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NOTICE OF RULE-MAKING HEARING  
NEBRASKA DEPARTMENT OF EDUCATION

NOTICE is hereby given that the Department of Education will conduct consecutive rule-making hearings Tuesday, June 1, 2021 at 10:00 a.m. (CT) via ZOOM (<https://educationne.zoom.us/j/94791723170>).

These hearings will be held on the revisions to Title 92, Nebraska Administrative Code, Chapter 1 (Rule 1), *Rules and Regulations Governing the Audit of Nebraska Public School Districts* **and** Title 92, Nebraska Administrative Code, Chapter 2 (Rule 2), *Uniform System of Accounting for Nebraska Public School Districts*

The PURPOSE of the proposed revisions to Chapter 1 (92 NAC 1) other than some technical changes is to add the requirement to test appropriateness of expense allocations to the school building level, which is a result of the Every Student Succeed Act (ESSA) requirement for school building level per pupil cost amounts.

The PURPOSE of the proposed revisions to Chapter 2 (92 NAC 2) other than some technical changes is to update system and coding changes due to the Every Student Succeed Act (ESSA).

The FISCAL IMPACT statement for each RULE may be obtained and inspected at the Office of the Nebraska Department of Education.

These consecutive hearings are being conducted under the provisions of Section 84-907 R.R.S., 1943, which provides that DRAFT COPIES OF THE PROPOSED RULES ARE AVAILABLE for public examination at the Nebraska Department of Education and at the Office of the Secretary of State, State Capitol Building, Lincoln, Nebraska. A copy of the hearing draft for each Rule is also available on the Nebraska Department of Education's webpage at:

<http://www.education.ne.gov/Legal/hearingdrafts.html>

All INTERESTED PERSONS are invited to ATTEND and TESTIFY via ZOOM (<https://educationne.zoom.us/j/94791723170>). Interested persons may also submit written comments to the Nebraska Department of Education prior to the hearing at [NDE.RuleHearing@nebraska.gov](mailto:NDE.RuleHearing@nebraska.gov). Written comments will be made a part of the hearing record at the time of the hearing.

Dated at Lincoln, Nebraska this 28th day of April, 2021.

Nebraska Department of Education  
Matthew L. Blomstedt, Ph.D.  
Commissioner of Education



**Omaha World-Herald**

# Order Confirmation

Order# 0000227388

## Client

NEBRASKA DEPT. OF EDUCATION-

Phone: 4024712598

Account: 1029918

Address: 301 CENTENNIAL MALL SOUTH, 6TH FLOOR  
LINCOLN NE 68509

## Payor

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Phone: 4024712598

Account: 1029918

Address: 301 CENTENNIAL MALL SOUTH, 6  
LINCOLN NE 68509

## Ad Content Proof

Note: Ad size does not reflect actual ad

STATE OF NEBRASKA  
LANCASTER COUNTY) ss:

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OF EDUCATION

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Governing the Audit of Nebraska  
Public School Districts, and Title  
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Written comments will be made a  
part of the hearing record at the  
time of the hearing.

Dated at Lincoln, Nebraska this  
26th day of April, 2021.  
  
Nebraska Department  
of Education  
Anthony L. Blomstedt, Ph.D.  
Commissioner of Education  
2NE2

## Sales Rep

tchandler

## Accnt Rep

owh\_open

## Ordered By

Brenda Wid

## Fax:

EEmail:

Total Amount

\$499.41

Payment Amount

\$0.00

Amount Due

\$499.41

Tax Amount:

0.00

Payment Meth:

Invoice Statement

Tear Sheets

0

Proofs

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Affidavits

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Blind Box

PO Number:

134801

## Ad Number

0000227388-01

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## Ad Size

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## Color

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OWH World Herald

## Placement

C-Legal Ads

## Position

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## # Inserts

1

Run Schedule Invoice Text:

STATE OF NEBRASKA)

) ss.

## Run Dates

4/28/2021

TagLine: STATEOFNEBRASKASSLANCASTERCOUNTYNOTICEOFRULEMAKINGHEARINGNEBRASKADEPARTME  
NTOFEDUCATIONNOTICE

FISCAL IMPACT  
STATEMENT

Agency: Nebraska Department of Education  
 Prepared by: Bryce Wilson  
 Date Prepared: 2/9/2021  
 Phone: 402-471-4320  
 Title: Title 92  
 Chapter: 1  
 Name: Rules and Regulations Governing the Audit of Nebraska Public School Districts

Statement Status: Hearing Draft

Type of Fiscal Impact:

	State Agency	Political Subdivision	Regulated Public
No Fiscal Impact			X
Increase Costs	\$1,000	X	
Decrease Costs			
Increased Revenue			
Decreased Revenue			
Indeterminable			

Description of Impact:

**State Agency:** The agency cost is for the public notice for hearing and publication of the proposed rule.

**Political Subdivision:** School Districts will have costs related to the additional ESSA requirements, the amount cannot be determined but it should be relatively minimal.

**Regulated Public:** None.

**NEBRASKA DEPARTMENT  
OF EDUCATION**

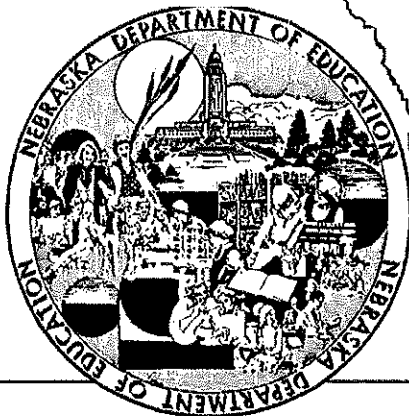
# **RULE 1**

**RULES AND REGULATIONS GOVERNING THE AUDIT OF NEBRASKA  
PUBLIC SCHOOL DISTRICTS**

**TITLE 92, NEBRASKA ADMINISTRATIVE CODE,  
CHAPTER 1**

**HEARING DRAFT  
MARCH 30, 2021**

**State of Nebraska  
Department of Education  
301 Centennial Mall South  
Lincoln, Nebraska 68509**



TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION  
 CHAPTER 1 - RULES AND REGULATIONS GOVERNING THE AUDIT OF NEBRASKA  
 PUBLIC SCHOOL DISTRICTS

NUMERICAL TABLE OF CONTENTS

<u>SUBJECT</u>	<u>STATUTORY AUTHORITY</u>	<u>CODE SECTION</u>
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Definitions	79-1089	002
Audit Requirements	79-1089	003
Penalties	79-1089	004
Appendix A * -	2 CFR Part 200 Subpart F – Audit Requirements	
Appendix B* -	American Institute of Certified Public Accountants Audit and Accounting Guide entitled <u>Audits of State and Local Governmental Units</u>	
Appendix C* -	United States General Accounting Office by the Comptroller General of the United States entitled <u>Government Auditing Standards</u> , (commonly known as the "yellow book")	
Appendix D* -	Governmental Accounting and Financial Reporting Standards by the Governmental Accounting Standards Board entitled <u>Governmental Accounting and Financial Reporting Standards</u>	

\* (Copies of all appendices are on file at the Nebraska Department of Education's central office in Lincoln, and are kept up-to-date with the current editions of each.)

TITLE 92 -NEBRASKA DEPARTMENT OF EDUCATION  
CHAPTER 1 -RULES AND REGULATIONS GOVERNING THE AUDIT OF NEBRASKA  
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ALPHABETICAL TABLE OF CONTENTS

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TITLE 92 -NEBRASKA DEPARTMENT OF EDUCATION  
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PUBLIC SCHOOL DISTRICTS

001 Statutory Authority

001.01 The following definitions and requirements shall govern the scope and extent of the audit of school district financial records, and the pattern of the report thereof, as required by Section 79-1089 of the Nebraska Revised Statutes (R.R.S.).

002 Definitions: As used in these rules and regulations, unless the context otherwise clearly requires, the following definitions shall prevail.

002.01 Audit shall mean examining, on a test basis, evidence supporting the assertions of management as to the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used, as well as evaluating the overall financial statement presentation.

002.02 Auditor shall mean a person who has an active permit from the Nebraska State Board of Public Accountancy, to engage in the practice of public accounting, either as a certified public accountant or as a public accountant, who is independent (see Appendix C, a copy of which is on file at the Nebraska Department of Education's central office in Lincoln) with respect to the school district and its board of education. Person shall include a corporation, partnership, or other form of organization which has an active permit to engage in the practice of public accounting.

002.03 Financial (Audit) Report shall mean and include the independent auditor's report and financial statements prepared in conformity with accounting principles generally accepted in the United States of America (Appendix D, a copy of which is on file at the Nebraska Department of Education's central office in Lincoln) or another comprehensive basis of accounting which may include the use of the cash or modified accrual basis accounting.

002.04 Federal Award shall mean Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities. It does not include procurement contracts, under grants or contracts, used to buy goods or services from vendors. Any audits of such vendors shall be covered by the terms and conditions of the contract. Contracts to operate Federal Government owned, contractor operated facilities (GOCOs) are excluded from the requirements of this part (Appendix A, a copy of which is on file at the Nebraska Department of Education's central office in Lincoln).



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002.05 Fiscal Year shall mean the annual period which commences on September 1, in one calendar year, and ends on August 31, in the following calendar year.

002.06 School District Finance Records subject to audit shall mean and include records of all funds and transactions of each fund maintained or required to be maintained by the school district.

003 Audit Requirements: The audit must be conducted in accordance with Auditing Standards Generally Accepted in the United States of America and the standards for financial and compliance audits contained in Government Auditing Standards issued by the Comptroller General of the United States (Appendix C, a copy of which is on file at the Nebraska Department of Education's central office in Lincoln).

003.01 If a separate management letter is referenced as a part of the Report on the Internal Control and/or the Report on Compliance with laws and regulations it shall be filed as part of the financial (audit) report.

003.02 All school districts that expend \$750,000 or more in a fiscal year in federal awards (including the value of commodities provided by the U.S. Department of Agriculture) are also required to have an audit conducted and reported in accordance with 2 CFR Part 200 Subpart F – Audit Requirements (Appendix A, a copy of which is on file at the Nebraska Department of Education's central office in Lincoln), and the American Institute of Certified Public Accountants Audit and Accounting Guide entitled Audits of State and Local Governmental Units (Appendix B, a copy of which is on file at the Nebraska Department of Education's central office in Lincoln).

003.03 The tests for compliance required for the audit ~~shall~~ includes those necessary to conform to current Auditing Standards Generally Accepted in the United States of America and Government Auditing Standards (Appendix C, a copy of which is on file at the Nebraska Department of Education's central office in Lincoln). The audit ~~shall~~ includes tests for compliance with the calculation of Average Daily Membership reported on the Annual Statistical Summary Report as specified in 92 NAC 2, requirements of the Nebraska Budget Act (commencing with Section 13-501 R.R.S.), and the Tax Equity and Educational Opportunities Support Act (commencing with Section 79-1001 R.R.S.) for school districts.

003.03A All compliance deviations related to Average Daily Attendance and Average Daily Membership (as those two elements are described in Section 006 of 92 NAC 2), the Nebraska Budget Act and the Tax Equity and Educational Opportunities Support Act (~~TEEOSA~~) ~~shall~~ must be included in the report on compliance required by Government Auditing Standards (Appendix C, a copy of which is on file at the Nebraska Department of Education's central office in Lincoln) or a letter to management (the School District Board of Education) and must be addressed by the school district per Section 003.05 of this Chapter.



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003.03B Average Daily Attendance (ADA) and Average Daily Membership (ADM) Testing Requirements for School Districts: Written documentation of the testing done of the ADA and ADM must be completed and submitted with all school district ~~Annual Financial Reports~~audit reports. The documentation must state confirmation of the following:

003.03B1 Documentation of the ~~school D~~school district's policies and procedures for collecting student membership and attendance data.

003.03B2 The ~~school D~~school district is following its policies and procedures for collecting student census data.

003.03B3 Attendance at the ~~school D~~school district is collected at least daily and calculated to the nearest ~~tenth~~ hundredth of a day.

003.03B4 The ~~school D~~school district maintains a cumulative attendance and membership record of each student.

003.03B5 The cumulative attendance and membership records contain the date of enrollment, number of days or partial days in attendance and absent during each school year enrolled, and the date of withdrawal or graduation.

003.03B6 The ~~totals student attendance reported by the District on its quarterly Student Summary Attendance report in the Nebraska Department of Education's (NDE) approved data collection system (e.g. ADVISER) have been traced back to the school D~~totals student attendance reported by the District on its quarterly Student Summary Attendance report in the Nebraska Department of Education's (NDE) approved data collection system (e.g. ADVISER) have been traced back to the school D district's ~~census recordkeeping system for all four quarters included in the fiscal year~~ census recordkeeping system for all four quarters included in the fiscal year student information system for the school year.

003.03C A ~~S~~statement must ~~also~~ be written for the following: A sample pool of students attendance records must be tested for the school year and must be traced to the students' enrollment files to verify that the sample students' are enrolled as students' of the ~~school D~~school district for the dates claimed in the attendance record.

003.03C1 If applicable: Reportable instances of noncompliance were included in the Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance With *Government Auditing Standards*.

003.03D ~~A statement must be written for the following: A sample of expense allocations were tested verifying appropriate allocating to the school building level.~~

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003.03D1 If applicable: Reportable instances of noncompliance were included in the Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters based on an Audit of Financial Statements performed in accordance with Government Auditing Standards.

003.04 Financial (Audit) Report Format. The financial reports and schedules should include:

003.04A A report cover, index or table of contents, independent auditors' reports (financial, compliance and internal control), Management's Discussion and Analysis (MD&A), government-wide and fund financial statements (including notes thereto), other required supplementary information (RSI), other supplemental schedules formatted as prescribed by the NDE and any additional information as may be required by the Nebraska Revised Statutes and reporting standards as may be appropriate to the cash or modified accrual basis. If the financial statements are prepared on a basis of accounting other than the cash basis, the financial report must include supplementary schedules of cash receipts, disbursements and fund balances of all funds maintained by the district, which schedules shall be reported on as audited accompanying information.

003.04B The financial (audit report) shall be on letter-size pages.

003.05 All school districts shall file with the Commissioner of Education on or before November 5 a copy of the financial (audit) report which includes the ADA/ADM testing letter. All school districts shall file with the Commissioner of Education on or before January 31, a copy of the auditor's letter to management, together with the district's responses, and any responses to compliance issues resulting from the audit. The financial (audit) report for all Class II, III, IV, V, and VI school districts must also be filed with the Auditor of Public Accounts on or before November 5.

003.06 If a school district that was in existence any time during the fiscal year dissolves and merges with one or more school districts prior to the completion of an independent financial (audit) report then:

003.06A The school district that receives the largest portion of the dissolved district's valuation is responsible, in cooperation with the dissolving district's Board of Education, for obtaining and filing financial (audit) report for the dissolved district.

003.06B The dissolved district's financial (audit) report shall cover the entire fiscal year (September 1 through August 31).

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004    Penalties

004.01 When any school district fails to file a financial (audit) report with the Nebraska Department of Education and, if required, any other State government agency, the Commissioner shall, after notice to the district and an opportunity to be heard, direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the district has complied with Section 79-1089 R.R.S. and this Chapter. In addition, the Commissioner shall direct the county treasurer to withhold all school money belonging to the school district until such time as the Commissioner notifies the county treasurer of compliance by the district with Section 79-1089 R.R.S. and this Chapter. The county treasurer shall withhold such money as directed.

004.02 All independent auditors, including corporations, partnerships, or other form of organization are subject to the rules, regulations and sanctions of the Nebraska State Board of Public Accountancy.