add stipulation that Board approves all contracts that procure goods or services that are directly related to the work of the Board and that the President may approve contracts of this nature up to \$10,000.
Board Member Notes:	
AMP 2.03 Trust Funds	<ul style="list-style-type: none"> *Use Board to be consistent throughout the documents *Omit "Department" as Board would not approve any other budgets for trusts
Board Member Notes:	
AMP 2.04 Audits	<ul style="list-style-type: none"> *Use Commissioner, Department, of the Department, Board to be consistent throughout the documents
Board Member Notes:	
AMP 2.05 Certification Complaints and Investigations	<ul style="list-style-type: none"> *Delete entire policy
Board Member Notes:	
AMP 2.06 2.05 (New Number) Ethics/Accountability & Disclosure	<ul style="list-style-type: none"> *Omit language from state statute except to reference the law and to include information of interest to the Board *Use Board consistently throughout the documents
Board Member Notes:	
AMP 2.07 2.06 (New Number) Political Activities/Use of Resources	<ul style="list-style-type: none"> *Use Department and Department staff consistently throughout the documents *Omit paragraphs on public inquiries on ballot questions and use of resources related to ballot questions. Individual rights, and personal gain
Board Member Notes:	
AMP 2.08 2.07 (New Number) Records Access and Use	<ul style="list-style-type: none"> *Use Department consistently throughout the documents *Change NDE to Commissioner base on authority *Change pronoun to noun (them to the record) *Update statutory reference and wording (Nebraska Statewide Workforce and Education Reporting System Act) *Add the Commissioner shall also consider in any matter under this AMP to be inclusive statement
Board Member Notes:	



Nebraska State Board of Education

Bylaws

Adopted December 2, 2022

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BLW 1

Definition and Application of Board Bylaws

~~The bylaws~~ Bylaws of the State Board of Education (Board), designated by letters BLW, are the ~~Board's~~ ~~own~~ basic rules relating principally to ~~itself~~ the Board as an organization. The bylaws are binding upon the Board.

All ~~State~~ Board bylaws shall be included on the webpage of the State ~~Board's~~ ~~webpage~~.

Revision History

- Created: 12/02/2022
- Approved: 12/02/2022

Board Action History

- 12/02/2022 – BLW 1
(NEW)

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BLW 2

~~State~~ Board Officers

The Board will organize and elect ~~officers~~ a President and Vice-President at the January meeting. The Commissioner of Education (Commissioner) will preside over the election of officers of the Board. Votes to ~~organize the Board~~ elect officers will be taken by secret ballot, but the minutes must indicate how many votes each candidate received. A majority vote of the members of the Board is required to elect a President and Vice-President.

Commented [FR1]: Consider length of time of office.

The President shall preside at all meetings and perform all other duties prescribed by law or by the ~~State~~ Board.

The Vice-President shall perform the duties of the President in case of absence or disability of the President.

In the event the office of President becomes vacant, the Vice-President shall serve until a successor has been elected. If more than three meetings remain before the Board is scheduled to organize itself in January, the Board shall elect a successor at its next regularly scheduled meeting.

The members present shall determine, by motion and majority vote, who presides if the President and Vice-President are both absent from a meeting. For purposes of electing a presiding member in such cases, the meeting shall be temporarily chaired by the member with the longest service on the Board. If two or more members have equal length of service, the temporary chair shall be selected by lot.

The Commissioner ~~of Education~~, as the Executive Officer, shall be the Secretary of the Board and is responsible for the accurate recording and maintenance of Board meeting minutes. The Commissioner shall designate a staff member to act as the recording secretary to record minutes during the meetings of the Board, record votes and disseminate the minutes.

Revision History

- Created: 1976
- Last Revised: 2022

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- Reviewed: 1984; 1995; 2003; 2006; 2009; 2015; 2019; 2022
- Approved: 12/02/2022

Board Action History

- 12/10/1976
Prior BBA (List of Officers),
Prior BBAA (Election of Officers),
Prior BBABA (President Duties),
Prior BBABB (Vice President Duties),
Prior BBABC (Secretary Duties).
- 12/07/1984
Prior 9121 BOP (President Duties),
Prior 9122 BOP (Vice President Duties),
Prior 9123 (Secretary Duties).
(Renumbered same 1976 policies; BBA and BBAA deleted.)
- 12/08/1995 – Prior B3
(Combined 1984 policies and added provision dealing with absence of both President and Vice-President.)
- 10/03/2003 – Prior B3
(Added limit of 3 meetings remaining before reorganization for Vice-President to serve if presidency becomes vacant.)
- 09/07/2006 – B3
(Text unchanged.)
- 10/08/2009 – B3
(Clarified that the Commissioner is not a member of the State Board, consistent with LB 549 [Laws, 2009].)
- 04/03/2015
(Deleted language stating Vice President shall serve if presidency becomes vacant with three or fewer meetings remaining before January meeting.)
- 03/03/2017 – B3(B1)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. B3 is now B1.)

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- 12/02/2022 – B1
(Transferred language from prior B15 about Commissioner’s specific duties as secretary of the Board)
Board Action History (cont’d)
- 12/02/2022 – B1(BLW 2)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. B1 is now BLW 2.)

Cross-References

- 79-301(3) R.R.S. – Commissioner as Executive Officer.
- 79-315 R.R.S. – State Board’s power to organize itself, Commissioner as Secretary of the Board.
- 79-310 R.R.S. – State Board of Education, members

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BLW 3

Board Meetings

The Board will comply with all applicable requirements of the Open Meetings Act when any meeting of the Board is to be conducted.

Meeting Dates and Notifications

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The Board shall meet regularly at least four times in a calendar year. In January of each year, the Board will meet on the first Thursday and Friday following the first Monday. When the Board meets in other months, the meetings will be held on the first Thursday and Friday of the month or as determined by a majority vote of the Board. The time and place of meetings will be set by the President in consultation with the Commissioner.

~~The Board will comply with all applicable requirements of the Open Meetings Act when any meeting of the Board is to be conducted.~~

Publicized notice of the time and place of each meeting of the Board shall be given at least five days in advance by the following methods:

1. A copy of the notice shall be published on the website of the Department ~~on the Internet.~~
2. The Commissioner shall e-mail a copy of the notice to each member of the news media requesting notification.
3. Each agenda shall contain ~~not only~~ the time and place of the next regularly scheduled meeting, ~~but also the anticipated time and place of the next following scheduled meeting.~~
4. Each set of minutes will reflect the next scheduled meeting date.

Meeting Agendas

~~The agenda is developed by the Commissioner in consultation with the President, and will contain any item requested by a member of the Board if submitted at least eight (8) days prior to the meeting.~~

~~The Commissioner shall prepare and submit by e-mail to each member of the Board at least seven (7) calendar days prior to the meeting, the agenda, or a link to the agenda, outlining matters to be considered by the State Board and such other materials as members have requested be included for consideration.~~

~~The agenda will contain any item within the authority of the Board, requested by a member of the Board, if submitted at least eight (8) calendar days prior to the meeting. Upon the written request of a member of the Board or the Commissioner, an agenda item may be added within 7 calendar days before the meeting if approved by the President, so long as the item can be added at least 24 hours prior to the meeting.~~

~~Following the mailing of the agenda, non-emergency items may only be added so long as the items are added at least 24 hours prior to the meeting. The President may approve adding non-emergency items to the agenda upon the request of the Commissioner and upon the written request of a board member with the written support of another board member. The Commissioner's Office shall maintain an updated agenda available to the public. The agenda may be altered at any time by a majority of the members present and voting to add emergency items as provided by state law.~~

Commented [FR2]: Upon the written request of a board member or the commissioner, an agenda item may be added the week (7 days) before the meeting upon the approval of the President so long as the item is added at least 24 hours prior to the meeting.

~~Consent Agenda~~

~~1. Purpose~~

- ~~1. To group together routine non-controversial items that do not need separate and individual discussion and action by the Board.~~
- ~~2. To expedite the work of the Board and to provide additional time for more substantive items.~~
- ~~3. To provide a method for the Board to review and approve renewals of contracts of \$7550,000 (first time contracts of \$7550,000 or more are placed on the agenda as a regular action item and renewals of such contracts may only be a consent agenda item for five consecutive times thereafter).~~

~~2. Procedure~~

- ~~1. The President of the Nebraska State Board of Education and the Commissioner of Education will confer prior to the Board meeting to identify items for the consent agenda.~~

Commented [FR3]: Revisit based on 8/3/23 committee meeting.

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- ~~2.—Any member of the Board may object to the placement of an item on the consent agenda by informing the President before a motion is made to adopt the consent agenda. The item will then be considered independently and after the approval of the consent agenda.~~
- ~~3.—The consent agenda will be moved by a single motion without discussion. A majority vote shall approve the items contained therein.~~

Board Meeting Minutes

~~The minutes of all Board meetings must be recorded. The minutes must contain the meeting time and place, members present and absent, and the substance of and actions taken on all matters discussed. All votes must be recorded showing how each member voted on each issue or if the Board member was absent or not voting. A Board member making a statement that they wish to be recorded in the minutes shall include the words, “for the record” prior to making the statement. All Board minutes are public records and must be open for public inspection on the NDE website and in the NDE office during normal business hours. Minutes shall be written and available for inspection within ten (10) working days after a meeting, or prior to the next convened meeting, whichever occurs earlier.~~

~~The Commissioner shall ensure that the minutes record accurate attendance of the Board members, meeting participants, times and dates, motions and votes, and other actions of the Board as required by statute.~~

~~Whenever required for the purpose of clarity, minutes shall include attachments of proposed documents and/or notations that clarify all actions of the Board. In addition to the minutes, the Department shall also permanently retain in its record a copy of the meeting agenda, support materials, and items distributed at the meeting.~~

~~When the Board meets or is functioning in a quasi-judicial capacity to decide a contested case or recommended decision from the Professional Practices Commission, no minutes as described above are necessary, but all votes must be recorded showing how each member voted and the same shall appear on the Board’s Final Order.~~

Committee Meetings

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Standing committees of the Board may meet in conjunction with regularly scheduled board meetings to review and make recommendations on agenda items for the current or future board meetings. ~~The agenda for regularly scheduled committee meetings will be determined by the upcoming board meeting agenda. Additionally, the committee chair, committee members, or any board member may add items to a regularly scheduled committee meeting agenda in accordance with the responsibilities of the committee, following the timeline outlined above for the addition of Board meeting agenda items. The committee chair shall notify the President and the Commissioner of additions to the committee agenda, or a committee member may add agenda items in consultation with the Commissioner of Education and Board President.~~

Standing committees may also meet at the direction of the committee chair or on the request of a committee member. In addition, the ~~board p~~President may request a committee to meet and deliberate on a specific topic or activity. ~~The agenda for these additional meetings of a standing committee may be determined by the committee chair, the Board President, or both. Committee members may add agenda items for these additional committee meetings in consultation with approval of the committee chair.~~

Special Meetings, Emergency Meetings, Meetings Held by Video Conferencing

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Special meetings of the Board may be called by the President upon written notice, given at least five days preceding the meeting, or, in the absence of such call by the President, the Commissioner shall call such special meetings upon the individual written request of a majority of members of the Board.

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~~Emergency meetings may be called by the President in accordance with the provisions of section 84-1411(5) of the Revised Statutes of Nebraska (R.R.S.).~~

~~The Board will comply with the applicable provisions of the Open Meetings Act (84-1407 to 84-1414 R.R.S.) for all regular, special and emergency meetings.~~

~~The agenda for any special or emergency meeting shall be prepared by the Commissioner in consultation with the Board President.~~

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~~Meetings may be held by means of videoconferencing. The Board will comply with all the provision of 84-1411(2) R.R.S. when meeting by means of videoconferencing. No more than one half of the State Board's meetings in a calendar year may be held by videoconferencing.~~

Revision History

- Created: 12/02/2022
- Approved: 12/02/2022

Board Action History

- 12/02/2022
 - Prior B5
 - Prior B7
 - Prior B15

(Transferred language of B5, B7, and B15 into one bylaw. Existing language was reordered.)

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BLW 4

Board Committees

The ~~State Board of Education~~ hereby establishes ~~standing~~ standing committees ~~of Board members~~ for the purpose ~~of delegating specific issues or tasks for initial~~ studying, reviewing, and making recommendations on topics within the authority of the Board and as follows:-

Executive Committee

The Executive Committee is responsible for reviewing and recommending policies and procedures for the review of performance of the commissioner; advising the commissioner on legislative matters while the state legislature is in session; making recommendations to the Board on the ~~NDE~~ Department's position on specific bills and legislative resolutions; and reviewing board policies, including the bylaws, and recommending to the Board changes to board policy. The Executive Committee shall serve as a consultant group for the Commissioner.

The President and Vice President shall serve as chair and vice chair of the Executive Committee, respectively. The President shall appoint two other members who do not serve as chair of another standing committee.

Budget and Finance Committee

The Budget and Finance shall advise and make recommendations to the Board for possible action in connection with the

Department budget and finance proposals.

The Budget and Finance Committee shall be given the additional responsibility to review the budgets for the ~~NDE~~-Trust Funds of the Department and make recommendations to the Board for approval.

Planning and Evaluation Committee

The Planning and Evaluation Committee shall review and make recommendations to the Board on matters related to planning and evaluation activities and functions of the state school system.

Additional duties of the Planning and Evaluation Committee include, but are not limited to, advising and making recommendations to the Board for possible action on the development of school accountability plans; community achievement plans; program or activity performance reviews; school accountability, accreditation, and approval; statewide assessment; and content area standards.

Rules and Regulations Committee

The Rules and Regulations Committee shall review and make recommendations to the Board on matters related to education policy, primarily in the form of administrative

rules and the relationship to state and federal statutes.

Additional duties of the Rules and Regulations Committee include, but are not limited to, advising and making recommendations to the Board for possible action on the development, revision, or repeal of the administrative rules of the ~~Nebraska Department of Education~~, including the personnel rules.

All standing committees shall have the responsibility to initiate legislative proposals and position statements of the Board, related to the purpose of the respective committee, to be considered by the Board for approval.

~~The Commissioner of Education may request an opinion from a standing committee regarding a proposal that is being prepared for recommendation to the Board.~~

~~Upon completion of an assigned activity or task, the committee shall report the deliberations and recommendations of the committee to the Board. All recommendations of the committee are subject to the approval of the Board. Committee chairs shall provide a report, including committee recommendations at regular board meetings. A vote by the Board is required to adopt any committee recommendations.~~

Board appointments to the standing committees will be made by the President. Requests for membership on the committees may be made to the President by individual Board members. The chair and vice chair will be appointed by the President for each standing committee. The President and Vice President shall not serve as chair or vice chair of a standing committee, except for the Executive Committee, ~~as described below~~. The committee chair is responsible for presiding over committee meetings. The committee vice chair shall act in the absence of the chair, ~~and should be consulted by the chair regarding committee matters as the need arises~~. Each standing committee shall have staff assigned by the Commissioner to assist and/or advise the committee.

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In addition to standing committees, ad hoc committees may be formed by the President or the Board to carry out specified tasks. ~~Members may be~~ appointed by the President or the Board, ~~as the need arises. Ad hoc committees are formed to carry out specified tasks.~~ After any ad hoc committee presents its final report to the Board, that committee will disband unless a new directive is given by the President or the Board gives new direction.

~~All standing committees shall have the responsibility to initiate legislative proposals and position statements of the Board, related to the purpose of the respective committee, to be considered by the Board for approval.~~

~~Executive Committee~~

~~The Executive Committee is responsible for reviewing and recommending policies and procedures for the review of performance of the commissioner; advising the commissioner on legislative matters while the state legislature is in session; making recommendations to the Board on the NDE's position on specific bills and legislative resolutions; and reviewing board policies, including the bylaws, and recommending to the Board changes to board policy. The Executive Committee shall serve as a consultant group for the Commissioner.~~

~~The President and Vice President shall serve as chair and vice chair of the Executive Committee, respectively. The President shall appoint two other members who do not serve as chair of another standing committee.~~

~~Budget and Finance Committee~~ The Budget and Finance shall advise and make recommendations to the Board for possible action in connection with the Department budget and finance proposals.

~~The Budget and Finance Committee shall be given the additional responsibility to review the budgets for the NDE Trust Funds and make recommendations to the Board for approval.~~

~~Planning and Evaluation Committee~~ Planning and Evaluation Committee shall review and make recommendations to the Board on matters related to planning and evaluation activities and functions of the state school system.

~~Additional duties of the Planning and Evaluation Committee include, but are not limited to, advising and making recommendations to the Board for possible action on the development of school accountability plans; community achievement plans; program or activity performance reviews; school accountability, accreditation, and approval; statewide assessment; and content area standards.~~

~~Rules and Regulations Committee~~ The Rules and Regulations Committee shall review and make recommendations to the Board on

~~matters related to education policy, primarily in the form of administrative rules and the relationship to state and federal statutes.~~

~~Additional duties of the Rules and Regulations Committee include, but are not limited to, advising and making recommendations to the Board for possible action on the development, revision, or repeal of the administrative rules of the Nebraska Department of Education, including the personnel rules.~~

Revision History

- Created: 1977
- Last Revised: 2022
- Reviewed: 1984, 1995, 2000, 2003, 2006, 2015, 2016, 2020, 2022
- Approved: 12/02/2022

Board Action History

- 08/19/1977 – Prior BBC
(Discussed temporary committee appointments, actions not binding unless approved by Board, listed 3 committees.)
- 12/07/1984 – Prior 9131 BOP
(Same text as BBC, renumbered.)
- 12/08/1995 – Prior B5
(Same text as 9131 BOP, except for deletion of reference to 3 committees.)
- 05/12/2000 – Prior B5

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(Complete revision. Discussed and listed 5 standing committees and committee meeting procedures.)

- 10/03/2003 – Prior B5
(Complete revision. Different list of 4 committees. Added space for cross-references and Legislative history.)
- 09/07/2006 – B5
(Minor changes. Deleted Curriculum Committee from list.)
- 09/04/2015 – B5
(Added language that any Board member may request a current copy of the appraisal instrument from Commissioner’s Office.)
- 05/06/2016 – B5
(Added three standing committees – AQuESTT Teaching and Learning Domain/AQuESTT Student Success and Access Domain/Budget and Finance.)
- 12/02/2016 – B5
(Added the Strategic Planning, Performance and Improvement Standing Committee.)

Board Action History (cont’d)

- 03/03/2017 – B2(B5)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. B5 is now B2.)
- 03/05/2021 – B2
(Added clarifying language to Legislative Committee and Strategic Planning, Performance and Improvement Committee descriptions.)
- 01/07/2022 – B2
(Board reorganized committees into four committees rather than seven)
- 12/02/2022 – B2
(Information about standing committee meetings was moved to BLW 3. Existing language reordered so statement on legislative priorities and position statements was earlier in the text.)
- 12/02/2022 – B2(BLW 4)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. B2 is now BLW 4.)

Cross-References

Nebraska ~~Department of Education~~ State Board of Education
Bylaws

- 79-315 R.R.S. – State Board’s power to organize itself

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BLW 5

Parliamentary ~~Procedure~~ Authority / Rules of Order

The Board shall observe the current edition of Robert's Rules of Order Newly Revised (RONR) except as otherwise provided by law, Board policy, or suspension of RONR by the Board.

~~Votes will be conducted by roll call, with the order of members called rotated with each vote.~~

The motion to suspend the rules requires a majority vote of members present and voting.

~~Copies of RONR may be provided to all Board members.~~

~~Votes will be conducted by roll call, with the order of members called rotated with each vote.~~

Revision History

- Created: 1979
- Last Revised: 2022
- Reviewed: 1984, 1995, 2003, 2006, 2013, 2017, 2021, 2022
- Approved: 12/02/2022

Board Action History

- 03/20/1979 – Prior BCBF
(No copies available of prior versions.)
- 12/07/1984 – Prior 9325.3 BOP
(Changed Robert's Rules version and added majority suspension.)
- 12/08/1995 – Prior B14
(Changed Robert's Rules version. Added copies for all members and rotating roll call votes.)
- 10/03/2003 – Prior B14
(Changed version of Robert's Rules.)
- 09/07/2006 – B14

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Bylaws

(Same Bylaw text)

Board Action History (cont'd)

- 03/03/2017 – B14(B8)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. B14 is now B8)
- 08/05/2021 – B8
(Four-year review by Policy Committee, added new cross reference)
- 12/02/2022 – B8
(Language on motion to suspend the rules was edited for clarification. Not all Board members want full copy of the rules.)
- 12/02/2022 – B8(BLW 5)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. B8 is now BLW 5.)

Cross-References

- 84-1413(2) R.R.S. – Roll call vote.
- 79-315 R.R.S. – Board can organize itself.

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BLW 6

Review and Amendment of Board Bylaws

All Board bylaws are to be reviewed by the Executive Committee during odd-numbered calendar years with a report to the Board by the last regular meeting of that year.

~~at least every two years or as needed by the Executive Committee which shall provide a report to the Board.~~—The Commissioner shall have legal counsel review all bylaws annually for compliance with law

and provide a report of any changes needed or recommended to the Executive Committee. Proposed bylaw amendments require ~~previous~~ notice at the previous meeting and at least a two-thirds affirmative vote of the members of the board to be adopted. Board bylaws shall remain in full force and effect until amended or rescinded by the Board and are binding upon the Board until changed by the Board.

Revision History

- Created: 12/02/2022
- Approved: 12/02/2022

Board Action History

- 12/02/2022 – Prior B12
(Language transferred from prior B12 to set review and amendment guidelines. Added language for concurrent reviews of bylaws and policies every two years.)

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**Nebraska State Board of
Education**

Board Operating Policies

Adopted December 2, 2022

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BOP 1.00

Definition of Policies

~~The internal policies of the Board are used to direct or limit actions of the Board in pursuit of long term goals, and can be used to guide decisions in achieving desired outcomes.~~ Board policies are delineated as Board ~~Operational-Operating~~ Policies, designated by the letters “BOP”, and Agency Management Policies, designated by the letters “AMP”.

Board ~~Operational-Operating~~ Policies relate to and support the policymaking, rule-making, and quasi-judicial ~~duties/responsibilities~~ of the Board, ~~along with—the roles and responsibilities of board members. They specify how board members are to conduct themselves and interact with individuals and external entities.~~

Agency Management Policies define how the Board intends ~~for the Department of Education~~ Commissioner/Department to operate, ~~the agency and conduct its actions and business and how the Board itself may be involved in such matters.~~

All Board policies shall be included on the webpage of the Board.

Revision History

- Created: 12/02/2022
- Approved: 12/02/2022

Board Action History

- 12/02/2022 – BOP 1.00
(NEW. Adopted language from prior B12.)

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BOP 1.01

Position Statements, Resolutions, and Model Policies

From time to time, the Board adopts Position Statements, Resolutions, and Model Policies which are not Board Policies.

Position Statements (PS)

~~Board Position Statements, designated PS, are aligned and reside with the board's legislative and regulatory priorities.~~ Position Statements, designated PS, are advisory in nature to let the public and educators know where the Board stands on a topic, concern, or educational issue. Position Statements may be used to share the vision or beliefs of the Board, offer explanations or justifications, or make recommendations for a course of action to schools, educators, and/or ~~Department of Education~~ staff. The Board may adopt or revise Position Statements at any time, on its own motion or upon recommendation by the Commissioner. Position Statements shall expire four years after their adoption, revision, or reaffirmation, unless revised, reaffirmed, or rescinded by the Board prior to expiration. The Commissioner may direct legal counsel to review all Board position statements annually for compliance with state law.

Resolutions (RS)

Board Resolutions, designated RS, are formal public statements of the Board as to its opinion on a matter or as to an individual. All Board resolutions, except those honoring an individual, shall contain an expiration date. The ~~State~~ Board may adopt resolutions at any time, on its own motion, or upon recommendation by the Commissioner.

Model Policies (MP)

Model Policies (MP), adopted by the Board ~~when requested or required by law~~, are templates for school boards to use to develop legislatively mandated policies. The model policies shall be made available to school boards through the ~~Department~~ agency of Education Department website.

Revision History

- Created: 12/02/2022
- Approved: 12/02/2022

Board Action History

- 12/02/2022–BOP 1.01
(NEW)

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BOP 1.02

State Board Member Code of Conduct

Attendance/Participation

~~State~~ Board members should:

- Attend all regularly scheduled board and committee meetings insofar as possible; and
- Inform the ~~Department President, or the Board President~~ Commissioner, or committee chair if a member knows he or she will be late or unable to attend a meeting.

Preparation

~~State~~ Board members should:

- Be informed concerning the issues to be considered at the meetings; and
- Read written materials in preparation for Board meetings and decision making.

Policy Making/Decision Making/Individual Activity

~~State~~ Board members should:

- Actively participate in decision-making;
- ~~Encourage the free expression of opinion by all Board Members~~ members; seek systematic
- ~~communications between the Board, Commissioner, staff and constituents; request staff research and assistance through the Commissioner's Office as specified in Policy 014 and respect the line and staff relations of Department employees as specified in Policy 01;~~
- Treat fellow mMembers, ~~and staff,~~ and stakeholders with professionalism, kindness, civility, respect, patience and honesty;
- Make policy decisions based on available facts, individual judgment and the best interests of the state for matters within the authority of the Board;
- Support actions and positions ~~once they are~~ approved or adopted by the Board;
- ~~Respect and protect the confidentiality of matters discussed in Executive Session and of all information and material that is privileged (see Appendix A);~~
- Comply with Board bylaws and policies; and
- ~~Comply with State Board Policy 014 regarding public statements by Board Members; and~~

Commented [FR1]: Insert working agreements?

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- ~~Comply with State Board Policy B16 regarding political activity, use of Department resources and accountability and disclosure; Policy B14 regarding acceptable use of Department computer equipment, Internet access and electronic mail; Policy B14 regarding Board Member expenses; and Policy B1 regarding ethics and accountability and disclosure.~~
- Apply and follow the rule of law in making quasi-judicial decisions ~~on contested cases and other quasi-judicial matters coming before the Board~~ and in policy making decisions.

Governance

~~State Board Members~~ members should:

- ~~Understand the State Board's role of the Board under Neb. Rev. Stat. 79-301(2)~~ to be the policy-forming, planning, and evaluative body for the state school system; ~~and and the~~
- ~~Understand the Commissioner's responsibility of the Commissioner under Neb. Rev. Stat. 79-301(3)~~ for carrying out the requirements of law and of board policy, standards, rules and regulations and for providing the educational leadership and services deemed necessary by the Board for the proper conduct of the state school program.

Continuing Education

~~State Board Members~~ members should:

- Stay informed on current educational issues by individual study and by attending conferences specifically related to Board functions ~~(pursuant to Policy B16, Board Members' expenses for out-of-state conferences will be reimbursed only if attendance is authorized by the State Board).~~

(Public Records)/(Use of Government Email)

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Accountability

Board members may be reprimanded or censured for violation of state statutes, Board policies or bylaws.

A reprimand is a formal statement of the Board officially disapproving the conduct of one of its members. It is directed to a particular member of the Board based on a particular action or set of

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actions that is determined to be in violation of state statute, Board policies or bylaws. When a concern is expressed by a member of the Board that an individual Board member has violated a state statute, Board policy or bylaw, the Board President will notify the individual Board member of the allegation, and if appropriate, request compliance. If the violation persists, a resolution of reprimand may be proposed by any Board member. A resolution of reprimand requires a majority vote of Board members to pass and is adopted in the same manner as all Board resolutions. A reprimand is distinguished from censure in that sanctions are not imposed on the particular Board member.

A censure is formal statement of disapproval by the Board officially disciplining one of its members. It is a punitive action, which serves as a sanction imposed for violating a state statute, Board policy or bylaw. A censure is accomplished by a motion of any Board member and must be approved by a majority vote of Board members. Any censure shall reflect the specific reasoning for the censure, indicate the sanctions imposed against the censured Board member, and be recorded in the minutes. Sanctions may include but are not limited to, removal from committee assignments, prohibition from requesting Board agenda items, removal from officer position, or any other appropriate action determined by the Board Executive Committee or majority vote of the Board.

Revision History

- Created: 2004
- Last Revised: 2022
- Reviewed: 2014, 2018, 2022
- Approved: 12/02/2022

Board Action History

- 06/09/2004 – Prior B21
(NEW)

Board Action History (cont'd)

- 09/07/2006 – B21
(Added Appendix A and several wording changes on page 1.)
- 03/03/2017 – B21(B3)

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(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. B21 is now B3.)

- 05/04/2018 – B3
(Added reference to follow and apply rule of law in making decisions on contested cases.)
- 12/02/2022 – B3(BOP 1.02)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. B3 is now BOP 1.02.)

Cross References

- 79-301(2) R.R.S. – Board Role.
- 79-301(3) R.R.S. – Commissioner’s role.
- State Board Policies P2, P9, and P11
- State Board Bylaws B17, B16, B18, B19, and B19

APPENDIX A

~~Confidentiality and the State Board~~

~~The State Board of Education is a public body. Generally, the Board’s meetings and records are open and available to the public under state law (the Open Meetings Act and the Public Records Act). However, there are certain important exceptions. These exceptions are as follows:~~

~~**Executive Sessions**—When the Board meets in Executive Session, the discussion that takes place is confidential and is not meant to be shared with others. The public is not entitled to know the substance of the discussion. The State Board Code of Conduct (Bylaw B3) says that State Board members should respect and protect the confidentiality of matters discussed in Executive Session and of all information and material that is privileged.~~

~~**Attorney-Client Privilege**—When Board members talk to, or exchange documents with, any of the Board’s attorneys or the agency attorneys in the context of receiving legal advice, the conversation and the documents are subject to the attorney-client privilege so long as none of the Board members waive the privilege. This means that the conversation and the documents are confidential and cannot be required to be disclosed in legal proceedings or pursuant to a public records request. The privilege is waived if a member of the Board reveals the conversation or gives the documents to another person. When this happens, the conversation and documents can be required to be disclosed in legal proceedings or pursuant to a public records request.~~

Commented [FR2]: Create as a new BOP

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~~**Documents and Information required to be Kept Confidential under Privacy Laws**— Certain information and documents maintained in the Department are required by various privacy laws to be kept confidential under most circumstances. Criminal penalties, loss of federal funds or civil liability may result from some unlawful disclosures. The following must not be shared:~~

- ~~▪ *Personally identifiable student information (protected by the Family Educational Rights and Privacy Act (FERPA) and the Individuals with Disabilities Education Act (IDEA))*~~
- ~~▪ *Social Security Numbers (the Privacy Act)*~~
- ~~▪ *Personally identifiable information from applications for free or reduced lunches or free milk (the National School Lunch Act)*~~
- ~~▪ *Employees' individually identifiable health information (the Health Insurance Portability and Accountability Act (HIPAA))*~~
- ~~▪ *Personally identifiable information about Vocational Rehabilitation Consumers (the Rehabilitation Act)*~~
- ~~▪ *Information contained in the Department's personnel records that is considered confidential (NDE Personnel Rules)*~~
- ~~▪ *Sensitive personal information with respect to which an individual has a reasonable expectation of privacy (First Amendment and common law relating to invasion of privacy)*~~

~~**Documents Permitted to be Kept Confidential under the Public Records Act**— Certain documents belonging to the Department need not be made available under the Public Records Act. The Department's policy is to keep these records confidential. The following records need not be shared and should be kept confidential:~~

- ~~▪ *Certain student records not covered by FERPA or IDEA;*~~
- ~~▪ *Security information;*~~
- ~~▪ *Investigatory records;*~~
- ~~▪ *Job application materials, except for those submitted by finalists;*~~
- ~~▪ *Appraisals and negotiation information relating to the sale of real or personal property, and*~~
- ~~▪ *Trade secrets, academic research work in progress and unpublished, and proprietary or commercial information which, if released, would give advantage to business competitors and serve no public purpose.*~~

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~~Notes and drafts of documents within the Department which remain subject to approval by upper management and which have not been issued are preliminary materials which are not "records" or "documents" and, therefore, are not subject to public records requests.~~

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BOP 1.03

Public Statements by Board Members

Board members ~~are responsible when speaking or writing that the communication does not represent the Board and the communication belongs to that board member. have the responsibility to make it clear when they are speaking or writing on their own behalf that they are not representing the Board.~~

Board members should add a disclaimer to written ~~and electronic~~ communication indicating that their statements represent the personal views of the Board member ~~s personal views~~ and not those of the ~~State Board of Education~~. When directed by the full Board, or as directed by Board President, they may speak on behalf of the Board.

Revision History

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

Board Action History

- 07/02/1979 – Prior BBB
(Board not bound by statements or actions of members, except as delegated by policy or majority vote)
- 12/07/1984 – Prior 9020 BOP
(Renumbered, but text unchanged)
- 12/08/1995 – Prior B2
(Renumbered and rewritten – same as 9/7/06 text)
- 09/07/2006 – B2
(Text unchanged)
- 05/08/2015 – B2
(Revised to add a reference to Board Members’ written communications and to encourage use of a disclaimer.)
- 03/03/2017 – B2(B17)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. B2 is now B17).

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- 04/05/2019 – B17

(The State Board reviewed and reaffirmed.)

Board Action History (cont'd)

- 12/02/2022 – B17(BOP 1.03)

(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. B17 is now BOP 1.03.)

Cross-References

- State Board Bylaw B3
- 79-301(2) R.R.S. – State Board acts as a unit.

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BOP 1.04

Board and Staff Relations; ~~Staff Research and Assistance~~

~~State~~ Board members have no direct supervisory or administrative authority over ~~agency~~ Department ~~NDE~~ staff members. ~~Agency~~ Department ~~S~~ staff members report through their supervisory chain of command, which ultimately is to the Commissioner, who reports to the ~~State~~ Board.

Staff Assistance

In cases where a Board member has an inquiry is-related to committee business, the Board member may contact the staff lead of the relevant committee. All ~~R~~ requests by Board members for research or other assistance by staff should be routed through the Commissioner's Office, including requests for assistance with constituent inquiries. In cases where the individual Board member requires assistance from staff for research, creation of information or documents, or other preparation to assist the Board member in his or her official duties, those requests should be routed through the Commissioner's Office. The Commissioner may consult with the President when a request for staff assistance by a Board member is unclear, outside the authority of the Board, or would require extensive work by the agency staff.

Legal Assistance

The Board recognizes that Office of the Attorney General represents the State of Nebraska, and therefore represents the Board and the ~~agency~~ Department in legal matters. The Commissioner can employ ~~agency~~ Department staff attorneys to provide legal advice with the knowledge that the Office of Attorney General ultimately represents the Board and ~~agency~~ Department. An ~~agency~~ Department staff attorney may serve as legal advisor to the Board and Commissioner. In matters that involve the Commissioner or when the Commissioner is a party in any matter for which the Board is acting in its quasi-judicial capacity, then the Office of Attorney General represents the Board. The Commissioner is responsible for making certain that the State Board is fully informed of all pending legal matters and legal issues affecting the Department.

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The Board may request legal opinions from the Attorney General and/or the Legal Services Office by forwarding their request to the Commissioner. The Commissioner is responsible for preparing the question and necessary background information and forwarding the question to the Attorney General

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and/or Legal Services Office. The Commissioner shall provide all Board members with copies of the request. Any written opinion provided by the Attorney General or Legal Services Office as a result of a question by the Board shall be provided by the Commissioner to all of the members of the Board.

Revision History

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

Board Action History

- 11/15/1979 – Prior CD
(Included delegation to Commissioner and Commissioner to staff, right of Board to overrule decisions, and staff relationship)
- 12/07/1984 – Prior 2121 DO
(Retained only staff relationship section. Other sections in D3.)
- 12/08/1995 – Prior D2
(Same, except “Assistant Commissioners” and “Division Heads” replaced with “Leadership Council Members”)
- 11/03/2006 – D2
(Same, with minor wording changes)
- 03/03/2017 – D2(P2)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. D2 is now P2)
- 05/03/2019 – P2
(Non-substantive changes clarifying language.)
- 12/02/2022 – P2(BOP 1.04)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. P2 is now BOP 1.04.)

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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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BOP 1.05

Confidentiality and the Board

APPENDIX A

Confidentiality and the State Board

~~The State Board of Education is a public body. Generally, the Board's meetings and records of the Board are open and available to the public under state law (the Open Meetings Act and the Public Records Act). However, there are certain important exceptions. These exceptions are as follows:~~

~~**Executive Closed Sessions** – When the Board meets in Executive closed Session, the discussion that takes place is confidential and is not meant to be shared with others. The public is not entitled to know the substance of the discussion. The State Board Code of Conduct (Bylaw B3) says that State Board members should respect and protect the confidentiality of matters discussed in Executive Session and of all information and material that is privileged.~~

~~**Attorney-Client Privilege** – When Board members talk to, or exchange documents with, any of the Board's attorneys for the Board or Department or the agency attorneys in the context of receiving legal advice, the conversation and the documents are subject to the attorney-client privilege so long as none of the Board members waive the privilege. This means that the conversation and the documents are confidential and cannot be required to shall not be disclosed in legal proceedings or pursuant to a public records request. The privilege is waived if a member of the Board reveals the conversation or gives the documents to another person. When this happens, the conversation and documents can be required to be disclosed in legal proceedings or pursuant to a public records request.~~

~~**Documents and Information required to be Kept Confidential under Privacy Laws** - Certain information and documents maintained in the Department are required by various privacy laws to be kept confidential under most circumstances. Criminal penalties, loss of federal funds or civil liability may result from some unlawful disclosures. The following must not be shared:~~

- ~~▪ Personally identifiable student information (protected by the Family Educational Rights and Privacy Act (FERPA) and the Individuals with Disabilities Education Act (IDEA));~~
- ~~▪ Social Security Numbers (the Privacy Act);~~
- ~~▪ Personally identifiable information from applications for free or reduced lunches or free milk (the National School Lunch Act);~~
- ~~▪ Employees' individually identifiable health information (the Health Insurance Portability and Accountability Act (HIPPA));~~
- ~~▪ Personally identifiable information about Vocational Rehabilitation Consumers (the Rehabilitation Act);~~
- ~~▪ Information contained in the Department's personnel records of the Department that is considered confidential (NDE Department Personnel Rules); and~~

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- Sensitive personal information with respect to which an individual has a reasonable expectation of privacy (First Amendment and common law relating to invasion of privacy).

Documents Permitted to be Kept Confidential under the Public Records Act - Certain documents belonging to the Department need not be made available under the Public Records Act. The Department's policy of the Department is to keep these records confidential. The following records need not be shared and should be kept confidential:

- Certain student records not covered by FERPA or IDEA;
- Security information;
- Investigatory records;
- Job application materials, except for those submitted by finalists;
- Appraisals and negotiation information relating to the sale of real or personal property; and
- Trade secrets, academic research work in progress and unpublished, and proprietary or commercial information which, if released, would give advantage to business competitors and serve no public purpose.

Notes and drafts of documents within the Department which remain subject to approval by upper management and which have not been issued are preliminary materials which are not "records" or "documents" and, therefore, are not subject to public records requests.

Staff Research and Assistance/Legal Assistance

~~A. STAFF RESEARCH AND ASSISTANCE~~

~~All requests by Board members for research or other assistance by staff should be routed through the Commissioner's Office.~~

~~In cases where the individual Board member requires assistance from staff for research, creation of information or documents, or other preparation to assist the Board member in his or her official duties, those requests should be handled as follows:~~

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- ~~• Requests requiring less than four hours of staff time, and minimal other costs, should be completed by the staff as directed by the Commissioner, including the preparation of a brief report of the staff time and costs involved.~~
- ~~• For requests requiring more than four hours of staff time and/or more than minimal other costs, such requests shall be submitted by the Board member in writing and routed through the Commissioner's office or through the Board President. The requesting Board member will be provided with a written response identifying the specific request and the activities required to complete it, the estimated staff time required, the estimated total cost of staff time and related expenses, and the estimated timeline for completion. The requesting Board member may authorize the initiation of the activity for up to four hours of time and minimal related cost. The total project will require approval of the Board for completion of the balance of the project.~~

~~In consultation with the Board President, the Commissioner shall determine the appropriateness of providing the same request for the benefit of other Board members. Board members may request copies of the projects/activities completed for other Board members.~~

B. LEGAL ASSISTANCE

~~The State Board may request legal opinions from the Attorney General and/or the Legal Services Office by forwarding their request to the Commissioner. The Commissioner is responsible for preparing the question and necessary background information and forwarding the question to the Attorney General and/or Legal Services Office. The Commissioner shall provide all State Board Members with copies of the request. Any written opinion provided by the Attorney General or Legal Services Office as a result of a question by the State Board shall be provided by the Commissioner to all of the members of the State Board.~~

~~The Legal Services Office represents the Department and not individual State Board members or NDE staff members. The General Counsel or one of his or her assistant attorneys shall serve as legal advisor to the State Board and Commissioner at State Board meetings. When the Legal Services Office will be representing the Commissioner of Education in a contested case in which the State Board is the decision maker, the Commissioner will notify the State Board President and Attorney General, so that the State~~

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~~Board may secure alternate legal representation from the Attorney General's Office or another source approved by the Attorney General.~~

~~The primary role of the Legal Services Office shall be to provide day to day legal assistance to the Department, including the State Board, Commissioner and NDE staff. The Commissioner and General Counsel are responsible for making certain that the State Board is fully informed of all pending legal matters and legal issues affecting the Department.~~

Revision History

- Created: 1995
- Last Revised: 2015
- Reviewed: 1998, 2006, 2016, 2020, 2022
- Approved: 12/02/2022

Board Action History

- 12/08/1995 – Prior B19
(Requests for research go through Commissioner with copies of research provided to all members.)
- 04/10/1998 – Prior B19
(Completely revised)
- 09/07/2006 – B19
(Same Bylaw text)

Board Action History (cont'd)

- 04/03/2016 – B19
(Removed sentence saying Commissioner shall provide reports to the full Board of the requests made of staff.)
- 03/03/2017 – B19(B14)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. B19 is now B14)
- 08/07/2020 – B14
(Combined State Board Bylaws B11 and B14 into one Bylaw.)

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- 12/02/2022 – B14(BOP 1.05)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. B14 is now BOP 1.05.)

Cross-References

- State Board Policies P2 and B3

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BOP 1.06

Public Participation at Board Meetings

~~The State Board of Education recognizes its obligation to help the public understand the operation of the Department of Education. The Board is also aware of the need for communication with citizens to permit the public to make its wishes known and to permit the Board to explain general policies governing the operation of the schools in the state. Therefore, in an effort to provide a procedure by which matters of statewide interest concerning the schools may be brought before the Board and to permit the Board to conduct its meetings in an orderly and efficient manner, the State Board of Education.~~ The Board establishes the following procedures with regard to public participation in the meetings of the Board.

The published agenda of the majority of regular meetings of the ~~State~~ Board shall contain an item identified as public comment period. This period may be available to any person who wishes to address the ~~State~~ Board on any subject within its authority including items appearing on the agenda except for contested cases ~~as described below~~. Up to two hours will be allowed for the public comment period when on the agenda of a regular meeting. A majority of members present and voting may take action to extend the total amount of time allowed for the public comment period. A majority of members present and voting may also take action to allow or terminate public comment at any time during a meeting. Each person may address the Board for up to five minutes. A majority of members present and voting may take action to reduce or extend the amount of individual time allotted to all speakers.

If at any time persons appearing before the Board exceed the time limitations set forth in this policy or on the agenda or become abusive or threatening in language or behavior, it shall be the responsibility of the President to refuse permission to continue to address the Board.

Each individual speaking to the Board will be required to complete a "Sign-in" card for identification of oneself. Individuals are required to include on the Sign-In card their name, address, and name of any organization represented, ~~pursuant to Nebraska Revised Statute 84-1412(3)~~. Individuals may be

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prohibited to speak in public comment if the Sign-In card does not include the required information. Persons speaking to the Board during public comment should state their name at the beginning of their allotted time and may submit printed materials for the Board but may not use any other form of media. Anyone refusing to be identified will be prohibited from speaking. ~~Each person may address the Board for up to five minutes. A majority of members present and voting may take action to reduce or extend the amount of individual time allotted to all speakers.~~

~~The Board may also choose to permit individuals to speak to the Board using live remote video/audio technologies at selected meetings. When this is utilized, persons that wish to speak to the Board during public comment will likewise be required to complete and submit information in advance of the meeting for identification of oneself. This process will be described in the advance public notice of the meeting. Individuals wishing to speak to the Board using this technology must be "online" when their name is called to speak during the public comment period or they forfeit their turn and opportunity to address the Board in that public comment period. Public comment using this technology is also limited to 5 (five) minutes, and may be reduced or extended as provided above. If an individual testifying by live remote video/audio technology wishes to provide the Board with written or printed material in connection with their testimony, such material shall be submitted 24 hours prior to the start of the public meeting where public comment is scheduled, or by close of business of the Thursday prior to any meeting scheduled for a Monday. Written or printed material is not allowed to be displayed on or using the remote video technology.~~

Generally, Board members will not engage in dialogue during the public comment period. A Board member may request from the President to ask a clarifying question of a public comment speaker for the purpose of understanding a point or statement made by the speaker. Asking a clarifying question should not result in extended dialogue.

Persons may address the Board for public comment purposes by written submission in lieu of live testimony. Such written submissions must be provided 24 hours prior to the start of the public meeting where public comment is scheduled, or by close of business of the Thursday prior to any meeting scheduled for a Monday and is limited to 750 words. Written public comments submitted in accordance

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with these requirements will be provided to the Board members and become part of the record of the meeting, but will not be read aloud during the meeting.

~~When an item appears on the regular business meeting agenda for the Board to consider a hearing officer's recommendations in a contested case, neither oral nor written public comment from a party or a party's representative will be allowed. Parties to contested cases address the Board through the hearing process which includes the full record of the hearing which is before the Board. In the case of agenda items for the Board to consider recommendations from the Professional Practices Commission, (PPC), the Board will provide an opportunity for the parties to address it at the meeting prior to its decision in accordance with the review hearing procedures in 92 NAC 29, whether at a regular business meeting or a separate proceeding.~~

~~If at any time persons appearing before the Board exceed the time limitations set forth in this policy or on the agenda or become abusive or threatening in language or behavior, it shall be the responsibility of the president to declare that person out of order and to refuse permission to continue to address the Board.~~

~~Generally, board members will not engage in dialogue during the public comment period. A board member may request from the president to ask a clarifying question of a public comment speaker for the purpose of understanding a point or statement made by the speaker. Asking a clarifying question should not result in extended dialogue.~~

Revision History

- Created: 1981
- Last Revised: 2020
- Reviewed: 1984, 1995, 2006, 2013, 2014, 2016, 2017, 2020, 2022
- Approved: 12/02/2022

Board Action History

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- 11/15/1981 – Prior BCBI
(No copies of prior version.)
- 12/07/1984 – Prior 9322 BOP
(Same text as BCBI, except for deletion of statute references.)
- 12/08/1995 – Prior B12
(Similar text in first 3 paragraphs, but appearance extensions may also be granted by majority, public comment period reduced from 30 to 15 minutes for items not on agenda [and from 6 to 3 persons], added agenda item public comment designations, and option for allowing additional public comment during meetings.)
- 09/07/2006 – B12
(Added majority vote option for extending public comment period.)
- 03/05/2013 – B12
(Changed wording regarding the Public Comment Period.)

Board Action History (cont'd)

- 01/07/2014 – B12
(Changed wording regarding the Public Comment Period.)
- 05/06/2016 – B12
(Added language for special appearances.)
- 03/03/2017 – B12
(Align language with B5 (formerly B11) regarding dates of Board Meetings.)
- 03/03/2017 – B12(B9)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. B12 is now B9)
- 12/11/2020 – B9
(Four-year review. Added language to reflect current approaches providing public participation in remote audio video/audio technologies at Board meetings.)
- 01/07/2022 - B9
(Changed wording regarding the Public Comment Period.)
- 12/02/2022 – B9(BOP 1.06)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. B9 is now BOP 1.06.)

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Cross-References

- 84-1412 R.R.S.– Public participation.
- 79-317(2) R.R.S. – Public participation.
- State Board Policy B5, “Board Meeting Notification for Regular Meetings”

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BOP 1.07

Reimbursement for Expenses

Expenses for ~~State~~ Board members incurred in attending meetings or incurred in the performance of their duties as directed by the ~~State Board of Education~~ as provided in Sections 81-1174 to 81-1177 R.R.S. shall be paid according to rules and procedures established by the Department of Administrative Services (DAS) for state officials.

In determining proper expense items for members of the ~~State Board of Education~~, the Board has adopted the following policy in compliance with Section 3 of 79-317 R.R.S.

1. Out-of-state travel and conference expenses:

Expenses incurred in attending meetings shall be construed to cover all reasonable expenses for such out-of-state meeting.

- A. Each Board member is limited to two (2) out-of-state events or conferences that serve a direct purpose associated with the ~~State Board~~ and/or ~~Nebraska Department of Education~~ or their expenses are covered by the National Association of State Boards of Education (NASBE) or another organization.
- B. Attendance at any out-of-state event must be approved by the Board. For any event outside the contiguous 48 states, additional justification may be required and must also be approved by the Board.

2. Reimbursement for in-state travel expenses is authorized for:

- A. Regular and special meetings of the Board.
- B. Hearings conducted before the Board and rule-making hearings conducted by a Department hearing official.
- C. Hearings of legislative committees on matters concerning the Department ~~of Education~~.
- D. Meetings of advisory committees to the board.
- E. Meetings and conferences that are Department ~~of Education~~ sponsored events or that are held by organizations that have a direct relationship to the work of the ~~State Board~~ and the ~~Nebraska Department of Education~~ such as: schools, school boards, administrator and teacher organizations, educational service units, postsecondary education, and organizations that serve and support children and schools.

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F. Any other expense for in-state travel specifically related to Board functions.

3. Lodging expenses: Actual expenses shall be paid for lodging specifically related to Board functions. Business telephone calls and parking charges incurred at the lodging site may be included on the lodging bill. Lodging expenses may either be directly billed to the ~~Nebraska Department of Education~~ or claimed on an expense reimbursement. If claimed on an expense reimbursement, detailed receipts for lodging are required to be filed with the claim. Meals should not be charged to a hotel room and will only be reimbursed through the per diem process.

Generally, Board members living less than 50 miles away from a one-day meeting or event may not receive reimbursement for lodging. There may be reasons to pay for lodging for distances less than fifty (50) miles. Such reasons include, but are not limited to Board duty requirements, medical conditions or weather; in those instances, the reason must be clearly stated on the disbursement document. Regular Public meetings of the ~~State Board of NDE~~ or another location in Lincoln that occur over the course of two or more consecutive days, including associated committee meetings, are considered a "Board duty requirement" and reimbursement for lodging is considered authorized for Board members living inside of 50 miles from the meeting location but outside of Lancaster County.

4. Meal expenses: Meal expenses incurred during travel shall be reimbursed on a per diem basis pursuant to Section 81-1174 R.R.S., based on the destination of the travel, in accordance with the rules and procedures established by the DAS for state officials. Receipts are not required and should not be submitted. Board members attending one day events per this policy are approved for one-day travel meal expenses.
5. Mileage expenses: Reimbursement for use of a personal vehicle will be at the prevailing standard rate as established by the Internal Revenue Service through its Revenue Procedures.

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6. Air travel expenses: Air travel expenses may be reimbursed when it is more economical than surface transportation. Reimbursement for commercial air travel will be limited to “coach” fare, if such seating is available at the time of ticket purchase. For out-of-state travel, Board members may have air travel prepaid by the ~~Nebraska Department of Education~~.
7. Reimbursement for other actual and essential expenses: Reimbursement for other actual and essential expenses is authorized for: phone, postage, car rental, and other expenses incurred in connection with statutory duties as a Board member. An itemized statement (e.g., receipts) must accompany every request for reimbursement for items equal to or greater than ten dollars (\$10.00).
8. Timeframe for submission of requests for reimbursement: In accordance with Sections 79-317(3) and 81-1174 R.R.S., Board members need to submit requests for reimbursement together with the necessary documentation to ~~NDE Department~~ staff within 45 days after the final day on which the expenses were incurred or which reimbursement is sought.
9. Reporting expenses: At regular meetings, the Board will receive a summary report on all Board member expenses.
10. DAS/Board Policy Review/Approval: All actual and essential expenses will be reimbursed in accordance with Board and DAS policy.
11. Publications/Equipment: Any publications or equipment purchased for Board members’ use is property of the Department.

Revision History

- Created: 1979
- Last Revised: 2019
- Reviewed: 1984, 1999, 2006, 2012, 2019, 2021, 2022

Revision History (cont'd)

- Approved: 12/02/2022

Board Action History

- 7/2/1979 – Prior BBBE
(Listed 7 categories of in-state expenses, using DAS rules, and required Board approval for out-of-state expense.)
- 12/7/1984 – Prior 9250 BOP
(Renumbered BBBE, no text changes.)
- 6/11/1999 – Prior B7
(Contained references to NASBE meetings, meeting reports, and publications/equipment owned by NDE.)
- 9/7/2006 – B7
(Changed reference to length of reports and deleted approval by Commissioner.)
- 6/3/2016 – B7
(Changed out-of-state expense reimbursement as well as in-state expense reimbursement.)
- 3/3/2017 – B7(B16)
(Reorganized Board Policy Reference Manual with new designed letters for categories of policy [P], bylaws [B] and position statements [S]. B7 is now B16.)
- 9/6/2019 – B16
(Added language regarding submitting expenses no later than 60 days after the incurrence of expense and travel related expenses should generally be within the per diem rate by GSA.)
- 3/5/2021 – B16
(Added language pursuant to LB 381 from the 2020 Legislative session regarding reimbursement for state officials.)
- 12/02/2022 – B16(BOP 1.07)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. B16 is now BOP 1.07.)

Cross-References

- 79-317(3) R.R.S. – Reimbursement of State Board members' expenses
- Nebraska Constitution, Article VII, Section 3.

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Cross-References (cont'd)

- State Board Policy P9, Ethics/Accountability & Disclosure
- 81-1174 – 81-1177 R.R.S.

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BOP 1.08

School Boards Association Board Membership in Associations

Membership in Associations

The ~~State~~ Board shall maintain a membership in the National Association of State Boards of Education and may maintain memberships in such other organizations from time to time as the ~~State~~ Board deems appropriate. Such membership shall be reviewed on an annual basis.

Revision History

- Created: 1976
- Last Revised: 2006
- Reviewed: 1984, 1995, 2006, 2013, 2022
- Approved: 12/02/2022

Board Action History

- 12/10/1976 – Prior GBA
(NEW)
- 12/07/1984 – Prior 9340 BOP
(Renumbered)
- 12/08/1995 – Prior B16
(Renumbered)
- 09/07/2006 – B16
(Added other organizations reference.)
- 03/03/2017 – B7(B16)
(Reorganized Board Policy Reference Manual with new designed letters for categories of policy [P], bylaws [B] and position statements [S]. B16 is now B20.)
- 05/06/2022 – B20
(Reaffirmed by the State Board.)
- 12/02/2022 – B20(BOP 1.08)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. B20 is now BOP 1.08.)

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BOP 1.09

Task Forces and Advisory Committees or Councils

By formal action, the ~~State~~ Board may establish task forces and advisory committees or councils and may appoint individuals to serve on these bodies. Task forces and advisory committees or councils may be directed to prepare proposals or recommendations for the Board to consider or may be directed to undertake other duties as required by federal or state law. ~~–~~

~~Unless otherwise~~ required by federal or state law, the proposals and recommendations of task forces and advisory committee or councils are considered to be proposals and recommendations to the ~~State~~ Board. The Board must review such proposals and recommendations and revise them as needed in order for such proposals and recommendations to be Board position statements or Board program priorities. The Board's official review, revision and adoption shall precede the formal distribution of proposals or recommendations as official publications of the Department.

Commented [FR4]: (Include with first para.)

Task forces and advisory committees or councils cannot perform duties or exercise powers given by law to the ~~State~~ Board.

The Board shall provide each task force and advisory committee or council with a specific charge that includes the identification of duties, the results to be achieved, the resources or budget available, and the expected timeline for completion of activities. The Commissioner is responsible for providing each task force and advisory committee or council with the ~~Board's~~ charges determined by the Board. The Commissioner is also responsible for monitoring the work of these bodies and for reporting on their progress to the Board at regular intervals.

Every two years, ~~the~~ Board shall review the role, functions and responsibilities of ~~all~~ task forces and advisory committees or councils established by the Board every two years, although failure to conduct such a review shall not affect the validity of any existing task force or advisory committee or council. The Commissioner shall maintain a current list of all task forces and advisory committees or councils and of review dates.

The Commissioner may appoint task forces and advisory committees or councils to inform the work of the agency or to inform recommendations to the Board on the internal management of the agency; and may appoint other task forces and advisory committees or councils as required by law, regulation or as authorized by the State Board.

Revision History

- Created: 1980
- Last Revised: 2006
- Reviewed: 1984, 1995, 1997, 2006, 2011, 2015, 2019, 2022
- Approved: 12/02/2022

Board Action History

- 10/01/1980 – Prior BBF
(Specified creation and expense procedures and listed 11 required committees.)
- 12/07/1984 – Prior 9133 BOP
(Revised and renumbered BBF. Deleted text restating statutes and references to vocational advisory council. Listed 15 committees.)
- 12/08/1995 – Prior B6
(Major revision and abbreviation, provided for 2-year committee reviews and added reference to committees appointed by Commissioner.)
- 11/07/1997 – B6
(Partial revision. Provided for State Board review prior to publication of proposals and recommendations. Added specific charges to task forces/committees.)
- 09/07/2006 – B6
(Revision and rewording. Deleted references to pre-publication review and Commissioner’s committees.)
- 03/03/2017 – B6(B4)
(Reorganized Board Policy Reference Manual with new designed letters for categories of policy [P], bylaws [B] and position statements [S]. B6 is now B4.)
- 04/05/2019 – B4
(State Board reviewed and reaffirmed.)

Board Action History (cont'd)

- 12/02/2022 – B4(BOP 1.09)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. B4 is now BOP 1.09.)

Cross-References

- 79-318(9) R.R.S. – State Board’s duty to secure advice.

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BOP 1.10

Hearing Officers

When a contested case is properly filed before the ~~State~~ Board, ~~except in rare circumstances when advised otherwise by Legal Counsel,~~ the use of a hearing officer by the Board is advisable, ~~and a~~ recommendation for the appointment of a hearing officer will be placed on the consent agenda by the Commissioner, or, in cases in which the Commissioner is a party, by the attorney serving as the ~~Board's~~ legal advisor to the Board in the case.

When a contested case involves the Enrollment Option Program ~~with a petition being filed pursuant to Section 79-239 R.R.S., then~~ the Commissioner shall appoint a hearing officer within five (5) days after the filing of such petition and an expedited hearing shall be set ~~by the hearing officer~~ so that the case can be decided by the ~~State~~ Board within sixty (60) days after the filing of such petition or as soon thereafter as is practicable ~~after the filing of such petition.~~

Hearing ~~o~~fficers appointed under this ~~Bylaw~~ policy shall be admitted to practice law in the State of Nebraska. The ~~Department's Office of~~ Legal Services Office shall maintain a list of such attorneys who have indicated a willingness to serve as hearing officers.

Revision History

- Created: 1976
- Last Revised: 2021
- Reviewed: 1984, 1990, 1995, 2006, 2017, 2021, 2022
- Approved: 12/02/2022

Board Action History

- 12/10/1976 – Prior BCAF
(Board may delegate authority to Commissioner or member to conduct rule hearings.)
- 12/07/1984 – Prior BCAF
(Rescinded upon adoption of revised manual.)

Board Action History (cont'd)

- 10/12/1990 – Prior 8001 BOP
(Option enrollment hearing officers.)
- 12/08/1995 – Prior B17
(Replaced 8001 BOP – Covers all types of contested case hearing officers.)
- 09/07/2006 – B17
(Same bylaw text.)
- 03/03/2017 – B17(B10)
(Reorganized Board Policy Reference Manual with new designed letters for categories of policy [P], bylaws [B] and position statements [S]. B17 is now B10.)
- 06/02/2017 – B10
(Added language to have Commissioner appoint a hearing officer within five days of NDE receiving an Enrollment Option petition, instead of Board, to expedite the process of having a decision before the Board within sixty days of the filing of the petition.)
- 08/05/2021 – B10
(Four year review of Policy Committee, language added to specify hearing officers are to be licensed attorneys in the State of Nebraska.)
- 12/02/2022 – B10(BOP 1.10)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. B10 is now BOP 1.10.)

Cross-References

- 84-901(5) R.R.S.
- 92 NAC 19 (Rule 19)
- 79-239 R.R.S.

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BOP 1.11

Rule Development

Commented [FR5]: Refer to Rules/Regs Committee

The Rules and Regulations Committee (~~C~~committee) is responsible for reviewing and recommending changes to the Commissioner and the Board on the rules and regulations of the ~~State Department of Education adopted in accordance with the Nebraska Administrative Procedures Act~~ Board. The Commissioner shall develop and maintain the procedures that direct the staff on the development, revision, and repeal of rules and regulations.

The Committee shall review each rule of the ~~Department-Board~~ in conjunction with the review by staff every four years, although failure to conduct such a review shall not affect the validity or enforceability of any existing rule. Any proposed new rule, or proposed changes to existing rules shall be reviewed by the Committee prior to a hearing draft being approved by the Commissioner.

The Commissioner shall review and approve hearing drafts of rules. The Commissioner or his or her designee shall conduct rule hearings. The Commissioner shall notify the Board when rules are scheduled for hearing; provide a written summary of all hearing testimony to the full Board along with copies of all written testimony submitted; and shall make an audio recording of all hearings available to the full Board on request.

All rules submitted to the ~~State~~ Board for approval shall be in legislative format showing additions to, and deletions from, existing rules unless a majority of the rule chapter has been substantially revised. The ~~State~~ Board must ~~give final approval to~~ approve all rules and rule changes.

~~The Commissioner shall review and approve hearing drafts of rules. The Commissioner or his or her designee shall conduct rule hearings. The Commissioner shall notify the Board when rules are scheduled for hearing; provide a written summary of all hearing testimony to the full Board along with copies of all written testimony submitted; and shall make an audio recording of all hearings available to the full Board on request.~~

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The rule dockets that are required to be maintained under the Administrative Procedures Act shall be maintained by the Legal Services Office.

Revision History

- Created: 1976
- Last Revised: 2015
- Reviewed: 1978, 1984, 1990, 1995, 2006, 2015, 2019, 2022
- Approved: 12/02/2022

Board Action History

- 12/10/1976
Prior BCAE (Rule-making hearings)
Prior BD-1 (5-year Review)
Prior BDBD-1 (Optional student rule review)
Prior BDC-1 (APA Rules)
Prior Form BCAE-E
Prior Form BDD-E-1
- 08/21/1978 – Prior BDA-1
(Rule development system policy.)
- 12/07/1984 – Prior 9313 BOP
(Replaced prior policies- required 5-year review and legislative format drafts.)
- 12/08/1995 – Prior B9
(Added rule hearing officials and rule dockets.)
- 09/07/2006 – B9
(Added authority for Commissioner to approve rules and appoint hearing officers.)
- 09/04/2015 – B9
(Added language that Commissioner shall review and approve hearing drafts of rules.)
- 03/03/2017 – B9(B13)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. B9 is now B13.)
- 06/07/2019 – B13
(Reaffirmed.)
- 08/05/2022 – B13
(Revised language including the duties of the State Board Rule and Regulation Committee.)

Board Action History (cont'd)

- 12/02/2022 – B13(BOP 1.11)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. B13 is now BOP 1.11.)

Cross-References

- 84-906.1 R.R.S. – Rule dockets.
- 84-907 R.R.S. – Rule adoption after hearing.

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BOP 1.12

Political Activity/Use of Resources/Accountability & Disclosure

No member of the ~~State Board of Education~~ shall 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 reimbursement provided by law, for personal financial gain.

Any use of public resources by a ~~State Board~~ member which is incidental or de minimus shall not constitute a violation of this policy.

No member of the ~~State Board of Education~~ shall use or authorize the use of public 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 questions, except as provided in Neb. Rev. Stat. 49-14,101.02.

Violators of this policy shall be subject to a vote of censure by the Board. This policy, however, does not otherwise prohibit or impair the expression of individual opinions.

Revision History

- Created: 1981
- Last Revised: 2009
- Reviewed: 1984, 1995, 2006, 2009, 2014, 2018, 2022
- Approved: 12/02/2022

Board Action History

- 06/01/1981 – Prior KIA
(Prohibited uses of resources and votes of censure. Prior versions not available.)
- 12/07/1984 – Prior 1311.1 DO
(Same as KIA)

Board Action History (cont'd)

- 12/08/1995 – Prior B18
(Same as 1311.1 DO, but only applies to Board members, not staff.)
- 09/07/2006 – B18
(Revision of entire text except for last paragraph.)
- 10/08/2009 – B18
(Clarified that incidental or de minimus use of state resources is not a violation of Policy B18, consistent with LB 626 [Laws, 2009])
- 03/03/2017 – B18
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S].)
- 12/02/2022 – B18(BOP 1.12)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. B18 is now BOP 1.12.)

Cross-References

- 49-14,101.01 R.R.S.
- 49-14,101.02 R.R.S.
- 49-14,101.03 R.R.S.
- State Board Bylaws B19 and B3
- State Board Policy P9

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BOP 1.13

Computer Equipment/Internet Access and Electronic Mail Acceptable Use

Purpose

~~The Board establishes the following standards for Board member acceptable use of. This policy is intended to provide Board members with standards for acceptable use of NDE Department~~ computer equipment, Internet access, and electronic mail. These standards apply to Board member use of ~~NDE Department~~ computer equipment, Internet access and electronic mail.

~~NDE Department~~ computer equipment, Internet access and electronic mail are public resources. ~~These public resources are~~ provided to ~~NDE~~ Board members for the conduct of state business. In addition, the ~~NDE Department~~ computer or phone equipment, Internet access, electronic mail, or the state telecommunications system may be used by Board members for email, text messaging, a local call, or long-distance calls 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 him or her of unexpected schedule changes, and for other essential personal business while they are engaged in state business away from home. Subject to the standards listed below, use of the ~~NDE Department~~ computer equipment, Internet access, electronic mail, and phone use for essential personal business shall be kept to a minimum and shall not interfere with the conduct of state business. Board members shall be responsible for payment or reimbursement of charges, if any, that directly result from such communication. Board members, to the extent possible, should use the email address provided by the State of Nebraska to conduct Board business. If a personal email account must be used, the communication should be forwarded to the email address provided by the State of Nebraska.

Acceptable Uses of ~~NDE Department~~ Computer Equipment/Internet Access/Electronic Mail include:

1. To communicate ~~with NDE internal and external customers and staff, including the following,~~ when related to the Board member's duties and responsibilities, ~~other state agencies, units of government, citizens, advisory committees or professional associations.~~
2. To access databases or files for purposes of work-related reference or research material.

Unacceptable Uses of ~~NDE-Department~~ Computer Equipment/Internet Access/Electronic Mail include:

1. ~~To violate~~ violation of the privacy of other users and their data. (For example, Board members shall not intentionally seek information on/obtain copies of/or modify files, other data or passwords belonging to other users, or represent themselves as another user unless explicitly authorized to do so by that user, and such authorization is appropriate.)
2. To violate copyright and licensing laws applied to programs and data.
3. To install software without prior authorization from ~~Network, Education & Technology Services~~ the agency/Department. Use of all such software must comply with the applicable license agreement provisions.
4. To violate the integrity of computing systems. For example, Board members shall not develop or use programs that harass other users or infiltrate a computer or computing system and/or damage or alter the software components of a computer or computing system.
5. To use ~~NDE-Department~~ computer equipment/Internet access/electronic mail for fund-raising or public relations activities unrelated to a Board member's duties and responsibilities to the State of Nebraska.
6. To campaign for or against the nomination or election of a candidate or the qualification, passage, or defeat of a ballot question as provided in Neb. Rev. Stat Sec. 49-14,101.02. This includes a Board member's campaign for their own election to the ~~State~~ Board.
7. To transmit material in violation of any local, state or federal law or regulation. It is prohibited to transmit or knowingly receive threatening, obscene, or harassing material. Harassing material includes material that is derogatory towards a group or individual based upon race, sex, sexual orientation, color, religion, disability, age, or national origin.
8. To use ~~NDE-Department~~ computer equipment/Internet access/electronic mail or any attached network in a malicious or disruptive manner that precludes or significantly hampers its use by others. Disruptions include, but are not limited to, distribution of *unsolicited advertising*, propagation of computer worms or viruses, and use of ~~NDE-Department~~ computer equipment/Internet access/electronic mail to make unauthorized entry to any other machine accessible via the network.
9. To advertise a product or services on behalf of self or others.

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Nebraska ~~Department of Education~~ State Board of Education
Board Operating Policies

10. To use ~~NDE-Department~~ computer equipment/Internet access/electronic mail for recreational games or personal shopping.
11. To use ~~NDE-Department~~ computer equipment/Internet access/electronic mail to conduct private business activities or for private financial gain, including but not limited to, stock trading.
12. ~~To m~~ Misrepresentation of one's self, an agency, or the State of Nebraska when using ~~NDE-Department~~ computer equipment/Internet access/electronic mail.

Nebraska ~~Department of Education~~ State Board of Education
Board Operating Policies

Security Safeguards

Only Board members ~~and agency staff are allowed~~ ~~are prohibited from allowing non-employees~~ to use NDE-Department computer equipment/Internet access/electronic mail.

Board members are prohibited from sharing passwords to any ~~state government~~ agency computer system.

Board members are responsible for taking reasonable steps to safeguard the integrity of the ~~NDE~~ agency Department computer system.

Enforcement

~~NDE~~ The Department reserves the right to monitor use of all NDE-Department computer equipment, Internet access and electronic mail for purposes of enforcing these acceptable use standards. Accordingly, Board members do not have a privacy right with regard to their use of ~~NDE~~ Department computer equipment, Internet access, and electronic mail.

The ~~State~~ Board will take remedial action in response to a violation of this policy. Remedial action may include termination of, or restrictions on, computer system access for any Board member responsible for the violation of any of the provisions of this policy. If, in the judgment of the Board, it is believed that criminal activity has taken place, the Board will direct the Commissioner to notify the proper authorities ~~and will assist in any investigation and prosecution of any offense.~~

Revision History

- Created: 2000
- Last Revised: 2014
- Reviewed: 2006, 2009, 2014, 2018, 2022
- Approved: 12/02/2022

Board Action History

- 04/07/2000 – Prior B20
(NEW)

Board Action History (cont'd)

- 09/07/2006 – Prior B20
(Same Bylaw text)
- 10/08/2009 – B20
(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].)
- 08/08/2014 – B20
(Technical changes)
- 03/03/2017 – B20(B19)
(Reorganized Board Policy Reference Manual with new designated letters for categories of policy [P], bylaws [B] and position statements [S]. B20 is now B19.)
- 06/08/2018 – B19
(Revised to add language regarding campaign activity.)
- 12/02/2022 – B19(BOP 1.13)
(Reorganized Board bylaws and policies with new designated letters for categories of bylaws [BLW], board operating policies [BOP] and agency management policies [AMP]. B19 is now BOP 1.13.)

Cross-References

- 49-14,101.01(2) R.R.S.
- 49-14,101.01(3) R.R.S.
- 49-14,101.02 R.R.S.
- State Board Bylaws B18 and B3
- State Board Policy P9

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BOP 1.14

Meeting Agendas and Minutes

Board Meeting Agendas

The board meeting agenda is developed by the Commissioner in consultation with the President.

The Commissioner shall prepare and submit by e-mail to each member of the Board at least seven (7) calendar days prior to the meeting, the agenda, or a link to the agenda, outlining matters to be considered by the Board and such other materials as members have requested be included for consideration.

The agenda will contain any item within the authority of the Board, requested by a member of the Board, if submitted at least eight (8) calendar days prior to the meeting. Upon the written request of a member of the Board or the Commissioner, an agenda item may be added within 7 calendar days before the meeting if approved by the President, so long as the item can be added at least 24 hours prior to the meeting.

The Commissioner's Office shall maintain an updated agenda available to the public. The agenda may be altered at any time by a majority of the members present and voting to add emergency items as provided by state law.

Consent Agenda

1. Purpose

1. To group together routine non-controversial items that do not need separate and individual discussion and action by the Board.
2. To expedite the work of the Board and to provide additional time for more substantive items.
3. To provide a method for the Board to review and approve renewals of contracts of \$75,000 (first-time contracts of \$75,000 or more are placed on the agenda as a regular action item and renewals of such contracts may only be a consent agenda item for three consecutive times thereafter).

2. Procedure

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Commented [FR6]: Upon the written request of a board member or the commissioner, an agenda item may be added the week (7 days) before the meeting upon the approval of the President so long as the item is added at least 24 hours prior to the meeting.

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Commented [FR7]: Revisit based on 8/3/23 committee meeting.

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Nebraska Department of Education State Board of Education
Board Operating Policies

1. The President of the Board and the Commissioner will confer prior to the Board meeting to identify items for the consent agenda.
2. Any member of the Board may object to the placement of an item on the consent agenda by informing the President before a motion is made to adopt the consent agenda. The item will then be considered independently and after the approval of the consent agenda.
3. The consent agenda will be moved by a single motion without discussion. A majority vote shall approve the items contained therein.

Committee Meeting Agendas

The agenda for regularly scheduled committee meetings will be determined by the upcoming board meeting agenda. Additionally, a committee chair, committee members, or any board member may add items to a regularly scheduled committee meeting agenda in accordance with the responsibilities of the committee, following the timeline outlined above for the addition of Board meeting agenda items. The committee chair shall notify the President and the Commissioner of additions to the committee agenda.

The agenda for additional meetings of a standing committee may be determined by the committee chair, the President, or both. Committee members may add agenda items for these additional committee meetings with approval of the committee chair.

Board Meeting Minutes

The minutes of all Board meetings must be recorded. The minutes must contain the meeting time and place, members present and absent, and the substance of and actions taken on all matters discussed. All votes must be recorded showing how each member voted on each issue or if the Board member was absent or not voting. A Board member making a statement that they wish to be recorded in the minutes shall include the words, "for the record" prior to making the statement. All Board minutes are public records and must be open for public inspection on the Department website and in the Department office during normal business hours. Minutes shall be written and available for inspection within ten (10) working days after a meeting, or prior to the next convened meeting, whichever occurs earlier.

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Nebraska ~~Department of Education~~ State Board of Education
Board Operating Policies

The Commissioner shall ensure that the minutes record accurate attendance of the Board members, meeting participants, times and dates, motions and votes, and other actions of the Board as required by statute.

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Whenever required for the purpose of clarity, minutes shall include attachments of proposed documents and/or notations that clarify all actions of the Board. In addition to the minutes, the Department shall also permanently retain in its record a copy of the meeting agenda, support materials, and items distributed at the meeting.

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When the Board meets or is functioning in a quasi-judicial capacity to decide a contested case or recommended decision from the Professional Practices Commission, no minutes as described above are necessary, but all votes must be recorded showing how each member voted and the same shall appear on the Board's Final Order.

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~~BOP 1.14~~

BOP 1.15

Revision and Amendment of Board Policies

The Board policies are to be reviewed by the Executive Committee during odd-numbered calendar years with a report to the Board by the last regular meeting of that year. ~~and approved by the board on a two-year cycle with the review occurring during non-election years. The policy review will be completed prior to the end of the calendar year to be approved and take effect in January.~~

The Board may, upon recommendation of a Board member, standing committees, ad hoc committees, or the Commissioner, ~~along with a request by a member of the Board~~, propose new policies or amend existing policies to be adopted by the Board. ~~Board Policies shall remain in full force and effect until amended or rescinded by a majority vote of the Board.~~

To be adopted, any proposed change to Board policies require notice at the previous meeting and a majority vote of the members of the Board. ~~Board policies shall remain in full force and effect until amended or rescinded by the Board.~~

The Commissioner may direct legal counsel to review all Board policies annually for compliance with state law.

Board policies are binding upon the Board, Commissioner, and ~~Department agency~~ Department staff until changed by the Board.

Revision History

- Created: 12/02/2022
- Approved: 12/02/2022

Board Action History

Nebraska ~~Department of Education~~ State Board of Education
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- 12/02/2022 – BOP 1.14
(NEW)

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**Nebraska State Board of
Education**

Agency Management Policies

Adopted December 2, 2022

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AMP 2.00

Delegation to Commissioner

~~The Commissioner is responsible for faithfully executing the policies and directives of the Board. All administrative functions are the responsibility of the Commissioner who may delegate certain functions to members of the ~~agency~~state staff/Department 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. The Commissioner, in consultation with the President, is responsible for providing an orientation for new Board members, and for providing an annual Board orientation.~~

When any law ~~or regulation~~ specifies that ~~the Board is responsible for a duty, something is to be done by the State Board,~~ the State Board may not delegate that duty 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).~~

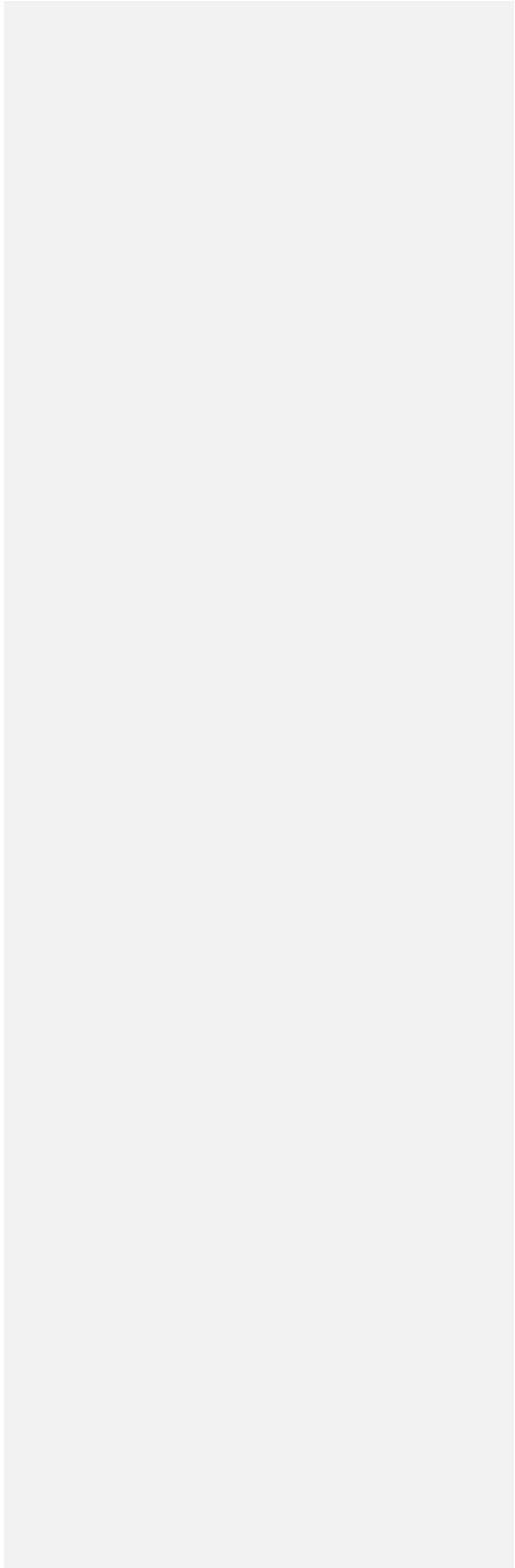
When any law ~~or regulation~~ specifies that ~~the Department is responsible for a duty, provides something is to be done “by the Department,”~~ the Board may delegate that authority to the Commissioner, ~~such as through a regulation. Example: 79-1065 R.R.S. states that “the State Department of Education 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).” In these instances, the Board reserves the right to overrule the decisions of the Commissioner.~~

~~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 The Department~~ 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 internal operating procedures~~ 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 is defined as one that requires specialized knowledge and intensive academic preparation and was not previously part of the organization of the agency. 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.~~

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Nebraska Department of Education
Agency Management Policies

The Commissioner may approve employment of any persons hired as a replacement Deputy Commissioner or a new professional position in the interim between Board meetings; however, such 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~~The Commissioner 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

The Board prohibits employment practices by the Department that are a violation of state and federal law.

~~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)

Nebraska Department of Education
Agency Management Policies

- 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.)

Nebraska Department of Education
Agency Management Policies

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, Grants, and Purchases

The ~~State~~ Board shall review and approve contracts and purchase of ~~\$7550~~,000 or more. The Board shall also review and approve the submission, receipt, or distribution of grants of ~~\$7550~~,000 or more.

When requested by the Commissioner, a contract may receive Board approval for up to four years. The Board shall approve all contracts, of any dollar amount, that procure any goods or services that are directly related to the work of the Board, however the President may approve contracts of this nature up to \$10,000.

Commented [FR1]: Language to make board approval congruent with conditions of procurement or the grant. Also update the bylaws on the Consent Agenda accordingly.

Each month the Commissioner of Education shall provide the Board with a list of contracts and grants between \$10,000 and less than ~~\$7550~~,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)

Nebraska Department of Education
Agency Management Policies

- 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 of the Department.

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 by the Department 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)~~

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~~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 2.056

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.~~

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~~(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~~

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~~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~~

Commented [FR2]: Move to BOP on Legal Assistance (strike previous sections that recite statute).

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~~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.

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- 49-14,100 R.R.S.

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AMP 2.067

Political Activities/Use of Resources

The Commissioner and ~~Department employees~~Department staff shall not use or authorize the use of ~~Department~~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~~Department resources" means ~~Department~~ personnel, property, resources, or funds under the official care or control of the Commissioner or ~~a Department Employee~~agency Department staff. The Commissioner and ~~Department employees~~Department staff 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~~

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~~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)

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- 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 2.078

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-Department~~ 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 Commissioner~~ chooses to withhold ~~them~~the record. [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-Department~~ 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-Department~~ 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-Department~~ 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 sections 48-3701 through 48-3704, ~~the Department will share individual student information as a member of the Nebraska Statewide Workforce and Education Reporting System Act 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, pursuant to Neb. Rev. Stat. 79-2,104(4) ~~the provides that whenever applicable law permits the sharing of student data,~~

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~~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 the Commissioner shall also consider in any matter under this AMP ~~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~~Commissioner should 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~~the Commissioner 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]

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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

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- 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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