

NEBRASKA ADMINISTRATIVE CODE



TITLE 247, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 11

NEBRASKA DEPARTMENT OF MOTOR VEHICLES

**RULES AND REGULATIONS GOVERNING DEPARTMENT OF MOTOR VEHICLES
APPROVAL OF DRIVER SAFETY COURSES, SCHOOL PERMITS, AND
PROVISIONAL OPERATOR'S PERMITS PURSUANT TO NEB. REV. STAT. §§ 60-
4,120.01, 60-4,124, 60-4,130.04 and 60-4,130.05.**

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NEBRASKA ADMINISTRATIVE CODE
Nebraska Department of Motor Vehicles

247 NAC 11

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PROVISIONAL OPERATOR'S PERMITS PURSUANT TO NEB.REV.STAT. §§ 60-
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001 SCOPE. These rules and regulations govern Department of Motor Vehicles approval of driver safety courses pursuant to Neb. Rev. Stat. § 60-4,130.05, 60-4,120.01, and 60-482. These rules and regulations apply to schools that offer classes to individuals who will apply for school permits or provisional operator's permits using an approved driver safety course written and drive test waiver or electronic reporting of written and drive test results pursuant to Neb. Rev. Stat. § 60-4,120.01 or 60-4,124. These rules and regulations also apply to any driver training instructor employed at such a school pursuant to Neb. Rev. Stat. § 60-4,130.04.

002 DEFINITIONS.

002.01 Approved driver safety course means a Department of Motor Vehicles approved driver safety course which includes instruction, both classroom and online, and behind-the-wheel driving experience specifically emphasizing a) the effects of the consumption of alcohol on a person operating a motor vehicle, b) occupant protection systems, c) risk assessment, and d) railroad crossing safety. The successful completion of this course involves a written examination and drive test which ~~will~~ may waive the examination and test by a Department examiner for a school permit or provisional operator's permit.

002.02 Certificate means the certificate issued by the Department of Motor Vehicles to the school which shows it has approved the driver safety course under these rules and regulations.

002.03 Conviction for purposes of these rules means a final conviction, and forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, and shall be equivalent to a conviction. ~~unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.~~

002.04 Department means the Nebraska Department of Motor Vehicles.

002.05 Director means the Director of the Nebraska Department of Motor Vehicles.

002.06 Drive test means an actual on public road drive examination using the

Department of Motor Vehicles score sheet form DMV 06-40A. (*Attachment 1*)

002.07 Equivalency course means a course from an accredited Nebraska college or university and approved by the Department of Motor Vehicles, which is the equivalent of a driver's education endorsement.

002.08 Instructor means any person who teaches, conducts classes, gives demonstrations, or supervises practical training of persons learning to operate motor vehicles.

002.09 Permit as means either an SCP-school permit or POP-provisional operator's permit.

002.0910 School means any school (commercial, non-profit, parochial or public) which offers an approved driver safety course.

002.101 Sponsor means any Nebraska university or college approved or accredited by the North Central Association of ~~Of~~ Colleges and Schools that offers a driver's education equivalency course.

003 REQUIREMENTS FOR A PROVISIONAL OPERATOR'S PERMIT. Any person who is at least sixteen (16) years of age but less than eighteen (18) years of age may apply for a provisional operator's permit from the Department. The applicant must successfully complete either 003.01 or 003.02 and meet 003.03. ~~Department will consider any of the following applicants:~~

003.01 Approved Driver Safety Course. The applicant for a permit may successfully complete an approved driver safety course which includes classroom or online instruction and behind-the-wheel driving experience as set forth in these rules and regulations. The Department will may waive the written examination and drive test normally administered by the Department's examiners for a provisional operator's permit upon presentation of a written and drive test waiver (*Attachment 2*) or electronic transmission of tests results to the Department.

003.02 Fifty-hour (50-hour) Drive Certification or learner's permits. The applicant may present to the Department's examiner a Fifty Hour Certification an affidavit and driving log (*Attachment 3*) verifying the applicant has completed fifty (50) hours of lawful motor vehicle operation, under conditions that reflect department-approved driver safety course curriculum with a parent, guardian, or adult-licensed driver at least twenty-one (~~21~~) years of age. The Department will waive the written examination for these applicants who hold an LPD-learner's permit but ~~not~~ shall not waive the Department's drive test.

003.03 Driver Education Prior to January 1, 1999. ~~The applicant may present to the Department examiner proof that the applicant has successfully complete driver's education prior to January 1, 1999. Proof consists of an approved driver safety course~~

~~completion card or certificate. The Department will waive the affidavit and the fifty-hour (50-hour) drive log requirement, but the applicant will be required to take the Department's written and drive test.~~ **Eligibility for permits - Age.** A person may hold a SCP - school permit beginning at the age of fourteen years and two months until the age of sixteen years and three months. A person may hold a POP - provisional operator's permit beginning at the age of sixteen years until the age of eighteen years.

004 SCHOOL INSTRUCTOR REQUIREMENTS. The Department shall not issue an approved driver safety course certificate to any school unless every instructor meets the following criteria:

004.01 Instructor requirements. ~~Twenty-one (21) Years Old.~~ The instructor must be at least twenty-one (21) years of age prior to application for certification by the Department and be of good moral character. A school is encouraged to perform background checks on potential instructors before hire.

004.02 Valid License. Instructors must have held a valid license ~~from their state of residence~~ for a period of at least two (2) consecutive years immediately preceding the date of application. Licensing lapses due to failure to renew before a license's expiration date shall not be cause for denial. Any instructor applicant must reinstate a lapsed license before being approved as an instructor. If the lapse from expiration date exceeds one year the application will be denied.

004.03 High School Diploma. The instructor must have a high school diploma or its equivalent; and

004.04 Endorsement. The instructor must possess competence as outlined in a driver's education endorsement or the equivalent thereof.

004.04A Driver's Education Endorsement. An instructor may successfully complete the course work set out in Title 92 NAC 24, from a Nebraska Department of Education approved or accredited college or university.

004.04B Equivalent. An instructor may fulfill the equivalency requirement by successfully completing a driver's education equivalency course from a North Central Association of Colleges and Schools approved or accredited Nebraska university or college. The requirements for the Department of Motor Vehicles approval of the equivalency course are set forth at 005, below.

~~**004.04C Grace Period.** A two-year (2-year) period to comply with the driver education endorsement or equivalent requirements will be granted to:~~

~~**004.04C1** Nebraska commercial driver training instructors certified by the Department;~~

~~004.04C2~~—Instructors teaching Nebraska driver education training courses certified by the Department; and

~~004.04C3~~—Individuals with valid teaching certificates.

~~004.04D~~ **Qualifications for Grace Period.** Instructors listed above must have been employed by the certified commercial driver training schools or the certified driver education training course or have had the teaching certificate issued prior to September 1, 1998. The driver education endorsement or equivalent requirements must be met no later than January 1, 2001.

004.05 Clean Driving Record. No driver safety course will be approved which employs an instructor who has a suspended or revoked driver's license within the previous five years of the date of application, who has a five-point or more driving violation within the previous five years of the date of application, or who has conviction for driving a motor vehicle under the influence within five years of the date of application. For the prior five (5) years, the instructor must have no violation noted on his or her driving record for which five (5) or more points might be assessed as set out in Neb. Rev. Stat. ' 60-4,182. This includes probation or other situations in which no points were actually assessed for the violation. Additionally, the instructor must have no suspensions or revocations on his or her driving record within the last five (5) years, including no convictions for DWI or any related alcohol or drug offense in connection with motor vehicle use.

004.06 Retraining-Continuing Education. The Department shall notify schools of any refresher training retraining or additional educational requirements for their instructors in writing, as well as the date by which refresher training retraining or additional requirements must be completed to maintain certification. To have a school certificate renewed or remain in effect, instructors must complete refresher training retraining or additional educational sessions as often as the Department may require.

004.07 Agent. For purposes of these rules and regulations, each instructor employed by or associated with any school shall be deemed an agent of the school and the school shall share responsibility with the instructor for all acts performed or omissions by the instructor which are within the scope of his or her employment, and which occur during the course of his or her employment.

~~004.07A~~ **Competency Certified Instructors.** To be competency certified, the instructor must have successfully completed three (3) credit hours of Driver Performance Measurement from an approved or accredited college or university.

005 INSTRUCTOR'S ENDORSEMENT EQUIVALENT. All approved driver safety course instructors must have a driver education endorsement or the equivalent. Any Nebraska university or college approved or accredited by the North Central Association of Colleges and Schools may offer a driver's education equivalency course. The equivalency course, including lectures, seminars, course materials and other instructional programs, must be

reviewed and approved by the Department. The sponsor must comply with the following:

005.01 The application and curriculum for an equivalency course must be submitted approved at least thirty (30) days prior to the date on which the equivalency course is to be given. Sponsors submitting an application should allow at least thirty days for review of the material.

005.02 Equivalency courses must be taught by individuals with education or experience appropriate for the subject matter presented.

005.03 The sponsor must ensure an individual attends all equivalency course presentations, successfully completes the coursework, and passes the final examination.

005.04 **Documentation of Equivalency Course Completion.** The sponsor must document an individual's successful completion of an equivalency course in a numbered certificate or transcript, to be given to the individual no later than fifteen (15) days following the date of the final examination. The certificate or transcript shall state the following:

005.04A The individual's name;

005.04B The dates the equivalency course was attended; and

005.04C That the individual successfully completed the equivalency course.

005.05 **Submission of Course Completion List to Department.** The sponsor of an equivalency course must submit the information specified in 010.05 to the Department in writing, the form of a letter The written document shall identify the sponsor of the course, containing a list of instructors completing each equivalency course, and be signed by the administrator of the equivalency course. The list shall be submitted no later than fifteen (15) days after the date of the final examination.

005.06 **Application for Approval.** To apply for approval of an equivalency course, the sponsor shall submit and provide the following:

005.06A The sponsor's name, address, and phone number, and email address;

005.06B The title of the equivalency course;

005.06C Whether the equivalency course is initial, review or additional training;

005.06D The location(s) at which the training is intended to take place;

005.06E ~~The dates or time periods over which the training will be presented and the frequency with which it will be offered;~~ List of date or dates training course

will be offered and number and length of sessions planned for completion of the course.

005.06F A list of the individuals who will present the equivalency course including their experience, education and other qualifications;

005.06G The maximum number of students to be enrolled in each presentation of the training;

005.06H The proposed charge for the training;

005.06I A list of all equivalency course materials, including, but not limited to, curriculum, assignments, handouts, student manuals, and instructor notebooks;

005.06J ~~A training schedule showing daily assignments for each instructional group and location of instruction;~~

005.06K A copy of the drive test route used for training ~~and~~ which incorporates all required characteristics for drive testing; and

005.06L~~K~~ The signature of the administrator of the sponsor making application.

005.07 **Approval.** Within thirty (30) days of receipt of a complete application, the Department will approve or deny the application in the form of a written notice to the applicant.

005.08 **Reapproval.** Once approval for an equivalency course has been granted, the Department need not reapprove an equivalency course for each occasion it is administered, but will make an annual determination of whether or not to extend equivalency course approval. The sponsor of an approved equivalency course shall submit the following information to the Department annually on the anniversary of equivalency course approval;

005.08A Any updates to equivalency course materials;

005.08B A summary of any alterations or modifications to previously submitted information; and

005.08C A report to include the frequency with which the equivalency course was given and the number of students attending.

005.09 **Denial, Suspension or Revocation of Approval.** The Department may deny, suspend or revoke approval of an equivalency course for failure to meet the requirements of the Motor Vehicle Operator's License Act or the provisions of these rules and regulations.

006 APPROVED DRIVER SAFETY COURSE SCHOOL REQUIREMENTS. Any school that offers the approved driver safety course to individuals who will apply for provisional operator's permits as set out at 003.01 above must:

006.01 Place of Business. Continually maintain a place of business which includes at least one permanent, regularly occupied structure within the State of Nebraska.

006.02 Training Site. Provide a training site to accommodate students comfortably and to ensure proper safety, including:

006.02A A classroom with ample working and testing space for enrolled students and several observers.

006.02B Ready access to restrooms.

006.02C Audio visual and other equipment and aids for instruction. ~~chalk boards or other marking boards.~~

006.03 Contact Person. Designate an individual authorized to act on behalf of the school as the contact person with the Department.

006.04 Certified Instructors. Ensure that all instructors are certified in accordance with the requirements set forth in these rules and regulations.

006.05 Motor Vehicle. Have at least one registered motor vehicle which is equipped for driver training purposes as set forth in these rules and regulations.

006.06 Approved Driver Safety Course Certificate Display. ~~Display in a prominent place.~~

006.06A ~~A copy of the~~ The certificate from the Department stating the approved driver safety course has been approved shall be available to the public upon request. A copy may be displayed at the training site, and may be posted on the sponsor's webpage.

006.06B The names of the approved driver safety course instructors shall be available to the public upon request and may be displayed at the training site or posted on the sponsor's webpage.

007 APPLICATION FOR SCHOOL CERTIFICATION; REQUIRED INFORMATION. Each original and renewal certificate application for the approved driver safety course shall contain the following:

007.01 School Name. The legal name, current address, and telephone number of the

school's headquarters in Nebraska.

007.02 Contact Person. The name, title, current work address, and telephone number, and email address of the school's contact person with the Department.

007.03 Instructors. The name, date of birth, driver's license number, and home address, and email address of all instructors.

007.04 Endorsement or Equivalent. Provide proof ~~Proof~~ of each instructor's completion of any state-approved driver education endorsement or the equivalent from a Nebraska-approved college or university, as set forth in 004 and 005 above. Such proof will be a driver's education endorsement from the issuing state, or a letter, grade transcript, or certificate from a Nebraska-approved college or university. ~~If the school is offering any competency-based education, proof that those classes are taught by competency-certified instructors.~~

007.05 Curriculum. The outline of the curriculum and instructional materials used for the approved driver safety course the school will be teaching. The curriculum will include the planned routes for training, with the skill elements identified. More than one route may be used to emphasize different skills.

007.06 Course Date. The dates, times and locations of the scheduled approved driver safety courses and the respective instructor that will teach each course. ~~Any competency-based courses must be noted.~~

007.07 Test Route. The location, map, and a written description of each approved driver safety course test route that will be used for the administration of the drive test. The test route must be different from the training routes.

007.08 List of Motor Vehicles. A list of all motor vehicles used for the approved driver safety course.

007.09 Insurance. Valid insurance certificate or insurance policy detailing the coverage for the school listing all motor vehicles used for the approved driver safety course and current commercial general liability insurance coverage of \$1,000,000. Motor vehicles used in driver training will be covered by liability insurance in amounts not less than set forth in Neb. Rev. Stat. § 60-509.

007.10 Signature. Signature and title of the approved driver safety course school representative certifying the information included in the application is true and accurate. An individual applicant, partner, associate, corporate director, officer or manager of a commercial driver training school or a public school superintendent or principal may sign as school representative.

007.11 Other Information. Any other information ~~deemed necessary by the~~

~~Department necessary for the department to be able to review and understand the application.~~

007.12 Fee. In addition to the above information, each approved driver safety course original and renewal certificate application shall be accompanied by a one-hundred dollar (\$100) fee.

007.12A Check or Money Order. A check or money order will be made payable to the Department of Motor Vehicles for the one-hundred dollar (\$100) fee with the completed application. The fee is refundable if the application is initially denied by the Department or returned due to incompleteness or deficiency. The fee covers a two-year (~~2-year~~) period beginning on the effective date of issuance or renewal.

007.12B No Refund. No portion of the fee will be refunded if the certificate is suspended or revoked during the two-year (~~2-year~~) period or if the school otherwise discontinues activity within the State during any portion of the two-year (~~2-year~~) period.

008 APPROVAL OF DRIVER SAFETY COURSE. The Department will approve or deny a driver safety course certification within sixty (~~60~~) days after receipt of a completed application and fee. The Department will certify the course or deny the application in the form of a written notice to the school contact person.

009 MOTOR VEHICLE REQUIREMENTS. A driver safety course shall provide motor vehicles for use by students for driver training. Except for motor vehicles used by students who require adaptive equipment as set out at 009.04, All all motor vehicles except those used by students who require adaptive equipment as set out at 009.05, used in an approved driver safety course must:

009.01 Be registered in Nebraska, be well maintained, mechanically sound, and in good working order;

009.02 Be covered by liability insurance in amounts not less than set forth in section 60-509. This insurance coverage shall be secured by the driver training school on a year-to-year basis and in the event the insurance coverage or policy on any motor vehicle used for driving training purposes is not renewed, the school shall give written notice to the Department at least ten (~~10~~) days prior to the expiration date of the policy or coverage;

009.03 ~~Except for commercial trucks, any~~ Except for personal motor vehicles as allowed in 009.04 of these regulations, every motor vehicle used for approved driver safety course purposes shall be equipped with a dual braking device which will enable the instructor to bring the motor vehicle under control in case of an emergency; and

009.04 ~~Be readily identified as a driver training motor vehicle.~~

009.05 Students who require adaptive equipment to operate a motor vehicle may use their personal motor vehicle with such adaptive equipment installed during training. The agreement with a student to use a personal motor vehicle for driving practice should be done at the time the student applies for a class. Before such motor vehicle may be used, the school shall obtain photocopies of the motor vehicle's registration and proof of insurance. No motor vehicle shall be used without first being properly registered pursuant to Neb. Rev. Stat. § 60-302 60-362 and also insured in accordance with Neb. Rev. Stat. § 60-312 the Motor Vehicle Safety Responsibility Act, Neb.Rev.Stat. 60-501 through 60-569. A school may refuse to use a personal motor vehicle if it is not mechanically sound, not in good working order, or otherwise unsafe.

010 APPROVED DRIVER SAFETY COURSE CURRICULUM. The following is the approved driver safety course education curriculum for schools that offer classes to individuals who will apply for ~~provisional operator's~~ permits. Standard instruction will include a minimum of twenty (20) hours of classroom instruction and ~~three five (5)~~ hours of behind-the-wheel instruction. ~~The students of competency certified instructors must complete at least two (2) hours behind the wheel.~~ Students must attend all course presentations and pass all examinations.

010.01 Behind-the-wheel Instruction. A minimum of ~~three five (5)~~ hours behind-the-wheel instruction must be offered to each student in an approved driver safety course. Behind-the-wheel instruction means actual driving practice by a student while the vehicle is in motion on a public roadway. The three hours of behind the wheel driving practice shall not include time spent taking the drive test. It is to consist of actual driving practice while the motor vehicle is in motion and does not include the drive test.

~~**010.01A Substitutions.** Up to two (2) hours total approved driver safety course drive time may be substituted as follows:~~

~~**010.01A1**—Up to two (2) hours of behind-the-wheel instruction may be replaced by time on a closed-course driving range. At a proportion of two to one (2 to 1) (two (2) hours on a driving range equals one (1) hour behind the wheel).~~

~~**010.01A2**—Up to one (1) hour of behind-the-wheel instruction may be replaced by use of a driving simulator at a proportion of four to one (4 to 1). (One (1) hour of simulated driving equals fifteen (15) minutes of behind-the-wheel drive time.)~~

010.01B Timeline. A school shall complete behind the wheel instruction for students who complete the online instruction course and pass the written exam within six months of the successful passage of the final written examination.
Competency Certified Instructors. ~~Two (2) hours is the minimum behind the wheel time requirement for students in competency-based courses. Substitutions are not permitted.~~

010.02 Classroom Time. A minimum of twenty (20) hours of classroom instruction must be ~~offered~~ presented to each student enrolled in any approved driver safety course school.

010.03 Classroom Content. While other material may be addressed, the following subject matter areas must be presented in depth as part of the required twenty hours of instruction time. Subject matter information may be supplemented during practice driving. The curriculum shall include the following subject matter: analyzed in depth:

010.03A Motor Vehicle Laws.

010.03A1 Rules of the road, traffic enforcement;

010.03A2 Signs, signals and markings;

010.03A3 What to do in case of an accident; and

010.03A4 Nebraska driver's manual.

010.03B Vehicle Operating Tasks.

010.03B1 Vehicle familiarization;

010.03B2 Seating position;

010.03B3 Steering wheel control;

010.03B4 Speed control;

010.03B5 Vehicle motion and balance;

010.03B6 Traction control; and

010.03B7 Anti-lock braking.

010.03C Occupant Protection.

010.03C1 Seatbelts;

010.03C2 Airbag;

010.03C3 Automatic restraint; and

010.03C4 Child safety seat.

010.03D Establishing Vehicle Position.

010.03D1 Visual reference points;

010.03D2 Targeting;

010.03D3 Line of sight/path of travel; and

010.03D4 Zone locations.

010.03E Limited Space Movements.

010.03E1 Backing;

010.03E2 Turnabouts; and

010.03E3 Parking.

010.03F Human Functions.

010.03F1 Visual scanning;

010.03F2 Detection/perception;

010.03F3 Evaluation;

010.03F4 Risk assessment;

010.03F5 Decision making; and

010.03F6 Motor skills.

010.03G Traffic Flow Tasks.

010.03G1 Intersections;

010.03G2 Lane changes;

010.03G3 Merging, exiting;

010.03G4 Passing; and

010.03G5 Railroad crossings, and

010.03G6 Roundabouts

010.03H **Driving Environment.**

010.03H1 Urban areas;

010.03H2 Rural areas;

010.03H3 Expressways;

010.03H4 Adverse conditions;

010.03H5 Weather;

010.03H6 Construction zone;

010.03H7 Congested traffic; and

010.03H8 Night.

010.03I **Factors Affecting Performance (Risk, Attitude, Emotion).**

010.03I1 Emotions;

010.03I2 Peer pressure;

010.03I3 Roadway conditions;

010.03I4 Limited visibility;

010.03I5 Limited traction;

010.03I6 Natural laws;

010.03I7 Energy conservation; and,

010.3I8 Driving distractions.

010.03J **Other Roadway Users.**

010.03J1 Pedestrians, bicyclists;

010.03J2 Railroads;

010.03J3 Emergency vehicles;

- 010.03J4** Trucks;
- 010.03J5** Motorcycles;
- 010.03J6** Farm equipment; and
- 010.03J7** Animals.

010.03K **Alcohol, Drugs, and Medication Effects and Other Drugs.**

010.03L **Insurance.**

010.03M **Responses to Vehicle Failure and Driver Errors.**

- 010.03M1** Braking and steering failure;
- 010.03M2** Engine power loss;
- 010.03M3** Evasive steering;
- 010.03M4** Controlled braking; and
- 010.03M5** Loss of forward vision.

010.04 **Behind-the-wheel Content.** Behind-the-wheel instruction will cover the following material:

010.04A **Car Control.**

- 010.04A1** Pre-entry/entering;
- 010.04A2** Preparing to drive;
- 010.04A3** Starting the engine;
- 010.04A4** Acceleration control;
- 010.04A5** Braking control;
- 010.04A6** Tracking/targeting;
- 010.04A7** Reference points;
- 010.04A8** Precision turns;

010.04A9 Line of sight/path of travel;

010.04A10 Backing straight, left, right;

010.04A11 Searching target area;

010.04A12 Perpendicular, parallel and angle parking;

010.04A13 Intersections;

010.04A14 Rear zone control;

010.04A15 Traffic lights;

010.04A16 Hill stops and turns; and

010.04A17 Reading instruments.

010.04B **Mixing with Traffic.**

010.04B1 Following distance;

010.04B2 Lane changing;

010.04B3 Passing and being passed;

010.04B4 Merging and ~~existing~~ exiting; and

010.04B5 Limited access highways.

010.04C **Response to Traffic Conditions.**

010.04C1 Effective visual search habits;

010.04C2 Zone control;

010.04C3 Traffic controls and conditions;

010.04C4 Limited vision; and

010.04C5 Risk assessment.

010.05 **Evaluation and Waiver.** Instructors are required to administer a written test and the Department's drive test to each student enrolled in an approved driver safety

course. DMV FORM # 06-40A “DRIVE TEST SCORE SHEET” (*Attachment 1*) is the official record of the drive test and shall be completed by the instructor to evaluate a student’s performance on a drive test.

010.05A All passed and failed drive test score sheets and written test results must be retained by the school.

010.05B Students are required to pass the drive test with no more than fifteen (15) deductions.

010.05C Upon successful completion of the course by a student, including the written and drive test, the instructor shall:

010.05C1 Complete ~~complete~~ DMV FORM # 06-92 “WRITTEN AND DRIVE TEST WAIVER” (*Attachment 2*) and shall give a ~~the top~~ copy to the student and retain a ~~the bottom~~ copy for the school’s file only if the student has attained or will attain the age of fourteen years on or before October 15 of the current year as provided in Neb.Rev.Stat. 60-4,123.01 and is not age eligible to hold an LPE – school learner’s permit at the time the class is presented; or,

010.05C2 For all other students, transmit the results of each successful student’s written and drive tests to the Department electronically so that the student may be able to waive the written and drive test upon application for his or her permit.

010.05C3 The Department reserves the right to retest any applicant who completes a driver safety course. The Department retest is the official test, and will take precedence over the test administered by the driver safety instructor.

010.06 Driving permit requirements for student drivers.

010.06A Persons under the age of 14 taking a driver safety course as provided in Neb.Rev.Stat. 60-4, 123.01 who are not age eligible for an LPE – school learner’s permit may not legally operate a motor vehicle on the public roads except when accompanied by a certified driver training instructor for purposes of driver safety course instruction to prepare for application for the LPE-school learner’s permit or the SCP-school permit when old enough. Any student who successfully completes a driver safety course is required to hold the LPE-school learner’s permit for two months before he or she may be issued the SCP-school permit.

010.06B Persons fourteen years and two months of age and older who are eligible to apply for an SCP - school permit are required to obtain an LPE –school learner’s permit prior to taking a driver safety course. Persons who hold an LPE –school learner’s permit may operate a motor vehicle on the public roads when accompanied by a licensed driver age 21 or older. An LPE-school learner’s permit must be held for a minimum of two months before an SCP-school permit may be issued.

010.06C Persons who are fifteen years of age or older who are eligible to apply for a LPD – learner’s permit are required to obtain the LPD- learner’s permit prior to taking a driver safety course . Persons who hold an LPD-learner’s permit may operate a motor vehicle on the public roads when accompanied by a licensed driver age 21 or older. A person must hold an LPD-learner’s permit for six months before he or she may be issued a POP-provisional operator’s permit.

011 SCHOOL RENEWAL APPLICATION REQUIREMENTS.

011.01 Expiration. A school certificate will expire on the second anniversary of its effective date unless renewed.

011.02 Application. At least one-hundred twenty (~~120~~) days prior to expiration, the Department will send to the certified school a renewal application form which includes:

011.02A The date on which the current certificate expires;

011.02B The date by which the renewal application must be received by the Department for the renewal to be issued and mailed before the certificate expires; and

011.02C The amount of the renewal fee.

011.03 Time Line. The renewal application must be received at least sixty (~~60~~) days prior to the time the previous certification expires. The Department will not be responsible for the timely issuance of any renewal certificate when the application is not received in the requested manner.

012 SCHOOL MUST NOTIFY THE DEPARTMENT OF CHANGES. The Department must receive notice, in writing, within the specified period, of any of the following:

012.01 Name Change. Any change in the school’s name, legal status or address in writing ten (~~10~~) days prior to its date of occurrence.

012.02 Instructor Changes. Any addition or deletion of approved instructors or changes in their driving statuses within ten (~~10~~) days of date of occurrence.

012.03 School Closes. If the school ceases operation in Nebraska, the school shall notify the Department ten (~~10~~) days prior to its date of occurrence.

012.04 Insurance Change. If the school’s insurance as required by the rules and regulations is canceled or altered by the insurance company, the school shall notify the Department within ten (~~10~~) ~~working~~ days of its date of occurrence.

012.05 Curriculum Change. Any change in the curriculum, dates or locations of the

approved driver safety course or the drive route not less than ten (10) days prior to its occurrence.

012.06 Contact Information Change. Any change in the contact information required by 007.02 of this rule within ten days of the date of occurrence.

012.07 Transmission of Notices. Notices may be sent electronically to the Department or by mail to the DMV. Schools shall keep a record of transmissions of such notices, written or electronic.

013 RECORDS TO BE KEPT BY THE SCHOOL. Each certified school will keep the following records for three (3) years at the contact person location. These records will be open to inspection by the ~~Department~~ Department's auditors or examiners.

013.01 List of Instructors. A list of all instructors who have taught or who are teaching the approved driver safety course at the school.

013.02 Endorsement. Proof that all instructors who have taught or who are teaching the approved driver safety course for the school possess a driver's education endorsement or equivalent.

~~**013.02A Competency Certified.** Proof that all instructors who have taught or who are teaching competency-based driver education have successfully completed three (3) credit hours of driver performance measurement.~~

013.03 Instructors' Driving Records. Annually updated driver record abstracts driving records on each current instructor.

013.04 Student Records. List of all students who have attended each class, classroom final written examination results for each student, all passed and failed drive test score sheets and a the second copy of the WRITTEN AND DRIVE TEST WAIVER FORM # DMV 06-92 (paper or electronic record) maintained in alphabetic order by calendar year.

013.05 Curriculum. Department-approved curriculum for the approved driver safety course.

013.06 Registration and Insurance. Copies of registration and proof of insurance for all approved driver safety course motor vehicles.

013.06A Copies of general commercial liability proof of insurance.

013.07 Certificate. The certificate indicating that the school has been approved to teach the driver safety course.

013.08 Drive Test. Location, map, and written description of the route used for the administration of the drive test.

014 SCHOOL INSPECTIONS.

014.01 Random Inspections. The Department may conduct random examinations, inspections and audits of all of the school's facilities, including but not limited to, an instructor's classroom, behind the wheel instruction, and motor vehicles, and upon Upon demand by the Department the school shall present for inspection or audit all records, instructional aids, and other objects which are necessary to the investigation. Any part of the random inspection or audit may be conducted onsite, via the mail, or electronically.

014.02 Drive Test. A Department representative may take the drive test actually administered by the instructor as if the representative were a test applicant.

014.03 Written Evaluation. The Department may, at the Department's discretion, prepare a written report of the results of each inspection and audit. A copy of the report shall be provided to the school.

015 DENIAL, REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF A COMMERCIAL OR PUBLIC SCHOOL CERTIFICATE. The Department ~~may~~ will deny, refuse to renew, suspend, or revoke an approved driver safety course certificate for any of the following:

015.01 Engaging in or attempting to engage in administration of drive testing without a certificate.

015.02 Fraud, forgery or misrepresentation in an application.

015.03 Failure to provide notice to the Department as required by these rules and regulations.

015.04 Failure to permit on-site inspections or audits as required by these rules and regulations.

015.05 Failure to pay the fee as required by these rules and regulations.

015.06 Failure at any time to comply with the Motor Vehicle Operator's License Act, the Motor Vehicle Safety Responsibility Act, the Rules of the Road, or the rules and regulations adopted and promulgated by the Department ~~under that Act.~~

015.07 Lack of business stability.

015.08 Fraud, forgery or falsification of any documents relating to the schools, instructors, drive test score sheets or the written and drive test waiver form/electronic results.

015.09 Employing an instructor who has a conviction for driving a motor vehicle under the influence within the previous five (~~5~~) years of the date of application.

015.10 Employing an instructor who has a suspended or revoked driver's license within the previous five (~~5~~) years of the date of application, or who has a five-point (~~5~~-point) or more driving violation.

015.11 Employing an instructor in violation of any provision of these rules and regulations, including but not limited to a violation of 015.08.

015.12 Violation of any provision of these rules and regulations or other good cause shown.

016 ONLINE INSTRUCTION. Any school desiring to offer an online driver safety course must:

016.01 Have a full time office located in Nebraska, where audits may take place as required by 247 NAC 11-006.01.

016.02 In lieu of traditional classroom instruction, a school may develop an online program/s for presentation of the subject matter required by this rule to students preparing for a permit. Such programs shall be academically equivalent to a traditional classroom presentation and shall present all the subject matter required by this rule. Final written examinations shall be proctored and scored by certified instructors. The school must provide certified instructors for the required behind the wheel instruction and administration of drive tests to all students taking the classroom portion online.

016.03 A school shall complete behind the wheel instruction for students who complete the online instruction course and pass the written exam within six months of the successful passage of the final written examination.

016.04 A school's application to present driver safety courses classroom instruction through an online instruction program will be considered on a case by case basis. A school interested in providing an online driver safety course may contact the Department to arrange an overview of the proposed online course, including but not limited to, a description as to how the online course will assure the student has covered the required curriculum material, and the school's plan for conducting final written examinations, and for providing timely behind the wheel instruction and drive testing for students who take an online course. Schools must show that the online instruction combined with the driving instruction, and final written examinations and drive tests process meet all the requirements of 247 NAC Chapter 11 in order to be approved.

0167 APPEAL.

0167.01 Hearing. Upon suspension, revocation, cancellation, or denial of the issuance of a certificate, ~~or refusal to renew a certificate, the~~ Director of the Department shall notify such school ~~of the decision in writing, and upon~~ Upon receipt of a written request for a hearing, ~~the Department shall afford such school a hearing. A written request for hearing must be received within thirty days of the date of the decision.~~

0167.02 Stay. Upon receipt of a written request, the Director of the Department may stay an administrative order denying, ~~canceled,~~ suspending or revoking the certificate of any school pending an administrative hearing on the matter.

0167.03 Administrative Procedures Act. Any action taken by the Department to cancel, suspend, revoke, deny, or refuse to issue or renew a certificate shall comply with the Administrative Procedures Act.

0167.04 Appeal Procedures. ~~The hearing process to appeal a decision by the Director of the Department shall be conducted as provided in Title 53 NAC Chapter 4, Rules of Practice and Procedure for Hearings in Contested Cases Before an Agency, which appear as Attachment 4 of this rule.~~

0167.05 Appeal After Hearing. Any party ~~aggrieved by a final decision or order of the Director, made pursuant to these rules and the applicable statute, may appeal such decision or order in the manner provided in the Administrative Procedure Act in Neb.Rev.Stat. 84-917 for contested cases.~~

Attachments 1- 4-34

~~**017 HEARING; PROCEDURE AND NOTICE.**~~

~~**017.01 Notice.** Whenever the Department denies an initial application for or refuses renewal of, or suspends or revokes a certificate, the Department shall notify the party of its intent to deny, refuse renewal, suspend or revoke in the following manner:~~

~~**017.01A** Written notice shall be sent by certified mail, return receipt requested, to the party's last known address;~~

~~**017.01B** The notice shall state that the party may request a formal hearing by submitting a written request for formal hearing with the Department within thirty (30) days of the issuance of the notice.~~

~~**017.02 Notice of Formal Hearing.** Upon receipt of a written request for a hearing the Director shall set a hearing date at a time and location designated by the Director, and notify the party. Written notice shall be sent by certified mail, return receipt requested, to the party's last known address at least fifteen (15) days prior to the hearing.~~

~~**017.03 Parties to a Hearing.** The parties to a hearing shall be the Department and the person or entity notified of impending denial, refusal of renewal, suspension or revocation.~~

~~**017.04 Hearing Officer.** The hearing shall be conducted by the Director or his or her designated hearing officer, who will, inter alia, open the proceedings; enter into the record the notice of hearing; rule on the admissibility of exhibits, take appearances, act on pleadings not previously filed; hear evidence as provided for in these rules and regulations, rule on motions and objections, issue subpoenas, order briefs; cross-examine any witnesses and close the proceedings. Hearing officers make a recommendation to the Director.~~

~~**017.05 Continuances.** Continuances may be granted at the discretion of the Director for good cause or on his or her own motion. A party may request a continuance in the following manner:~~

~~**017.05A** Any party who desires a continuance shall notify the Director in writing, stating in detail the reasons why such continuance is necessary;~~

~~**017.05B** Requests for continuance shall be received by the Department no later than five (5) days prior to hearing;**017.06 Official Record.** The Department shall prepare an official record in all hearings in the form of a tape recording.~~

~~**017.07 Decisions Transmittal.** The Director shall reduce his or her decision or order to writing and deliver that decision or order to the party requesting the hearing. Such delivery shall be by certified mail, return receipt requested.~~

~~**017.08 Representation by Counsel.** Either party may be represented at the hearing by counsel.~~

~~**017.09 Summary Suspension.** The Department may summarily revoke or suspend the certificate of an approved driver safety course, provided that the Department finds that the public safety requires emergency action and incorporates its findings to that effect in its notice of suspension or revocation of certificate. The party may request a hearing within thirty (30) calendar days of the date of notice. If so requested, the hearing shall be instituted within ten (10) calendar days of the request, and the contest of the summary revocation/suspension shall be promptly determined.~~

~~**017.10 Teleconference Hearings.** The hearing officer may conduct the hearing by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate in, to hear, and if technically feasible, to see the entire proceeding while it is taking place.~~

~~**018 INTERVENTION.**~~

~~**018.01** **Petitions for Intervention.** Petitions for intervention must comply with the following requirements:~~

~~**018.01A** **Form.** The petition must:~~

~~**018.01A1** Be in a legible form showing the caption, “Before the Director of the Department of Motor Vehicles,” and entitled as “Petition for Intervention.”~~

~~**018.01A2** Specify intervenor’s legal rights, duties, privileges, immunities, or other legal interests justifying their participation in any proceeding in which intervention is sought.~~

~~**018.01A3** State the names of the interested parties likely to be affected by the intervenor’s petition. **018.01A4** State sufficient facts upon which the Director or hearing officer can rely to render a well-reasoned decision.~~

~~**018.01A5** Be subscribed by the intervenor or by a duly authorized officer of the intervenor, if the intervenor is a corporation, organization, other legal entity, or the attorney for the intervenor. The petition must include the attorney’s name, bar number, address and telephone number.~~

~~**018.01B** **Filing Petition.** The petition must be filed with the Department, with copies of the petition for intervention received by all parties named in the notice of hearing, at least five days before a hearing.~~

~~**018.01C** **Consideration of a Petition.** Petitions for intervention will ordinarily be considered solely on the face of the petition and without hearing.~~

~~**018.02** **Mandatory Vs. Discretionary Intervention.** There shall be mandatory and discretionary intervention as set forth below.~~

~~**018.02A** **Mandatory Intervention.** The Director shall grant a petition for intervention if all of the following occurs:~~

~~**018.02A1** The petition is submitted in writing to the Director, with copies mailed to all parties named in the notice of the hearing, at least five (5) days before the hearing;~~

~~**018.02A2** The petition states facts demonstrating that the petitioner’s legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and~~

~~**018.02A3** The Director or hearing officer determines that the interest of justice~~

and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.

018.02B — Discretionary Intervention. The Director or hearing officer may grant a petition for intervention at any time upon determining that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.

018.03 — Conditions and Privileges of Intervention.

018.03A — Conditions. When granting a petition for intervention, the Director or hearing officer may impose conditions upon the intervenor's participation in the proceedings, either at the time intervention is allowed, or at any subsequent time. Conditions may include: Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition; limiting the intervenor's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and requiring two (2) or more intervenors to combine their presentation of evidence and argument, cross-examination, discovery, and other participation in a proceeding.

018.03B — Privileges. Unless the order granting a petition for intervention limits an intervenor's participation with conditions, intervenors will be permitted to participate in any proceeding as if they were an original party.

018.04 — Orders. The Director or hearing officer shall issue an order granting or denying each pending petition for intervention at least twenty-four (24) hours before a hearing. The order shall specify any conditions imposed on the intervenor's participation, and shall state the reasons for the decision. The Director or hearing officer may modify an order granting or denying a petition for intervention at any time, and the order of modification shall state the reasons for modification.

018.05 — Appeal. Appeals of any order granting, denying, or modifying a petition for intervention or imposing limitations on an intervenor by condition shall be made in accordance with the Administrative Procedure Act.

019 — EVIDENCE.

019.01 — What Evidence Admissible. Any evidence shall be deemed admissible in a hearing which would be admissible in civil proceedings under the laws of the State of Nebraska. In addition, the hearing officer may, within his or her discretion, admit evidence possessing probative value in any form commonly accepted by reasonably prudent men in the conduct of their affairs.

019.01A — Secondary Evidence. Pursuant to the foregoing provision, secondary evidence of copies of documents may be admitted.

~~**019.01B — Privileged Evidence.** In all such hearings, effect shall be given to the rules of privilege recognized by the District Courts of the State of Nebraska.~~

~~**019.01C — Incompetent or Irrelevant Evidence; Exceptions.** Incompetent, irrelevant or immaterial evidence may be excluded. Where proper objection is made to the admission of any evidence, the party making the objection shall be deemed to have taken exception to any adverse ruling and formal exceptions are not necessary.~~

~~**019.02 — Records of Department.** Records and documents in the possession of the Department may be received in evidence in the form in which the same are kept, and without certification. The records and documents shall be afforded in evidence and made a part of the record in the case.~~

~~**019.03 — Cross Examination.** Each party shall have a right of cross-examination of all witnesses who testify.~~

~~**019.04 — Official Notice.** In the conduct of a hearing, the hearing officer may take official notice of such facts as would be so noticed by the district courts of Nebraska, and may take notice of general technical or scientific facts within the specialized knowledge of the Department.~~

~~**019.04A — Notice of Technical or Scientific Facts.** Parties to the proceedings shall be notified before or during the hearing of specialized technical or scientific facts to be so noticed, and opportunity afforded to contest such noticed facts.~~

~~**019.05 — Rules of Evidence.** Any party to a formal hearing before the Director may request that the rules of evidence apply at least three (3) days prior to the hearing. Such request shall include the requesting party's agreement to be liable for the payment of costs incurred thereby, including the costs of court reporting services.~~

~~**020 — DECISIONS AND FINAL ORDERS.**~~

~~**020.01 — Written Order Required, Contents.** Where a decision or order is rendered by the Director adverse to any party in the proceedings, the order shall be in writing or set forth in the record, and accompanied by findings of fact and conclusions of law.~~

~~**020.02 — Copies of Order.** Copies of the decision and order and findings of fact and conclusions of law shall be delivered upon request to any party or his or her attorney of record. If the order requires revocation of a certificate, it will set forth the period of revocation or suspension and require that the certificate be returned to the Director.~~

~~**021 — APPEALS AFTER HEARING.** Any party aggrieved by a final decision or order of the Director, made pursuant to these rules and the applicable statute, may appeal such decision or order in the manner provided in the Administrative Procedure Act for contested cases.~~

247 NAC 11 Attachment 1

DEPARTMENT OF MOTOR VEHICLES
DRIVE TEST SCORE SHEET

DRIVE TEST SCORE
(Passing Score: 15 Points or Less)

Student's Name
DOB
Today's Date
(Remarks)

Mark thru the "0" when the applicant fails to perform well enough to meet the Drive Test criteria. The following maneuvers are required to be incorporated into the Drive Test. Entering, Starting, Backing, Angle/Parallel/Perpendicular Parking, Roadside Stop, Turns (Left and Right), Intersections, Urban Driving and Railroad Crossing (can be substituted by adding an additional Thru Intersection). Optional maneuvers recommended, but not required, are Curve, Expressway, Rural Driving and Drive On Grade.

Table with columns for (1) ENTERING, (2) STARTING, (3) BACKING, (4) ANGLE/PARALLEL/PERPENDICULAR PARKING, (5) ROADSIDE STOP, (6) LEFT -- TURNS --, (7) RIGHT, (8) INTERSECTIONS, (9) URBAN DRIVING, (10) EXPRESSWAY, (11) RURAL DRIVING, (12) DRIVE ON GRADE, (13) CURVE, (14) RAILROAD CROSSING. Includes a large 'DELETE' watermark across the center.

GENERAL DRIVING BEHAVIOR

Table for General Driving Behavior with categories: TWO POINTS FOR EACH (Select Gears Properly, Manages Speed Properly), EIGHT POINTS FOR EACH (Turning Into Wrong Lane, Incomplete Stop, Failure to Yield-Ped/Vehicle), Exceeds Speed Limit (1-5) MPH, Driving Over Lane Markers.

AUTOMATIC FAILURES (18 Points Each)

- Avoidable Accident or Incident
Unsafe Behavior
Drives Over Curb or Over Sidewalk
Poor Control of Vehicle
Speeds 6 MPH or More Over Speed Limit
Improper Vehicle
Failure to Wear Seat Belt
Stalls Vehicle Within Intersection Due to Inexperience or Lack of Skill
Serious Moving Traffic Violations or Disobeyed Signs and/or Signals
Turning From Wrong Lane
Driving Left of Center
Miscellaneous Explain:

INSTRUCTOR'S NAME
SCHOOL NAME
DMV 08-40A Rev.4/04

**DEPARTMENT OF MOTOR VEHICLES
DRIVE TEST SCORE SHEET**

DRIVE TEST SCORE _____

(Passing Score: 15 Points or Less)

Student's Name _____ Today's Date _____
 DOB _____
 (Remarks: _____)

Mark thru the "O" when the applicant fails to perform well enough to meet the Drive Test criteria.

(1) ENTERING		(2) STARTING		(3) BACKING		REMARKS	
Seat Belt	<input type="checkbox"/>	Ignition-Gear Selection-Clutch	<input type="checkbox"/>	Gear Selection	<input type="checkbox"/>		
Seat Mirror Adjustment	<input type="checkbox"/>	Mirror Check, Outside Observation	<input type="checkbox"/>	Observation	<input type="checkbox"/>		
		Pulling Away	<input type="checkbox"/>	Safety	<input type="checkbox"/>		
				Speed	<input type="checkbox"/>		
(4) PARKING			(5) INTERSECTIONS				
Signal	<input type="checkbox"/>	Traffic Check	<input type="checkbox"/>	STOP	<input type="checkbox"/>	<input type="checkbox"/>	
Encroachments	<input type="checkbox"/>	Proper Braking	<input type="checkbox"/>	STOP	<input type="checkbox"/>	<input type="checkbox"/>	
Final Position	<input type="checkbox"/>	Stop Line, Gap	<input type="checkbox"/>	STOP	<input type="checkbox"/>	<input type="checkbox"/>	
Safety	<input type="checkbox"/>	Traffic Check, Yield	<input type="checkbox"/>	STOP	<input type="checkbox"/>	<input type="checkbox"/>	
		Accelerate	<input type="checkbox"/>	STOP	<input type="checkbox"/>	<input type="checkbox"/>	
(6) LEFT TURNS		(7) RIGHT		(8) URBAN DRIVING			
<input type="checkbox"/>	<input type="checkbox"/>	Traffic Check	<input type="checkbox"/>	Regular Traffic Checks	<input type="checkbox"/>		
<input type="checkbox"/>	<input type="checkbox"/>	Right of Way	<input type="checkbox"/>	Keeps Vehicle in Lane	<input type="checkbox"/>		
<input type="checkbox"/>	<input type="checkbox"/>	Signal	<input type="checkbox"/>	Speed, Spacing	<input type="checkbox"/>		
<input type="checkbox"/>	<input type="checkbox"/>	Decel/Coast	<input type="checkbox"/>	Hand Position	<input type="checkbox"/>		
<input type="checkbox"/>	<input type="checkbox"/>	Lane	<input type="checkbox"/>	Defensive Driving	<input type="checkbox"/>		
<input type="checkbox"/>	<input type="checkbox"/>	Stop Line/Full Stop	<input type="checkbox"/>	Lane Changes	L	R	
<input type="checkbox"/>	<input type="checkbox"/>	Hand Position	<input type="checkbox"/>	Traffic Check, Signal	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	Speed	<input type="checkbox"/>	Check Blind Spot	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	Wide/Short	<input type="checkbox"/>	In Intersection	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	Correct Lane	<input type="checkbox"/>	Spacing, Cancel Signal	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	Traffic Check	<input type="checkbox"/>				
<input type="checkbox"/>	<input type="checkbox"/>	Accelerate	<input type="checkbox"/>				

GENERAL DRIVING BEHAVIOR

TWO POINTS FOR EACH

Select Gears Properly (gear selection, clutch usage, gear lever)	2X	<input type="checkbox"/>	<input type="checkbox"/>	Proper steering (hand position, no over/under control)	2X	<input type="checkbox"/>	<input type="checkbox"/>
Manages Speed Properly (too fast/slow, revving engine, coast)	2X	<input type="checkbox"/>	<input type="checkbox"/>	Def. Driving (position/traffic, controls driving situation)	2X	<input type="checkbox"/>	<input type="checkbox"/>

EIGHT POINTS FOR EACH

Turning into Wrong Lane	8X	<input type="checkbox"/>	<input type="checkbox"/>	Exceeds Speed Limit (1-5) MPH	8X	<input type="checkbox"/>	<input type="checkbox"/>
Incomplete Stop	8X	<input type="checkbox"/>	<input type="checkbox"/>	Driving Over Lane Markers	8X	<input type="checkbox"/>	<input type="checkbox"/>
Failure to Yield-Ped/Vehicle	8X	<input type="checkbox"/>	<input type="checkbox"/>	Impedes Traffic	8X	<input type="checkbox"/>	<input type="checkbox"/>

AUTOMATIC FAILURES (16 Points Each)

- | | |
|--|--|
| ____ Avoidable Accident or Incident | ____ Failure to Wear Seat Belt |
| ____ Unsafe Behavior | ____ Stalls Vehicle Within Intersection Due to Inexperience or Lack of Skill |
| ____ Drives Over Curb or Over Sidewalk | ____ Serious Moving Traffic Violations or Disobeyed Signs and/or Signals |
| ____ Poor Control of Vehicle | ____ Turning From Wrong Lane |
| ____ Speeds 8 MPH or More Over Speed Limit | ____ Driving Left of Center |
| ____ Improper Vehicle | ____ Other Explain: _____ |

Revised 2016

**NEBRASKA DEPARTMENT OF MOTOR VEHICLES
SCHOOL PERMIT/PROVISIONAL OPERATOR'S PERMIT
WRITTEN AND DRIVE TEST WAIVER**

Student Information:

Student's Name: _____

Permit Number: _____

Testing Information:

Internet Training: Yes No

Instructor

Name: _____

Competency Tested: Yes No

Comp/Drive Test Instructor Name:

Mechanical Aids Required: Yes No

- C - Mechanical Aids (hand controls, gear shift, extensions, spinner knobs, etc.)
 - E - Automatic Transmission
 - U - Automatic Signals
 - Z - Other
- _____

Course Completion Information:

School Name:

Course Completion Date: _____

**Permits can be applied for online if you qualify.
Go to www.clickdmv.ne.gov to learn more or apply online.**



PLEASE RETURN THIS FORM TO EXAMINER

07/09/2014

NEBRASKA DEPARTMENT OF MOTOR VEHICLES

**SCHOOL PERMIT/PROVISIONAL OPERATOR'S PERMIT
50 HOUR CERTIFICATION**

I certify that _____, with permit number _____, has had a minimum of 50 hours of lawful behind-the-wheel (Permit Number) motor vehicle operation including at least 10 hours between sunset and sunrise, under conditions that reflect department-approved driver safety course curriculum and is sufficiently prepared and able to operate a motor vehicle safely. I also certify that all 50 hours were spent with a parent, guardian, or adult at least twenty-one years of age, who has a current Nebraska operator's license or who is licensed in another state. I certify that all information submitted by me regarding this is true and correct.

Signature of Licensed Parent, Guardian or other driver 21 years of age or older

Date

247 NAC 11 Attachment 4

The hearing procedure is a separate document to be incorporated with this rule and regulation for purposes of an appeal pursuant to 247 NAC 11-016.04.

NEBRASKA ADMINISTRATIVE CODE

TITLE 53, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 4

NEBRASKA DEPARTMENT OF JUSTICE

Rules of Practice and Procedure for Hearings in Contested Cases Before an Agency

Issued Date: 07/25/94

NEBRASKA ADMINISTRATIVE CODE

TITLE 53 NAC 4

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NEBRASKA ADMINISTRATIVE CODE

TITLE 53-NEBRASKA DEPARTMENT OF JUSTICE

Chapter 4-Rules of Practice and Procedure for Hearings in Contested Cases Before An Agency.

001. General.

001.01. Application of Model Rules.

Pursuant to Neb. Laws 1994, LB 446, the Attorney General shall promulgate model rules of procedure appropriate for use by as many agencies as possible. For rules of procedure adopted on or after August 1, 1994, each agency shall adopt as many of the model rules as is practicable under the circumstances. Agencies may adopt regulations which vary from the model rules; however, any agency adopting a rule of procedure that differs from the model rule shall include in the agency's explanatory statement the reasons why the relevant portions of the Attorney General's model rules are impracticable under the circumstances.

001.02. Definitions. The following definitions shall apply as used throughout Chapter 4 of these rules and regulations.

001.02A. Agency shall mean each board, commission, department, officer, division, or other administrative office or unit of the state government authorized by law to make rules and regulations, except the Adjutant General's office as provided in Chapter 55 of the Nebraska Revised Statutes, the courts including the Nebraska Workers Compensation Court, the Commission of Industrial Relations, the Legislature and the Secretary of State with respect to the duties imposed by the Administrative Procedure Act.

001.02B. Contested case shall mean a proceeding before an agency in which the legal rights,

duties, or privileges of specific parties are required by law or constitutional right to be determined after an agency hearing.

001.02C. **Ex parte communication** shall mean an oral or written communication which is not on the record in a contested case with respect to which reasonable notice to all parties was not given. Ex parte communication shall not include:

001.02C1. Communications which do not pertain to the merits of a contested case;

001.02C2. Communications required for the disposition of ex parte matters as authorized by law;

001.02C3. Communications in a ratemaking or rulemaking proceeding; and

001.02C4. Communications to which all parties have given consent.

001.02D. **Hearing officer** shall mean the person or persons conducting a hearing, contested case, or other proceeding pursuant to the Administrative Procedure Act, whether designated as the presiding officer, administrative law judge, or some other title designation.

001.02E. **Party** means the person by or against whom a contested case is brought or a person allowed to intervene in a contested case.

001.02F. **Petition** means the initial document filed by or with an agency that sets forth a claim and request for agency action.

002. Prohibitions against ex parte communications.

002.01. Prohibitions; when applicable. The prohibitions found in this section shall apply beginning at the time notice for hearing is given. An agency may designate an earlier time,

but such earlier time shall be required to be set forth in the agency's rules of procedure.

002.02. Prohibitions; to whom applicable.

002.02A. Parties and public. No party in a contested case or other person outside the agency having an interest in the contested case shall make or knowingly cause to be made an ex parte communication to the hearing officer or to an agency head or employee who is or may reasonably be expected to be involved in the decisionmaking process of the contested case.

002.02B. Persons in decisionmaking roles. No hearing officer or agency head or employee who is or may reasonably be expected to be involved in the decisionmaking process of the contested case shall make or knowingly cause to be made an ex parte communication to any party in a contested case or other person outside the agency having an interest in the contested case.

002.02C. Investigators. No agency head or employee engaged in the investigation or enforcement of a contested case shall make or knowingly cause to be made an ex parte communication to a hearing officer or agency head or employee who is or may reasonably be expected to be involved in the decisionmaking process of the contested case.

002.03. Disclosure of contacts. The hearing officer or agency head or employee who is or may reasonably be expected to be involved in the decisionmaking process of the contested case who receives or who makes or knowingly causes to be made an ex parte communication set forth in subsections 002.02A through 002.02C shall file in the record of the contested case:

002.03A. All such written communications;

002.03B. Memoranda stating the substance of all such oral communications; and

002.03C. All written responses and memoranda stating the substance of all oral responses to all the ex parte communications.

002.03D. The filing shall be made within two working days of the receipt or making of the ex parte communication. Notice of the filing, with an opportunity to respond, shall be given to all parties of record.

002.03E. Filing and notice of filing provided under subsection 002.03D shall not be considered on the record and reasonable notice for purposes of the definition of ex parte communication.

003. Intervention in a contested case.

003.01. Intervention in a contested case shall be allowed when the following requirements are met:

003.01A. A petition for intervention must be submitted in writing to the hearing officer or designee at least five days before the hearing. Copies must be mailed by the petitioner for intervention to all parties named in the hearing officer's notice of the hearing;

003.01B. The petition must state facts demonstrating that the petitioner's legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

003.01C. The hearing officer or designee must determine that the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.

003.02. The hearing officer or designee may grant a petition for intervention at any time upon determining that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.

003.03. If a petitioner qualifies for intervention, the hearing officer or designee may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Those conditions may include:

003.03A. Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;

003.03B. Limiting the intervenor's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and

003.03C. Requiring two or more intervenors to combine their presentation of evidence and argument, cross-examination, discovery, and other participation in the proceedings.

003.04. The hearing officer or designee, at least 24 hours before the hearing, shall issue an order granting or denying each pending petition for intervention, specifying any conditions and briefly stating the reasons for the order.

003.04A. The hearing officer or designee may modify the order at any time, stating the reasons for the modification.

003.04B. The hearing officer or designee shall promptly give notice of an order granting, denying, or modifying intervention to the petitioner for intervention and to all parties.

004. Commencement of a contested case.

004.01. The contested case begins with the filing of a petition and request for hearing, if applicable, with the agency. The petition is the initial document filed by or with an agency that sets forth a claim and request for agency action.

004.02. The parties to a contested case shall be the petitioner

or person by whom a contested case is brought and the respondent or person against whom a contested case is brought.

004.03. A party may appear on his or her own behalf in a contested case proceeding or may be represented by an attorney or other representative as permitted by law.

004.04. The pleadings in a contested case may include a petition, answer, reply, notice, motion, stipulation, objection or order or other formal written document filed in a proceeding before an agency. Any pleading filed in a contested case shall meet the following requirements:

004.04A. The pleading shall contain a heading specifying the name of the agency and the title or nature of the pleading, shall state material factual allegations and state concisely the action the agency is being requested to take, shall contain the name and address of the petitioner, and shall be signed by the party filing the pleading, or when represented by an attorney, the signature of that attorney.

004.04A1. Attorneys shall also include their address, telephone number and bar number.

004.04A2. The initial petition shall also contain the name and address of the respondent.

004.04B. All pleadings shall be made on white, letter-sized (8½ x 11) paper and shall be legibly typewritten, photostatically reproduced, printed or handwritten. If handwritten, a pleading must be written in ink.

004.05. All pleadings shall be filed with the agency at its official office. Filing may be accomplished by personal delivery or mail and will be received during regular office hours of the agency.

004.06. The agency shall serve a copy of the petition on each

respondent listed in the petition personally or by first-class or certified mail. Written proof of such service shall be filed with the agency. Each respondent who chooses to file a responsive pleading must do so within 20 days from the date of personal service or the date of agency mailing of the petition.

004.07. All pleadings subsequent to the initial petition shall be served by the party filing such pleading upon all attorneys of record or other representatives of record and upon all unrepresented parties. Service shall be made personally or by first-class or certified mail. Written proof of such service shall be filed with the agency.

004.08. Unless state law provides that a hearing is not required, a hearing date shall be set by the agency in accordance with statutory requirements. A written notice of the time and place of hearing and the name of the hearing officer, if known, shall be served by the agency upon all attorneys of record or other representatives of record and upon all unrepresented parties. The notice must include a proof of such service and will be filed with the agency.

004.09. In computing time prescribed or allowed by chapter 4 of these rules and regulations or by any applicable statute in which the method of computing time is not specifically provided, days will be computed by excluding the day of the act or event and including the last day of the period. If the last day of the period falls on a Saturday, Sunday, or state holiday, the period shall include the next working day.

005. Hearing officer; criteria.

005.01. An agency may be authorized by law to delegate to a hearing officer other than the agency head or governing board the functions of conducting a prehearing conference and/or a hearing and submitting a recommended decision to the agency.

005.02. A person who has served as investigator, prosecutor, or advocate in a contested case or in its prehearing stage may not serve as hearing officer or assist or

advise a hearing officer in the same proceeding except as provided in subsection 005.04.

005.03. A person who is subject to the authority, direction, or discretion of one who has served as investigator, prosecutor, or advocate in a contested case or in its prehearing stage may not serve as hearing officer or advise a hearing officer in the same proceeding except as provided in subsection 005.04.

005.04. If all parties consent, a person who has served as, or who is subject to the authority, direction, or discretion of one who has served as investigator, prosecutor, or advocate in a contested case or in its prehearing stage may assist a hearing officer in the preparation of orders.

005.05. A person who has participated in a determination of probable cause or other equivalent preliminary determination in a contested case may serve as hearing officer or assist or advise a hearing officer in the same proceeding.

005.06. A person may serve as hearing officer at successive stages of the same contested case.

006. Prehearing Procedures.

006.01. **Prehearing conferences and orders.** A hearing officer designated to conduct a hearing may determine, subject to the agency's rules and regulations, whether a prehearing conference will be conducted. If a prehearing conference is not held, a hearing officer for the hearing may issue a prehearing order, based on the pleadings, to regulate the conduct of the proceedings.

006.01A. If a prehearing conference is conducted:

006.01A1. The hearing officer shall promptly notify the agency of the determination that a prehearing conference will be conducted. The agency may assign another hearing officer for the prehearing conference; and

006.01A2. The hearing officer for the prehearing conference shall set the time and place of the conference and give reasonable written notice to all parties and to all persons who have filed written petitions to intervene in the matter. The agency shall give notice to other persons entitled to notice.

006.01A3. The notice referred to in subsection 006.01A2 shall include the following:

006.01A3(a). The names and mailing addresses of all parties and other persons to whom notice is being given by the hearing officer;

006.01A3(b). The name, official title, mailing address, and telephone number of any counsel or employee who has been designated to appear for the agency;

006.01A3(c). The official file or other reference number, the name of the proceeding, and a general description of the subject matter;

006.01A3(d). A statement of the time, place, and nature of the prehearing conference;

006.01A3(e). A statement of the legal authority and jurisdiction under which the prehearing conference and the hearing are to be held;

006.01A3(f). The name, official title, mailing address, and

telephone number of the hearing officer for the prehearing conference;
006.01A3(g). A statement that a party who fails to attend or participate in a prehearing conference, hearing, or other stage of a contested case or who fails to make a good faith effort to comply with a prehearing order may be held in default under the Administrative Procedure Act; and

006.01A3(h). Any other matters that the hearing officer considers desirable to expedite the proceedings.

006.01B. The hearing officer shall conduct a prehearing conference, as may be appropriate, to deal with such matter as exploration of settlement possibilities, preparation of stipulations, clarification of issues, rulings on identity and limitation of the number of witnesses, objections to proffers of evidence, determination of the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form and the extent to which telephone, television, or other electronic means will be used as a substitute for proceedings in person, order of presentation of evidence and cross-examination, rulings regarding issuance of subpoenas, discovery orders, and protective orders, and such other matters as will promote the orderly and prompt conduct of the hearing. The hearing officer shall issue a prehearing order incorporating the matters determined at the prehearing conference.

006.01C. The hearing officer may conduct all or part of the prehearing conference by telephone,

television, or other electronic means if each participant in the conference has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

006.02. Discovery in contested cases.

006.02A. The hearing officer or a designee, at the request of any party or upon the hearing officer's own motion, may issue subpoenas, discovery orders, and protective orders in accordance with the rules of civil procedure except as may otherwise be prescribed by law. Subpoenas and orders issued under this subsection may be enforced by the district court.

006.02B. Any prehearing motion to compel discovery, motion to quash, motion for protective order or other discovery-related motion shall:

006.02B1. Quote the interrogatory, request, question, or subpoena at issue, or be accompanied by a copy of the interrogatory, request, subpoena or excerpt of a deposition;

006.02B2. State the reasons supporting the motion;

006.02B3. Be accompanied by a statement setting forth the steps or efforts made by the moving party or his or her counsel to resolve by agreement the issues raised and that agreement has not been achieved; and

006.02B4. Be filed with the agency. The moving party must serve copies of all such motions to all parties to the contested case.

006.02C. Other than is provided in subsection 006.02B4 above, discovery materials need not be filed with the agency.

006.03. Continuances. The hearing officer may, in his or her discretion, grant extensions of time or continuances of hearings upon the

hearing officer's own motion or at the timely request of any party for good cause shown. A party must file a written motion for continuance which states in detail the reasons why a continuance is necessary and serve a copy of the motion on all other parties.

006.03A. Good cause. Good cause for an extension of time or continuance may include, but is not limited to, the following:

006.03A1. Illness of the party, legal counsel or witness;

006.03A2. A change in legal representation; or

006.03A3. Settlement negotiations are underway.

006.04. Amendments.

006.04A. A petition may be amended at any time before an answer is filed or is due if notice is given to the respondent or his or her attorney. In all other cases, a petitioner must request permission to amend from the hearing officer.

006.04B. A hearing officer may also allow, in his or her discretion, the filing of supplemental pleadings alleging facts material to the case occurring after the original pleadings were filed. A hearing officer may also permit amendment of pleadings where a mistake appears or where amendment does not materially change a claim or defense.

006.05. Informal Disposition. Unless otherwise precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

007. Conducting a contested case hearing.

007.01. Order. At the discretion of the hearing officer, the

hearing may be conducted in the following order:

007.01A. The hearing is called to order by the hearing officer. Any preliminary motions, stipulations or agreed orders are entertained.

007.01B. Each party may be permitted to make an opening statement. Opening statements take place in the same order as the presentation of evidence.

007.01C. Presentation of evidence.

007.01C1. Evidence will be received in the following order:

007.01C1(a). Evidence is presented by the petitioner;

007.01C1(b). Evidence is presented by the respondent;

007.01C1(c). Rebuttal evidence is presented by the petitioner; and

007.01C1(d). Surrebuttal evidence is presented by the respondent.

007.01C2. With regard to each witness who testifies, the following examination may be conducted:

007.01C2(a). Direct examination conducted by the party who calls the witness;

007.01C2(b). Cross-examination by the opposing party;

007.01C2(c). Redirect examination by the party who called the witness; and

007.01C2(d).
the opposing party.

Recross-examination by

007.01D. After the evidence is presented, each party may have opportunity to make a closing argument. Closing arguments shall be made in the same order as the presentation of evidence. The hearing officer may request that the parties submit briefs in lieu of closing arguments.

007.02. Evidence.

007.02A. In contested cases an agency or hearing officer may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs and may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

007.02B. Any party to a formal hearing before an agency, from which a decision may be appealed to the courts of this state, may request that the agency be bound by the rules of evidence applicable in district court by delivering to the agency at least three days prior to the holding of the hearing a written request therefore. Such request shall include the requesting party's agreement to be liable for the payment of costs incurred thereby and upon any appeal or review thereof, including the cost of court reporting services which the requesting party shall procure for the hearing.

007.02C. Documentary evidence may be received in the form of copies or excerpts or incorporated by reference.

007.02D. All evidence including records and documents in the possession of the agency of which it desires to avail itself shall be offered and made a part of the record in the case. No factual information or evidence other than the record shall be considered in the determination

of the case.

007.02E. A hearing officer or designee may administer oaths and issue subpoenas in accordance with the rules of civil procedure except as may otherwise be prescribed by law. Subpoenas and orders issued under this subsection may be enforced by the district court.

007.02F. An agency shall give effect to the rules of privilege recognized by law.

007.02G. An agency may take official notice of cognizable facts and in addition may take official notice of general, technical, or scientific facts within its specialized knowledge and the rules and regulations adopted and promulgated by such agency.

007.02G1. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of materials so noticed.

007.02G2. Parties shall be afforded an opportunity to contest facts so noticed.

007.02G3. The record shall contain a written record of everything officially noticed.

007.02H. An agency may utilize its experience, technical competence and specialized knowledge in the evaluation of the evidence presented to it.

007.03. **Conducting the hearing by electronic means.** The hearing officer may conduct all or part of the hearing by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

007.04. Official record.

007.04A. The agency shall prepare an official record, which shall include testimony and exhibits, in

each contested case, but it shall not be necessary to transcribe the record of the proceedings unless requested for purpose of rehearing or appeal, in which event the transcript and record shall be furnished by the agency upon request and tender of the cost of preparation.

007.04B. An agency shall maintain an official record of each contested case under the Administrative Procedure Act for at least four years following the date of the final order.

007.04C. The agency record shall consist only of the following:

007.04C1. Notices of all proceedings;

007.04C2. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the agency pertaining to the contested case;

007.04C3. The record of the hearing before the agency, including all exhibits and evidence introduced during such hearing, a statement of matters officially noticed by the agency during the proceeding, and all proffers of proof and objections and rulings thereon; and

007.04C4. The final order.

007.04D. As provided in 53 NAC 4 Section 002.03 the hearing officer or agency head, or employee who is or may reasonably be expected to be involved in the decision making process of the contested case who receives or who makes or knowingly causes to be made an ex parte communication as set forth in that subsection shall make the appropriate filings which shall be included in the official record of the contested case.

007.04E. Except to the extent that the Administrative Procedure Act or another statute provides otherwise, the agency record shall constitute the exclusive basis for agency action in contested cases under the act and for judicial review thereof.

007.05. **Costs.** All costs of a formal hearing shall be paid by the party or parties against whom a final decision is rendered.

008. Decision and order in a contested case.

008.01. Every decision and order adverse to a party to the proceeding, rendered by an agency in a contested case, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law.

008.02. The decision and order should include:

008.02A. The name of the agency and name of the proceeding;

008.02B. The time and place of the hearing;

008.02C. The names of all parties or their attorneys who entered an appearance at the hearing;

008.02D. The findings of fact consisting of a concise statement of the conclusions upon each contested issue of fact;

008.02E. The conclusions of law consisting of the applications of the controlling law to the facts found and the legal results arising therefrom; and

008.02F. The order consisting of the action taken by the agency as a result of the facts found and the legal conclusions arising therefrom.

008.03. Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying findings

and conclusions shall be delivered or mailed upon request to each party or his or her attorney of record.

009. Appeals.

009.01. Any person aggrieved by a final decision in a contested case is entitled to judicial review under the Administrative Procedure Act or to resort to such other means of review as may be provided by law.

009.02. Parties desiring to appeal an agency decision must file a petition for review in the district court of the county where the agency action is taken within thirty days after the service of the final decision by the agency. The thirty day period for appeal commences to run from the date of mailing of the notice of order and decision to the parties or their attorneys of record. Service of the petition and summons must be made in accordance with Nebraska law.

009.03. Unless otherwise provided by statute, the procedures of Neb. Rev. Stat. § 84-917 govern the procedure for taking an appeal.