

STATE OF NEBRASKA)
) ss.
LANCASTER COUNTY)

NOTICE OF RULE-MAKING HEARING
NEBRASKA DEPARTMENT OF EDUCATION

NOTICE is hereby given that the Department of Education will conduct consecutive rule-making hearings on January 31, 2022, commencing at 9:00 a.m. (Central Time) on revisions to Title 92, Nebraska Administrative Code, Chapter 10 (Rule 10), *Regulations and Procedures for the Accreditation of Schools*, Title 92, Nebraska Administrative Code, Chapter 14 (Rule 14), *Regulations and Procedures for the Legal Operation of Approved Nonpublic Schools* AND Repeal of Title 92, Nebraska Administrative Code, Chapter 23, *Regulations for the Basic Skills Competency Testing of Teachers and Administrators*.

Testimony will be received via ZOOM <https://educationne.zoom.us/j/95155900826> .

The PURPOSE of the proposed revisions to Rule 10 (*Regulations and Procedures for the Accreditation of Schools*) is to incorporate 79-724 and 79-725 Nebraska Revised Statutes into rules to ensure compliance with 79-727 Nebraska Revised State Statute. Additionally, edits were made to reduce redundancy with Nebraska Revised State Statutes (E.g., the definition of “teach” now reflects a reference to the statutory definition), elimination of appendix documents, and other minor edits (E.g., replace “shall” with “must”).

The PURPOSE of the proposed revisions to Rule 14 (*Regulations and Procedures for the Legal Operation of Approved Nonpublic Schools*) is to incorporate 79-724 and 79-725 Nebraska Revised Statutes into rules to ensure compliance with 79-727 Nebraska Revised State Statute. Additionally, edits were made to reduce redundancy with Nebraska Revised State Statutes (E.g., the definition of “teach” now reflects a reference to the statutory definition), elimination of appendix documents, and other minor edits (E.g., replace “shall” with “must”).

The PURPOSE of the proposed repeal of Rule 23 (*Regulations for the Basic Skills Competency Testing of Teachers and Administrators*) is eliminate the requirement for educators to demonstrate basic skills competency, as defined in 79-807 (R.R.S.), when applying for an entry-level certificate. Nebraska is currently experiencing an educator shortage and is looking at eliminating unnecessary and duplicative barriers for educators related to certification while ensuring high standards are retained. Most research finds that certification exams are not strong predictor a teaching effectiveness. Basic skills competency examinations also add to costs for new educators. Additionally, a baccalaureate degree and completion of an approved educator preparation program (including student teaching) is required for an initial teaching certificate and these requirements demonstrate an applicant has the basic skills to be a teacher. This would not preclude an educator preparation program or school system from instituting basic skills testing requirement for those entering into a program or being hired as a teacher but would allow that decision to be one of local control. The repeal would also allow Nebraska to be more competitive for teachers as no other states that borders Nebraska requires basic skills competency examinations for certification. The repeal of Chapter 23 will result in an increase in the number of certificated teachers in Nebraska.

FISCAL IMPACT statements may be obtained and inspected at the Office of the Nebraska Department of Education.

These hearings are being conducted under the provisions of Section 84-907 R.R.S., 1943, which provides that a DRAFT COPY OF THE PROPOSED RULE IS 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 these Rules are 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/95155900826>. If reasonable accommodations are needed, please contact Brad Dirksen at least five (5) days prior to the hearing. Interested persons may also submit written comments to the Nebraska Department of Education prior to the hearing at 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 21st day of December 2022.

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





FISCAL IMPACT
STATEMENT

Agency: Nebraska Department of Education
 Prepared by: Brad Dirksen
 Date Prepared: December 20, 2022
 Phone: 402-430-0267
 Title: 92
 Chapter: 23
 Name: Regulations for the Basic Skills Competency Testing of
 Teachers and Administrators
 Statement Status: Hearing Draft

Type of Fiscal Impact:

	State Agency	Political Subdivision	Regulated Public
No Fiscal Impact		X	
Increase Costs	X		
Decrease Costs			X
Increased Revenue			
Decreased Revenue			
Indeterminable			

Description of Impact:

State Agency: It will cost approximately \$650 to hold the hearing and print copies for distribution upon approval of the revised rule.

Political Subdivision: No fiscal impact

Regulated Public: The fiscal impact for each educator certification applicant (initial teaching certificate) would be a cost savings of \$150 for the combined (reading, writing, and mathematics) exam or \$90 of each individual test taken (or retaken).

NEBRASKA DEPARTMENT
OF EDUCATION

RULE 23

REGULATIONS FOR THE BASIC SKILLS COMPETENCY TESTING OF
TEACHERS AND ADMINISTRATORS

TITLE 92, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER 23

EFFECTIVE DATE
MAY 10, 2014
(REVISED)

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



TITLE 92 — NEBRASKA DEPARTMENT OF EDUCATION
 CHAPTER 23 — REGULATIONS FOR THE BASIC SKILLS COMPETENCY TESTING OF
 TEACHERS AND ADMINISTRATORS

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~~TITLE 92 — NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 23 — REGULATIONS FOR THE BASIC SKILLS COMPETENCY TESTING OF
TEACHERS AND ADMINISTRATORS~~

~~001 — General Information~~

~~001.01 — Statutory Authority.~~ This chapter is adopted pursuant to the power and authority vested in the State Board of Education in Nebraska Revised Statutes (R.R.S) Sections 79-807, 79-808, 79-809 and 79-318.

~~001.02 — Scope, Application, and Delineations of this Chapter.~~ This chapter provides procedures for the administration of a basic skills competency examination for individuals seeking an entry-level Nebraska teacher or administrator certificate after July 31, 1989.

~~001.03 — Institutional Responsibility.~~ Each standard institution of higher education is required to annually notify applicants of the requirement for taking the basic skills competency examination and of the scheduled opportunity to take the examination.

~~001.04 — Related Chapters.~~ Throughout this chapter reference is made to other Department of Education rules relating to teachers and administrators. For a more detailed explanation of the procedures for the issuance of certificates to teach, counsel, or supervise in Nebraska schools refer to 92 NAC 21 (Rule 21). Title 92 NAC 20 (Rule 20) covers the approval of teacher education programs in Nebraska. Copies of these rules are available from the Department of Education.

~~002 — Definition of Terms~~

As used in this chapter, the terms listed below shall be defined as follows:

~~002.01 — ACT~~ means the paper or computerized sections of the American College Test (ACT) used as a measurement of student performance.

~~002.02 — Basic Skills Competency~~ means either (a) proficiency in (i) the written use of the English language, (ii) reading, comprehending, and interpreting professional writing and other written materials, and (iii) working with fundamental mathematical computations as demonstrated by successful completion of an examination designated by the board and taken by teacher education students enrolled at a

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~~standard institution of higher education; or (b) successful employment experiences of two (2) or more consecutive years in an approved, accredited, or otherwise legally operated school while (i) holding or qualifying to hold a regular certificate issued by another state on the basis of completion of an approved teacher education program at a standard institution of higher education; or (ii) holding current credentials from a credentialing organization approved pursuant to 92 NAC 22 (Master Teacher Program) as referenced in 92 NAC 21 (Issuance of Certificates and Permits to Teach, Provide Special Services, and Administer in Nebraska Schools).— Basic skills competency examinations are those which meet section (a) in this definition and are approved by the State Board of Education, pursuant to this chapter.~~

~~002.03 Board means the State Board of Education.~~

~~002.04 Commissioner means the State Commissioner of Education.~~

~~002.05 Core Skills Test means the paper or computerized reading, writing and mathematics portions of the Core Academic Skills for Educators Test published by the Educational Testing Service of Princeton, New Jersey.~~

~~002.06 Department means the State Department of Education which is comprised of the Board and the Commissioner.~~

~~002.07 Entry level certificate means the first regular certificate acquired in Nebraska by an applicant.~~

~~002.08 PPST means the paper or computerized reading, writing, and mathematics portions of the Pre-Professional Skills Test published by the Educational Testing Service of Princeton, New Jersey.~~

~~002.09 Regular certificate means an Initial, Standard, or Professional Nebraska certificate, or a comparable and equivalent certificate from another state.~~

~~002.10 Passing scores means scaled scores in math, reading and writing individually reported on an original score report as set forth in Sections 003.02, 003.03, 003.04 and 003.05 of this chapter, or a determination by the Commissioner under Section 007 of this chapter, or a score submitted under the provisions of Section 008 of this chapter.~~

~~002.11 Standard institution of higher education means any college or university whose teacher education program is fully approved by the Board, or by a comparable agency in any other state or country.~~

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003—General Provisions

~~003.01 Requirements of Basic Skills Competency Examination for Initial Certification or Permit.~~ Prior to September 1, 2014 applicants taking a basic skills competency examination for an entry level Nebraska teacher or administrative certificate were required to complete the reading, mathematics, and writing portions of the Pre-Professional Skills Test (PPST). As described in Section 003.03 of this chapter, passing scores on the PPST obtained prior to September 1, 2014 will meet the basic skills competency examination requirement. Effective September 1, 2014, applicants taking a basic skills competency examination were required to complete the Core Skills Test. After September 1, 2014, applicants for an entry level Nebraska certificate or permit can use previously obtained passing scores on the PPST or the Core Skills Test to meet the basic skills competency examination requirement. Effective September 1, 2019, applicants for an entry level Nebraska certificate or permit can meet the Basic Skills requirement by submitting passing scores on the ACT test as described in section 003.04 of this chapter. Section 003.05 of this chapter allows a combination of this aforementioned examinations to be used. Section 007 of this chapter contains accommodation provisions for the basic skills competency examination and Section 008 of this chapter deals with competency determinations based on equivalency.

~~003.02 Passing Scores. Core Skills Test.~~ Passing scores means the scaled scores as shown on an original score report from the Educational Testing Service consisting of the following:

~~003.02A One hundred fifty six (156) or above on the reading portion of the Core Skills Test; and~~

~~003.02B One hundred fifty (150) or above on the mathematics portion of the Core Skills Test; and~~

~~003.02C One hundred sixty two (162) or above on the writing portion of the Core Skills Test; or~~

~~003.02D A composite score of all three sections of the CORE Skills Test of 468 with no score reported below 148 Reading, 142 Math, and/or 158 Writing will be accepted to meet the basic skills examination requirement.~~

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~~003.03— Passing Scores. PPST. Applicants will meet the basic skills competency examination requirement by taking the PPST prior to September 1, 2014. Applicants may use passing scores on the PPST as identified in Sections 003.03A through 003.03D of this chapter for program admission after September 1, 2014 with institutional approval.~~

~~003.03A— One hundred seventy (170) or above on the reading portion of the PPST; and~~

~~003.03B— One hundred seventy one (171) or above on the mathematics portion of the PPST; and~~

~~003.03C— One hundred seventy two (172) or above on the writing portion of the PPST; or~~

~~003.03D— A composite score of 513 on all three portions of the PPST, with no single test score being more than one point below the score required in Section 003.03A, 003.03B, or 003.03C of this chapter, and upon the recommendation of a standard institution of higher education.~~

~~003.04— Passing Scores. ACT. Applicants may meet the Basic Skills competency examination requirement by taking the American College Test (ACT). Passing scores means the scaled scores as shown on an original score report from the American Testing Service consisting of the following:~~

~~003.04A— Nineteen (19) or above on the ELA (English, Reading & Writing) portion of the ACT; and~~

~~003.04B— Twenty one (21) or above of the math portion of the ACT.~~

~~003.05— Passing Scores. Combination of Tests. Applicants may meet the Basic Skills competency examination requirement by combining passing scores from each area of competency, (reading, mathematics and writing), taken from more than one examination:~~

~~003.05A— For reading, a score described in Sections 003.02A or 003.03A or 003.04A; combined with,~~

~~003.05B— For mathematics, a score described in Sections 003.02B or 003.03B or 003.04B; combined with,~~

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~~003.05C~~ For writing, a score described in Sections ~~003.02C~~ or ~~003.03C~~ or ~~003.04A~~.

~~003.06~~ Applications for Renewal and for Second Certificates. No portion of this chapter will be construed as having any application to the renewal of a Nebraska teaching or administrative certificate or to the application for a second Nebraska teaching or administrative certificate.

~~003.07~~ Score Reports. Only original score reports sent from the Educational Testing Service or the American College Test Company or score reports sent by a Nebraska standard institution of higher education and to which the applicant did not have access will be accepted by the Department for the purpose of meeting the requirements of this chapter and 92 NAC 21.

~~004~~ Basic Skills Competency Examination Requirements for Applicants for Administrative or Teaching Certificates

Except as provided in Section ~~007~~ and Section ~~008~~ of this chapter, each applicant for an entry-level administrative or teaching certificate will:

~~004.01~~ Take the basic skills competency examination at a Nebraska location designated by the institution or at any other location where the examination is given; and

~~004.02~~ Receive passing scores on the basic skills competency examination as designated by Sections ~~003.02~~, ~~003.03~~, ~~003.04~~, or ~~003.05~~ of this chapter; and

~~004.03~~ Require that his or her original score report be sent directly to the designated Nebraska standard institution of higher education or to the Department.

~~005~~ Basic Skills Competency Examination Duties of the Department

The Department will:

~~005.01~~ Provide to any person upon request current information on Nebraska dates and testing locations for the basic skills competency examination.

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006—Provisions for Hearing

006.01—When a person is denied any Nebraska teaching or administrative certificate for which he or she has applied because of the provisions of this chapter, he or she is entitled to request a review and hearing pursuant to 92 NAC 21.

007—Accommodations

007.01—An individual whose primary language is sign language or for whom English is a second language is required to take the same basic skills competency examinations as other individuals. However, if they fail to obtain the minimum passing scores as specified in Sections 003.02, 003.03, 003.04, or 003.05 of this chapter, they may apply to the Commissioner for a review of their past education, employment, and standardized testing experience.

007.02—If, upon examination, the Commissioner determines that the applicant has provided evidence of the possession of basic skills competency equivalent to that designated in Sections 003.02, 003.03, 003.04, or 003.05 of this chapter, the Commissioner will issue a determination that the applicant has demonstrated satisfactory scores for purposes of this chapter and 92 NAC, Chapters 20 and 21.

008—Determination Based on Equivalency

008.01—An individual who has taught or administered for two (2) consecutive years in an approved, accredited, or otherwise legally operated school in another state meets this requirement by submitting an employment verification form (a recommended form may be found on the Department's Teacher Certification website); or

008.02—A person who has been certificated by another state following the successful completion of a basic skills competency examination with separate passing scores individually reported for math, reading and writing required by that state, meets the basic skills competency requirement. The applicant will submit an original score report pursuant to this chapter or 92 NAC 21.