

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
NOTICE OF PUBLIC HEARING

October 16, 2019  
1:00 p.m. Central Time  
Gold's Building, Room 534  
1033 O Street, Lincoln, Nebraska

The purpose of this hearing is to receive comments on the adoption of and repeal of the following regulations:

The following regulation is proposed for ADOPTION:

Title 395 NAC 6 – *State Ward Education Fund*

The proposed chapter of regulations will govern the reimbursement for the costs of providing educational services to eligible children, including associated school transportation as required by Neb. Rev. Stat. § 79-215(9) and will incorporate relevant portion of the current Title 390 NAC 10. The new chapter of regulations will clarify submission of claims; timeframes for submission of claims; reimbursement rates; and appeals.

The following regulation is proposed for REPEAL in its entirety. The relevant portions of the current 390 NAC 10 are being included in the proposed 395 NAC 6.

Title 390 NAC 10 – *Educational Funds for Wards Program*

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

Interested persons may attend the hearing and provide verbal or written comments or mail, fax or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or [dhhs.regulations@nebraska.gov](mailto:dhhs.regulations@nebraska.gov), respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals with hearing impairments may call DHHS at (402) 471-9570 (voice and TDD) or the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.



## FISCAL IMPACT STATEMENT

Agency: <b>Department of Health and Human Services</b>	
Title: 395	Prepared by: Emily Kluver
Chapter: 6	Date prepared: 05/31/19
Subject: State Ward Education Fund	Telephone: 402-471-1791

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )
Increased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Increased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Indeterminable	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )

Provide an Estimated Cost & Description of Impact:

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

TITLE 395            CHILDREN AND FAMILY SERVICES PROTECTION AND SAFETY

CHAPTER 6        STATE WARD EDUCATION FUND

001. SCOPE AND AUTHORITY. These regulations govern the reimbursement for the costs of providing educational services to Eligible Children, including associated school transportation costs, as required by Neb. Rev. Stat. § 79-215(9).

002. DEFINITIONS. The following definitions apply:

002.01 ELIGIBLE CHILD. A child who is a ward of the state of Nebraska or a ward of any court who meets the requirements set forth in Neb. Rev. Stat. § 79-215(9) and who is subject to the compulsory education requirements of Neb. Rev. Stat. § 79-201.

002.02 ELIGIBLE INSTITUTION. Any school district or institution that meets the requirements in Neb. Rev. Stat. § 79-215(9). An Eligible Institution does not include a non-public school or a Special Purpose School approved or accredited by the Nebraska Department of Education.

002.03 WARD OF THE STATE. A child placed in the custody of the Nebraska Department of Health and Human Services pursuant to the Nebraska Juvenile Code of the Nebraska Reissued Revised Statutes.

002.04 WARD OF ANY COURT. A juvenile described in Neb. Rev. Stat. § 43-247 (1), (2), (3)(b), or (4) who is in out-of-home care by order of the Court, including pre-adjudication, post-adjudication and dispositional orders.

003. REIMBURSEMENT. To receive reimbursement for the cost of education, the Eligible Institution must meet all the provisions in this section.

003.01 SUBMITTING A CLAIM. Any Eligible Institution must submit a written request for reimbursement. Each written request must include the following:

- (1) The Department's approved claim form;
- (2) The Eligible Institution's school calendar as prescribed by the Nebraska Department of Education;
- (3) The school attendance records for the Eligible Child for the reimbursement period;  
and
- (4) When the Eligible Child is a Ward of Any Court, verification from the court of the date the child became a ward of the court.

003.01(A) SPECIAL EDUCATION REQUIREMENTS. If an Eligible Institution is submitting a claim for the costs of providing special education services, the Eligible Institution may be required to submit additional documentation in order for the Department to verify claim.

003.02 TIMEFRAME. An Eligible Institution must submit a claim for reimbursement no later than 30 days after the end of each semester for which the services were delivered.

003.02(A) EXCEPTION. The Department in its discretion may grant an exception to the 30 day requirement. Requests for an exception must be submitted by the Eligible Institution in writing along with the request for reimbursement.

003.03 INELIGIBLE CLAIMS. Eligible Institutions may not submit claims for the following:

- (A) A child who is attending pre-school;
- (B) A juvenile who has run away or absconded from another state and is being held under the Articles and Rules of the Interstate Compact for Juveniles; or
- (C) A juvenile charged as an adult who is being held in a detention or correctional facility.

004. REIMBURSEMENT RATE. The Department will reimburse claims that meet the requirements of this chapter pursuant to rates established by the Nebraska Department of Education. When the Nebraska Department of Education does not have an established rate for the Eligible Institution, payment will be made in accordance with the Department's policy.

004.01 TYPE OF EDUCATION. If an Eligible Institution has both a special education rate and a regular education rate, reimbursement will be made at the appropriate rate based on the educational services provided to the child.

004.02 OFFICIAL SCHOOL DAYS. An Eligible Institution may only be reimbursed for educational services provided on a school day as shown on the Eligible Institution's school calendar as prescribed by the Nebraska Department of Education.

004.03 SCHOOL TRANSPORTATION COSTS. An Eligible Institution may be reimbursed for the transportation costs associated with the student's education at the mileage reimbursement rate set by the Nebraska Department of Education.

004.04 SPECIAL EDUCATION SERVICES. An Eligible Institution will be reimbursed for the costs of the special education services provided to a student if those services are documented in the student's Individualized Education Plan. Reimbursement for these services will be at the rate established by the Nebraska Department of Education.

005. APPEAL. An Eligible Institution may appeal the denial of a claim in accordance with the Nebraska Administrative Procedures Act. The appeal must be submitted to the Department in writing no later than 30 days after the notice of denial.

TITLE 390 - CHILD WELFARE AND JUVENILE SERVICES

CHAPTER 10 - (Repealed)