

STATE OF NEBRASKA)

SS.

LANCASTER COUNTY)

NOTICE OF RULE-MAKING HEARING

NOTICE is hereby given that the Department of Education will conduct consecutive rule-making hearings on Wednesday, January 3, 2024, commencing at 9:00 a.m. (Central Time) on the adoption of Title 92, Nebraska Administrative Code, Chapter 58 (Rule 58), *Regulations for Security-Related Infrastructure Grants*, and revisions to Title 92, Nebraska Administrative Code, Chapter 59 (Rule 59), *Regulations for School Health and Safety*.

Testimony will be received via ZOOM. The link for the hearing will be on the Nebraska Department of Education website at: <https://www.education.ne.gov/legal/public-notice-of-upcoming-rule-hearings/>.

The PURPOSE of the proposed Rule 58 (*Regulations for Security-Related Infrastructure Grants*) is to provide a procedure for awarding grants for security-related infrastructure pursuant to Neb. Rev. Stat. § 79-3108.

The PURPOSE of the proposed revisions to Rule 59 (*Regulations for School Health and Safety*) is to incorporate the seizure Safe Schools Act and to provide clarity and consistency with rules and regulations issued by the Department of Health and Human Services.

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 Neb. Rev. Stat. § 84-907, 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 each hearing draft for these Rules is also available on the Nebraska Department of Education webpage at: <https://www.education.ne.gov/legal/public-notice-of-upcoming-rule-hearings/>.

All INTERESTED PERSONS are invited to ATTEND and TESTIFY via ZOOM. The link for the hearing will be on the Nebraska Department of Education's website at: <https://www.education.ne.gov/legal/public-notice-of-upcoming-rule-hearings/>.

If reasonable accommodations are needed, please contact Zainab Rida at zainab.rida@nebraska.gov 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 30th day of November 2023.

Nebraska Department of Education
Dr. Brian L. Maher
Commissioner of Education



FISCAL IMPACT
STATEMENT

Agency: Nebraska Department of Education
 Prepared by: Zainab Rida
 Date Prepared: 11/30/23
 Phone: 402-471-4620
 Title: 92
 Chapter: 58
 Name: *Regulations for Security-Related Infrastructure Grants*
 Statement Status: Public Hearing Draft
 Type of Fiscal Impact:

	State Agency	Political Subdivision	Regulated Public
No Fiscal Impact			X
Increase Costs	X		
Decrease Costs			
Increased Revenue		X	
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: None

Regulated Public: None

FISCAL IMPACT
STATEMENT

Agency: Nebraska Department of Education
 Prepared by: Zainab Rida
 Date Prepared: 11/30/23
 Phone: 402-471-4620
 Title: 92
 Chapter: 59
 Name: *Regulations for the School Health and Safety in Nebraska Schools*
 Statement Status: Public Hearing Draft
 Type of Fiscal Impact:

	State Agency	Political Subdivision	Regulated Public
No Fiscal Impact		X	X
Increase Costs	X		
Decrease Costs			
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: None

Regulated Public: None

NEBRASKA DEPARTMENT
OF EDUCATION

RULE **58**

REGULATIONS FOR SECURITY-RELATED INFRASTRUCTURE GRANTS

TITLE 92, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER **58**

PUBLIC HEARING DRAFT
(November 30, 2023)

State of Nebraska
Department of Education
500 S. 84th Street, 2nd Floor
Lincoln, Nebraska 68510



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TITLE 92 – NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 58 – REGULATIONS FOR SECURITY-RELATED INFRASTRUCTURE GRANTS

NUMERICAL TABLE OF CONTENTS

<u>SUBJECT</u>	<u>STATUTORY AUTHORITY</u>	<u>CODE SECTION</u>
<u>General Information</u>	<u> §§ 79-318, 79-3108</u>	<u>001</u>
<u>Definitions</u>	<u> §§ 79-318, 79-3108</u>	<u>002</u>
<u>Qualifications</u>	<u> §§ 79-318, 79-3108</u>	<u>003</u>
<u>Proposals</u>	<u> §§ 79-318, 79-3108</u>	<u>004</u>
<u>Awarding of Grants</u>	<u> §§ 79-318, 79-3108</u>	<u>005</u>
<u>Grant Funds</u>	<u> §§ 79-318, 79-3108</u>	<u>006</u>
<u>Appeals</u>	<u> §§ 79-318, 79-3108</u>	<u>007</u>
<u>Reports</u>	<u> §§ 79-318, 79-3108</u>	<u>008</u>
<u>Appendix A – Needs Assessment Survey</u>		

TITLE 92 – NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 58 – REGULATIONS FOR SECURITY-RELATED INFRASTRUCTURE GRANTS

ALPHABETICAL TABLE OF CONTENTS

<u>SUBJECT</u>	<u>STATUTORY AUTHORITY</u>	<u>CODE SECTION</u>
<u>Appeals</u>	<u>§§ 79-318, 79-3108</u>	<u>007</u>
<u>Awarding of Grants</u>	<u>§§ 79-318, 79-3108</u>	<u>005</u>
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<u>Proposals</u>	<u>§§ 79-318, 79-3108</u>	<u>004</u>
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<u>Reports</u>	<u>§§ 79-318, 79-3108</u>	<u>008</u>
<u>Appendix A – Needs Assessment Survey</u>		

TITLE 92 – NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 58 – REGULATIONS FOR SECURITY-RELATED INFRASTRUCTURE GRANTS

001 General Information

001.01 Statutory Authority. This Chapter is adopted pursuant to Neb. Rev. Stat. §§ 79-318 and 79-3108.

001.02 Scope. This Chapter governs the issuance security-related infrastructure grants authorized pursuant to Neb. Rev. Stat. § 79-3108.

001.03 Related Regulations. In addition to the requirements of this Chapter, the funds of public school districts and educational service units are also governed by regulations contained in Title 92 Nebraska Administrative Code (NAC), Chapter 2, dealing with the Uniform System of Accounting; 92 NAC 8, dealing with School Finance & Budgeting/State Funding of Educational Service Units and Learning Communities, and 92 NAC 61, dealing with contested cases before the State Board of Education.

002 Definitions

002.01 Aggregate Percent means the number of students in the specified category divided by the total number of students for all schools based on formula students for the most recent certification of aid pursuant to the Tax Equity and Educational Opportunities Support Act for school districts or based on data from the most recently completed school year for nonpublic schools.

002.02 Assisted School means any school belonging to a school district that receives a grant pursuant to this Chapter or any nonpublic school that has entered into a contract for security-related infrastructure with an educational service unit that receives a grant pursuant to this Chapter based on the contract.

002.03 Commissioner means the State Commissioner of Education.

002.04 Contract for Security-Related Infrastructure means a contract between an educational service unit and a nonpublic school located within the boundaries of the educational service unit in which the educational service unit receives consideration from the nonpublic school in exchange for assistance from the educational service unit related to a security-related infrastructure project benefitting the students of the nonpublic school.

002.05 Department means the State Department of Education.

002.06 Nonpublic School means a nonpublic school approved pursuant to 92 NAC 14 (Rule 14) or accredited pursuant to 92 NAC 10 (Rule 10) by the State Board of Education.

002.07 Proposal means a request made to the Department for grant funding pursuant to this Chapter.

002.08 Qualifying Project means the purchase, installation, or improvement of:

002.08A Surveillance equipment;

TITLE 92 – NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 58 – REGULATIONS FOR SECURITY-RELATED INFRASTRUCTURE GRANTS

002.08B Door locking systems;

002.08C Double-entry doors for a school building;

002.08D Visitor management systems;

002.08E Ground lighting;

002.08F Safety film for glass in exterior doors and sidelights;

002.08G Hand-held radios to aid in communication during school situations;

002.08H Notification systems;

002.08I Control devices to restrict access to areas as needed for security purposes.

002.08J Screening devices;

002.08K Fencing to secure playgrounds;

002.08L Automatic external defibrillators;

002.08M Bleeding control kits; or

002.08N Other physical security equipment or security-related technology.

002.09 School means any school in a school district that submits a proposal or receives a grant pursuant to this Chapter or a nonpublic school that has entered into a contract for security-related infrastructure with an educational service unit that submits a proposal or receives a grant pursuant to this Chapter based on the contract.

002.10 Student means an individual enrolled in any grade kindergarten through grade 12 or in an early childhood education program of a school.

003 Qualifications

003.01 School Districts. Any school district may apply for a grant pursuant to this Chapter on behalf of all schools belonging to the school district.

003.02 Educational Service Units. An educational service unit that has entered into a contract for security-related infrastructure with a nonpublic school may apply for a grant to support the contract. The contract must outline the terms, conditions, expectations, and procedures for both parties that ensure grant funding received pursuant to this Chapter is used for the purposes stated in the grant proposal. Procedures included in the contract may include documentation requirements, deadlines, and other guidelines. An education service unit will submit a separate proposal for each nonpublic school for which the educational service unit has entered into a contract for security-related infrastructure and each such proposal will be evaluated by the panel independent of other proposals submitted by the same educational service unit.

TITLE 92 – NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 58 – REGULATIONS FOR SECURITY-RELATED INFRASTRUCTURE GRANTS

004 Proposals

004.01 Request for Proposals. The Department will issue a Request For Proposals (RFP) for new or expansion grants for school safety and security program during years in which grant funds are available. Each RFP issued pursuant to this section will state a deadline by which proposals must be received.

004.02 Proposal Requirements. Each qualifying proposal must be received by the Department on or before the deadline stated in the RFP and contain the following:

004.02A Needs Assessment Survey. The Needs Assessment Survey found in Appendix A of this Chapter;

004.02B Stakeholder Engagement. A description must be included of how stakeholders have been engaged in meaningful consultation regarding the safety and health of students at the local level. Stakeholders include the following subgroups as applicable: Students; families; school, district, and educational service unit administrators; teachers; classified staff; Tribal governments; civil rights organizations; and organizations and individuals representing the interests of students with disabilities, English learners, students experiencing homelessness, students in foster care, migratory students, students who are incarcerated, and other underserved students;

004.02C Data. Each qualifying proposal must include:

004.02C1 The aggregate percent of students who are in poverty as measured using poverty students as defined in Neb. Rev. Stat. § 79-1003(30) for school districts or, for nonpublic schools, the number of students qualifying for free lunches;

004.02C2 Data to support any assertion that a challenge from the previous three school years has increased the need for a security-related infrastructure grant. Examples of challenges include, but are not limited to, a recent disaster, a high rate of mental health needs (lack of mental health providers), chronic absenteeism, or a high rate of community or school violence;

004.02C3 The grade configuration of each school; and

004.02C4 The total number of students for each school based on formula students for the most recent certification of aid pursuant to the Tax Equity and Educational Opportunities Support Act for school districts or based on data from the most recently completed school year for nonpublic schools.

004.02D Program Narrative. A program narrative must describe:

004.02D1 How funds from the grant will support safe and healthy student outcomes;

TITLE 92 – NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 58 – REGULATIONS FOR SECURITY-RELATED INFRASTRUCTURE GRANTS

004.02D2 The rationale behind selecting the proposed project including the match to the needs assessment and the stakeholder feedback;

004.02D3 For school districts, how grant funds will be divided as evenly as possible among all schools in the school district; and

004.02D4 Any anticipated challenges for the implementation of the proposal and a plan to overcome the challenges;

004.02E Timeline. A timeline for the full implementation of the project is required;

004.02F Sustainability Plan. A description is required of plans to sustain the project after the grant funds have been expended;

004.02G Evaluation Plan. An evaluation plan to measure the impact of the project; and

004.02G Contract for Security-Related Infrastructure. For educational service units, the contract for security-related infrastructure.

005 Awarding of the Grants

005.01 Scoring Panel. The Commissioner will select nine individuals knowledgeable in school safety and security to serve on the scoring panel. The scoring panel will evaluate and score each proposal using a rubric developed by the panel and based on the requirements of the grant program. The panel will use the scores to determine which proposals meet the minimum qualification to make recommendations for the awarding of competitive grant amounts to the Commissioner.

005.02 Distribution of Award Amounts. Each proposal that meets the minimum qualifications will result in a base grant award of \$2,000 for each school. The remainder of the available funds after the awarding of base grants will be awarded on a competitive basis.

005.03 Final Determination. The Commissioner will make the final determinations on the awarding of the grants based on the recommendations of the scoring panel and the requirements of Neb. Rev. Stat. § 79-3108 and this Chapter.

006 Grant Funds

006.01 Special Grant Funds. Any grant funds awarded pursuant to this Chapter to a school district will be considered special grant funds and, therefore may be excluded from the general fund budget of expenditures pursuant to Neb. Rev. Stat. § 79-1003(20) and from the calculation of budget authority pursuant to Neb. Rev. Stat. § 79-1028.01(1)(m).

006.02 Use of Funds. Any grant funds awarded pursuant to this Chapter must be used for the purposes stated in the grant proposal or be returned to the Department.

TITLE 92 – NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 58 – REGULATIONS FOR SECURITY-RELATED INFRASTRUCTURE GRANTS

006.03 Duration of Funding. Any grant funds awarded pursuant to this Chapter must be obligated within one year of the date the funds were received by the school district or educational service unit or be returned to the Department.

007 Appeals

007.01 Commissioner Review. A school district or educational service unit that submits a proposal pursuant to this Chapter that is aggrieved by any decision of the Department in regard to its proposal may request in writing a review by the Commissioner of Education within fifteen (15) calendar days of its receipt of the Department's decision on the proposal. The Commissioner shall review the claim together with all other materials submitted in the applicant's proposal, the requirements of this Chapter, and state law. The Commissioner, within ninety (90) days of the Department's receipt of the claim, shall make a final written determination regarding the claim. A copy of the determination shall be mailed to the claimant, certified mail, return receipt requested.

007.02 Contested Case Hearing. If the claimant disagrees with the Commissioner's final written determination, it may request a hearing on the determination within fifteen (15) days following receipt of the determination pursuant to 92 NAC 61 (Rule 61).

008 Reports

008.01 Reporting Requirement. On or before December 1 of each calendar year that grants were issued pursuant to this Chapter, the Department will provide a report electronically to the Clerk of the Legislature. The report will not identify any particular school. The report will include, but not be limited to:

008.01A The total number of assisted schools;

008.01B The number of public assisted schools and the number of nonpublic assisted schools;

008.01D The number of assisted schools in each grade configuration;

008.01E The average amount of grant funds received by schools broken down by student population size ranges determined by the Department to avoid identifying any schools;

008.01F The number of schools in each of the student population size ranges used in subdivision 008.01E of this Chapter;

008.01G The number of schools in each geographic location as defined by the boundaries of the State Board of Education;

008.01H How the grant funds were used; and

008.01I The number of schools that were denied grant funding and the reasons why.

Appendix A

Needs Assessment Questions

1. Does each school have a written Emergency Operation Plan (EOP) or a plan to create one with this grant? (Y/N)
2. Does the school, school district, or educational service unit collaborate with Emergency Managers, Law Enforcement, and Fire/Rescue on EOP's? (Y/N)
3. Does each school participate in Safe2HelpNE or other anonymous report line services? (Y/N)
4. Does the school, school district, or educational service unit have a Threat Assessment Team? (Y/N)
5. Does the school district or educational service unit conduct prevention trainings on bullying/cyberbullying, substance use, suicide, digital or social media issues that each school is able to access? (Y/N)
6. Does each school use Standard Response Protocol (SRP) and Standard Reunification Method (SRM) procedures? (Y/N) If, yes is staff trained in SRP and SRM? (Y/N)
7. Does each school have a system or procedure in place for lockdowns? (Y/N)
8. Is the staff in each school adequately trained on how to activate a lockdown? (Y/N)
9. Is the staff in each school adequately trained on active shooter response? (Y/N)
10. Are all classrooms equipped with the necessary equipment or tools to communicate with the front office or other administrative staff? (Y/N)
11. Is there controlled access into each school during the school day? (Y/N)
12. Is there a secure vestibule that separates the main entry from full building access in each school? (Y/N)
13. Is there a video surveillance system with recording capability in use in each school? (Y/N)
14. Is there video coverage of all exterior doors for each school? (Y/N)
15. Is there a perimeter fence in place around all student play areas at each school? (Y/N)
16. Are there bollards or other barriers protecting school entrances from vehicular intrusion at each school? (Y/N)
17. Are all exterior school doors locked during school hours? (Y/N)
18. Are windows and sidelights in exterior doors of all schools outfitted with safety film? (Y/N)

TITLE 92 – NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 58 – REGULATIONS FOR SECURITY-RELATED INFRASTRUCTURE GRANTS

19. Does each school utilize a visitor management system to identify and track all school visitors during the school day? (Y/N)
20. Do all classroom doors have a door lock or door barricade device that can be locked from the inside? (Y/N)
21. Do all schools have working security alarm systems? (Y/N)
22. Does the school, school district, or educational service unit provide safety and security training for all staff, substitute teachers, and volunteers? (Y/N)
23. Do all schools have access to an Automated External Defibrillator (AED)? (Y/N)
24. Has the school, school district, or educational service unit conducted a vulnerability assessment in the past two years? (Y/N)
25. Do all schools have bleeding control kits readily available? (Y/N)
26. Do all schools have tourniquets readily available? (Y/N)

Short Answer Needs Assessment Questions

1. What security-infrastructure enhancement needs were sighted in the last annual school safety and security assessment conducted by a person not employed by the school system? (5000 maximum characters used)
2. What security-infrastructure needs have been achieved in the last 5 years to improve upon prevention, preparedness, response, & recovery? How was this project accomplished and what was the source of funding for this project(s)? (5000 maximum characters)
3. What will be the biggest safety and security challenge if not selected to receive grant funds? What other opportunities or resources will be needed to complete security-infrastructure? (5000 maximum characters)
4. Describe the current greatest strengths in security-infrastructure and the areas needing the most attention and why? Include the order of most to least need for all the security-infrastructure desires. (5000 maximum characters)

**NEBRASKA DEPARTMENT
OF EDUCATION**

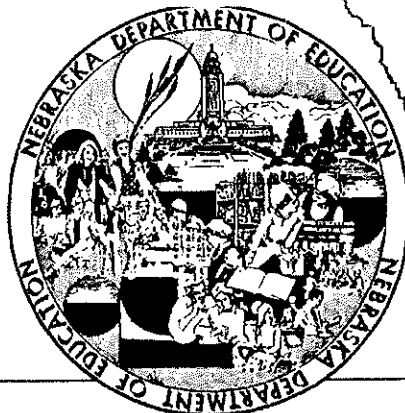
RULE 59

REGULATIONS FOR SCHOOL HEALTH AND SAFETY

**TITLE 92, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER 59**

**PUBLIC HEARING DRAFT
November 30, 2023**

**State of Nebraska
Department of Education
500 S. 84th Street, 2nd Floor
Lincoln, Nebraska 68510**



TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 59 - REGULATIONS FOR SCHOOL HEALTH AND SAFETY

NUMERICAL TABLE OF CONTENTS

<u>SUBJECT</u>	<u>STATUTORY AUTHORITY</u>	<u>CODE SECTION</u>
General Provisions	<u>§79-305, §79-318</u> , §71-6739	001
Definitions	<u>§71-2473</u> , §71-6721, §71-6725 <u>§79-3202</u>	002
Medication Aide Act - Provision of Medication	§71-6722, §71-6723	003
Medication Aide Act - Competency Assessment	§71-6725, §71-6739	004
Medication Aide Act - Documentation	§71-6724	005
Emergency Response to Life Threatening Asthma or Systemic Allergic Reactions (Anaphylaxis)	<u>§25-21,280, 71-2475</u> , §79-305, §79-318	006
<u>Seizure Safe Schools Act - General Requirements</u>	<u>§§79-3201 to 79-3207</u>	<u>007</u>
<u>Seizure Safe Schools Act - Seizure Action Plans</u>	<u>§79-3202, §79-3203, §79-3207</u>	<u>008</u>
<u>Seizure Safe Schools Act - Training Requirements</u>	<u>§79-3203, §79-3204, §79-3207</u>	<u>009</u>
Enforcement	§71-6735	<u>009 007</u>

APPENDICES

Appendix A: Emergency Response to Life-Threatening Asthma or Systemic
Allergic Reactions (Anaphylaxis) Protocol

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 59 - REGULATIONS FOR SCHOOL HEALTH AND SAFETY

ALPHABETICAL TABLE OF CONTENTS

<u>SUBJECT</u>	<u>STATUTORY AUTHORITY</u>	<u>CODE SECTION</u>
Definitions	<u>§71-2473</u> , §71-6721, §71-6725	002
Emergency Response to Life Threatening Asthma or Systemic Allergic Reactions (Anaphylaxis)	<u>§25-21,280, 71-2475</u> , §79-305, §79-318	006
Enforcement	§71-6735	<u>009</u> 007
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<u>Seizure Safe Schools Act - Training Requirements</u>	<u>§79-3203, §79-3204, §79-3207</u>	<u>009</u>

APPENDICES

Appendix A: Emergency Response to Life-Threatening Asthma or Systemic
Allergic Reactions (Anaphylaxis) Protocol

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 59 - REGULATIONS FOR SCHOOL HEALTH AND SAFETY

001 General Provisions.

001.01 Statutory Authority. This Chapter is adopted pursuant to Neb. Rev. Stat. §§ 25-21,280, Sections 79-305, 79-318, and ; Sections 79-1102 to 79-1104, and the Medication Aide Act in Neb. Rev. Stat. §§ Sections 71-6718 through 71-6742, and the Seizure Safe Schools Act in Neb. Rev. Stat. §§ 79-3201 to 79-3207 of the Revised Statutes of Nebraska (R.R.S.).

001.02 Medication Aide Act Requirements. Sections 003, 004 and 005 of this Chapter set forth the methods for competency assessment for school staff who provide medications and/or participate in observing and reporting for monitoring medications. In order for ~~a school to assess the competency of~~ staff members to provide medication as mentioned above, the staff members must be able to successfully pass a competency assessment no less than every three (3) years as provided in such sections. ~~Such competency assessments shall consist of a demonstration by the school staff member of each of the competencies listed in Sections 004.01A through 004.01N to the satisfaction of the health care professional designated by the school to conduct the assessment.~~

001.02A Nothing in this Chapter ~~may shall~~ be construed to require any school to employ or use a school nurse or medication aide ~~in order~~ to be in compliance with the Medication Aide Act.

001.03 Emergency Response to Life Threatening Asthma or Systemic Allergic Reactions (Anaphylaxis). Section 006 of this Chapter sets forth the requirements for Emergency Response to Life Threatening Asthma or Systemic Allergic Reactions (Anaphylaxis) Protocols.

001.04 Seizure Safe Schools Act Requirements. Sections 007, 008, and 009 of this Chapter sets forth the requirements for training related to seizure medications, procedures for developing seizure action plans, and the content for seizure action plans. Each school must have at least one school employee who has met the training requirements to administer seizure rescue medication or medication prescribed to treat seizure disorder symptoms according to seizure action plans authorized by parents and guardians of students who have seizure disorders and who have been prescribed such medications.

001.05 ~~001.03~~ Related Regulations. In addition to this Chapter, accredited schools must comply with 92 NAC 10; approved schools must comply with 92 NAC 14; and, approved early childhood education programs must comply with 92 NAC 11. The requirements of Sections 003, 004, and 005 of this Chapter are directly related to the provisions set forth in Title 172, Nebraska Administrative Code, Chapter 95 which is promulgated by the Department of Health and Human Services Regulation and Licensure and is entitled, Administration Regulations Governing the Provision of

TITLE 92
CHAPTER 59

Medications by Medication Aides and ~~Medication Staff Other Unlicensed Persons~~.

002 Definitions.

002.01 ~~Accredited~~ school ~~Schools means shall mean~~ a public school district or a nonpublic school or group of nonpublic schools under a governing body organized to provide education in elementary, middle, secondary, and/or high school grades accredited pursuant to Title 92, NAC, Chapter 10.

002.02 Administration of medication ~~has the same meaning as in Neb. Rev. Stat. § 71-6721 shall include, but is not limited to:~~

~~002.02A Providing medication for another person according to the five rights as defined in Section 002.07;~~

~~002.02B Recording medication provision; and,~~

~~002.02C Observing, monitoring, reporting, and otherwise taking appropriate actions regarding desired effects, side effects, interactions, and contraindications associated with the medication.~~

002.03 ~~Approved early childhood education program means any prekindergarten part-day or full-day program established by a school board or an educational service unit and approved pursuant to Title 92, NAC, Chapter 11.~~

002.04 ~~002.03~~ Approved school ~~means schools shall mean~~ a nonpublic school or group of schools under a governing body organized to provide education in elementary and/or secondary grades approved pursuant to Title 92, NAC, Chapter 14.

002.05 ~~002.04~~ Caretaker ~~has the same meaning as in Neb. Rev. Stat. § 71-6721 shall mean a parent, foster parent, family member, friend, or legal guardian who provides care for an individual.~~

002.06 ~~002.05~~ Direction and monitoring ~~has the same meaning as in Neb. Rev. Stat. § 71-6721 shall mean the acceptance of responsibility for observing and taking appropriate action regarding any desired effects, side effects, interactions, and contraindications associated with the medication by:~~

~~002.05A A recipient with capability and capacity to make an informed decision about medications;~~

~~002.05B Caretaker; or,~~

TITLE 92
CHAPTER 59

~~002.05C Licensed health care professional.~~

~~002.06 — Approved Early Childhood Education Program shall mean any prekindergarten part-day or full-day program with a stated purpose of promoting social, emotional, intellectual, language, physical, and aesthetic development and learning for children from birth to kindergarten entrance age and family development and support established by a school board or an educational service unit and approved pursuant to Title 92, NAC, Chapter 11.~~

~~002.07 Five rights has the same meaning as in Neb. Rev. Stat. § 71-6721 shall mean getting the right drug to the right recipient in the right dosage by the right route at the right time.~~

~~002.08 Health care professional has the same meaning as in Neb. Rev. Stat. § 71-6721 shall mean an individual for whom administration of medication is included in his/her scope of practice, and is licensed by the Department of Health and Human Services.~~

~~002.09 Informed decision has the same meaning as in Neb. Rev. Stat. § 71-6721 shall mean a decision made knowingly, based upon capacity to process information about choices and consequences, and made voluntarily.~~

~~002.10 Medication has the same meaning as in Neb. Rev. Stat. § 71-6721 shall mean any prescription or nonprescription drug intended for treatment or prevention of disease or to affect body function in humans.~~

~~002.11 Medication Aide has the same meaning as in Neb. Rev. Stat. § 71-6721 shall mean an individual who is listed on the medication aide registry operated by the Department of Health and Human Services Regulation and Licensure.~~

~~002.12 Minimum Competencies shall include:~~

~~002.12A Maintaining confidentiality;~~

~~002.12B Complying with a recipient's right to refuse to take medication;~~

~~002.12C Maintaining hygiene and current accepted standards for infection control;~~

~~002.12D Documenting accurately and completely;~~

~~002.12E Providing medications according to the five rights;~~

~~002.12F Having the ability to understand and follow instructions;~~

TITLE 92
CHAPTER 59

~~002.12G Practicing safety in application of medication procedures;~~

~~002.12H Complying with limitations and conditions under which a medication aide (and other unlicensed persons) may provide medications according to provisions contained in Title 172, Nebraska Administrative Code, Chapter 95; and,~~

~~002.12I Having an awareness of abuse and neglect reporting requirements and any other areas as shall be determined by Title 172, Nebraska Administrative Code, Chapter 95.~~

002.12 Prescribing health care practitioner means a practitioner as defined in Neb. Rev. Stat. § 71-2473 who signs a protocol and corresponding order pursuant to subsection 006.02 of this Chapter.

002.13 PRN has the same meaning as in Neb. Rev. Stat. § 71-6721 shall mean an administration scheme in which a medication is not routine, is taken as needed and requires assessment for need and effectiveness.

002.14 Provision of medication has the same meaning as in Neb. Rev. Stat. § 71-6721 shall mean the component of the administration of medication that includes giving or applying a dose of a medication to an individual and includes helping an individual in giving or applying such medication to himself or herself.

002.15 Recipient with capability and capacity to make an informed decision about medications means shall mean an individual who is an adult (at least 19 years of age) and has knowledge related to the medication(s) such as purposes and desired effects, potential side effects, and the consequences if the medication is not provided and received as prescribed or recommended.

002.16 Routine, with reference to medication, has the same meaning as in Neb. Rev. Stat. § 71-6721 shall mean the frequency of administration, amount, strength, and method are specifically fixed.

002.17 School means shall mean an entity or person meeting the requirements for a school set by Chapter 79, including an accredited school schools pursuant to 92 NAC 10 or an and approved school schools pursuant to 92 NAC 14.

002.18 School is in session means any period of time during which students are under the direction of school staff during the regular school day as defined by the school or school district and does not include any period of time during which an extracurricular activity is occurring outside of the regular school day.

002.19 002.18 School staff means shall mean individuals who are employed by a school, some of whom may be required to undergo a competency assessment pursuant to this

TITLE 92
CHAPTER 59

Chapter. School staff ~~includes shall include~~ substitute teachers and all other temporary employees. ~~Health Licensed health~~ care professionals who are employed by a school are exempt from the competency assessments ~~otherwise required under contained in~~ this Chapter.

002.20 Seizure action plan has the same meaning as in Neb. Rev. Stat. § 79-3202.

003 Medication Aide Act - Provision of Medication.

003.01 A staff member of a school may participate in medication administration, when directed and monitored by a recipient with capability and capacity to make an informed decision about medications, caretaker, or health care professional, by providing medications in compliance with the Medication Aide Act and rules and regulations adopted and promulgated under the Act, including this Chapter and Title 172, Nebraska Administrative Code, Chapter 95. In each case, the individual responsible for providing direction and monitoring ~~must shall~~ be identified in writing and indication that such individual has accepted such responsibility ~~must shall~~ also be identified in writing.

003.02 A staff member of a school ~~determined to be competent by a recipient with capability and capacity to make an informed decision about medications, or by a caretaker, or by the method set forth in Section 004.01~~ may provide routine medications by the following routes:

003.02A Oral, which includes any medication given by mouth, including sublingual (placing under the tongue) and buccal (placing between the cheek and gum) routes and oral sprays;

003.02B Inhalation, which includes inhalers, and nebulizers. Oxygen may be given by inhalation;

003.02C Topical application of sprays, creams, ointments, and lotions and transdermal patches; and,

003.02D Instillation by drops, ointments, and sprays into the eyes, ears, and nose.

003.03 A staff member of a school determined to be competent by a recipient with capability and capacity to make an informed decision about medications, ~~or by~~ a caretaker, or a health care professional by the method set forth in Section 004.01 may provide medications through additional activities listed in ~~subsections Sections~~ 003.03A through 003.03C, if it has been determined by a ~~icensed~~ health care professional and placed in writing that these activities can be done safely for a specified recipient.

003.03A Provision of PRN medications;

003.03B Provision of medications by routes in addition to those identified in

TITLE 92
CHAPTER 59

~~subsections Sections~~ 003.02A through 003.02D, including, but not limited to, gastrostomy tube, rectal, and vaginal, but not including the provision of medications or fluids intravenously; and ~~or~~

003.03C Participation in observing and reporting for monitoring medications.

003.04 Direction for staff members of a school to provide medication by routes not listed in ~~subsection Section~~ 003.02 of this Chapter must be for recipient specific procedures and must be in writing. Direction for PRN medication must be in writing and include the parameters for provision of the PRN medication. Direction for observing and reporting for monitoring medication must be in writing and include the parameters for the observation and reporting. Staff members of a school must shall comply with written directions.

004 Medication Aide Act - Competency Assessment.

004.01 Competencies. In order for a school to assess the competency of staff members to provide medication, the staff members of the school must be able to successfully pass a competency assessment no less than every three (3) years. Such competency assessments will shall consist of a demonstration by the school staff member of each of the minimum competency standards following competencies (as set forth in Title 172, Nebraska Administrative Code, Chapter 95, Section 004,) to the satisfaction of the health care professional designated by the school to conduct the assessment.;

~~004.01A Recognize the recipient's right to personal privacy regarding health status, any diagnosis of illness, medication therapy and items of similar nature. Information of this nature should only be shared with appropriate interdisciplinary team members.~~

~~004.01B Recognize and honor the right of those recipients with capability and capacity to make informed decision about medications, to refuse medications and at no time force a recipient to take medications. In the case of a recipient who does not have the capability and capacity to make informed decisions about medication, recognize the requirement to seek advice and consultation from the caretaker or the licensed health care professional providing direction and monitoring regarding the procedures and persuasive methods to be used to encourage compliance with medication provision. Recognize that persuasive methods should not include anything that causes injury to the recipient.~~

~~004.01C Follow currently acceptable standards in hygiene and infection control including hand washing.~~

~~004.01D Follow facility policies and procedures regarding storage and handling of medication, medication expiration date, disposal of medication and similar~~

TITLE 92
CHAPTER 59

~~policies and procedures implemented in the facility to safeguard medication provision to recipients.~~

~~004.01E Recognize general unsafe conditions indicating that the medication should not be provided including change in consistency or color of the medication, unlabeled medication or illegible medication label, and those medications that have expired. Recognize that the unsafe condition(s) should be reported to the caretaker or licensed health care professional responsible for providing direction and monitoring.~~

~~004.01F Accurately document medication name, dose, route, and time administered, or refusal.~~

~~004.01G Provide the right medication, to the right person, at the right time, in the right dose, and by the right route.~~

~~004.01G1 As part of the assessment related to this “competency,” staff members must demonstrate an understanding of what specific identification measures are appropriate, including visual identification for situations when the school staff member is not familiar with the child’s identity. Schools are responsible for developing safeguards to ensure that students are not misidentified when receiving medication.~~

~~004.01H Provide medications according to the specialty needs of recipients based upon such things as age, swallowing ability, and ability to cooperate.~~

~~004.01I Recognize general conditions which may indicate an adverse reaction to medication such as rashes/hives, and recognize general changes in recipient condition which may indicate inability to receive medications. Examples include altered state of consciousness, inability to swallow medications, vomiting, inability to cooperate with receiving medications and other similar conditions. Recognize that all such conditions must shall be reported to the caretaker or licensed health care professional responsible for providing direction and monitoring.~~

~~004.01J Safely provide medications for all ages of recipients according to the following routes: oral, topical, inhalation and instillation as referenced in Title 172, Nebraska Administrative Code, Chapter 95–Section 005.~~

~~004.01K Recognize the limits and conditions by which a medication aide or other unlicensed person may provide medications.~~

~~004.01L Recognize the responsibility to report and the mechanisms for communicating such to the appropriate authorities if reasonable cause exists to believe that a vulnerable adult has been subjected to abuse or conditions or~~

TITLE 92
CHAPTER 59

~~circumstances which would result in abuse in accordance with Neb. Rev. Stat. §28-372.~~

~~004.01M Recognize the responsibility to report and the mechanisms for communicating such to the appropriate authorities if reasonable cause exists to believe that a child has been subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which reasonably would result in abuse or neglect in accordance with Neb. Rev. Stat. §28-711.~~

~~004.01N Recognize the recipient's property rights and physical boundaries.~~

004.02 School staff members ~~will~~ shall not be required to take a course, or be listed on the Medication Aide Registry in order to meet the requirements of this Chapter.

005 Medication Aide Act - Documentation.

005.01 Health care professionals designated by the school to conduct competency assessments, as described in Section 004 of this Chapter, ~~must~~ shall provide the school staff member and the school with written documentation of successful completion of competency assessment. Documentation may be by letter, certificate, or other official record designated by the school and ~~must~~ shall include:

005.01A The name of the school staff member who successfully completed the competency assessment;

005.01B The date the competency assessment was conducted; and,

005.01C The name, profession, and license number of the health care professional who conducted the competency assessment.

005.02 Schools ~~must~~ shall maintain written documentation of successful completion of competency assessments, identification of the individual providing direction and monitoring, and acceptance of the responsibility for direction and monitoring for a minimum of two (2) years.

005.03 Schools ~~must~~ shall keep and maintain accurate records of administration of medication by school staff. The record of administration of medication ~~must~~ shall include but not be limited to:

005.03A Identification of the recipient;

005.03B Name of the medication given;

005.03C The date, time, dosage and route for each medication provided;

TITLE 92
CHAPTER 59

005.03D Identification of the person who provided the medication; and,

005.03E Any refusal by the recipient to take ~~and~~/or receive a medication.

005.04 Records maintained pursuant to ~~subsections~~ Sections 005.01, 005.02, and 005.03 ~~of this Chapter must shall~~ be available to the Department of Education and the Department of Health and Human Services Regulation and Licensure for inspection and copying according to the Family Education Rights and Privacy Act (FERPA) requirements.

006 Emergency Response to Life Threatening Asthma or Systemic Allergic Reactions (Anaphylaxis).

006.01 Emergency Protocol. All ~~accredited schools, approved schools, and approved early childhood education programs must~~ Accereditd Schools, Approved Schools, and Approved Early Childhood Education Programs shall adopt and implement the Emergency Response to Life-Threatening Asthma or Systemic Allergic Reactions (Anaphylaxis) Protocol contained in Appendix A of this Chapter. In addition to adopting the protocol, ~~accredited schools, approved schools, and approved early childhood education programs must~~ Accereditd Schools, Approved Schools, and Early Childhood Education Programs shall procure and maintain the equipment and medication necessary to implement the protocol in each school building while school is in session in the case of any student and/or school staff emergency.

006.02 Prescribing Health Care Practitioner ~~Physician Authorization.~~ Accredited ~~schools, approved schools, and approved early childhood education programs must~~ schools, Approved schools, and Approved Early Childhood Education Programs shall obtain a minimum of one signature of a ~~prescribing health care practitioner physician licensed to practice medicine in Nebraska~~ prescribing health care practitioner physician on the bottom of the protocol ~~and orders in~~ Appendix A of this Chapter. The orders shall serve as a prescription for emergency use as described in Neb. Rev. Stat. § 71-2475.

006.03 Effective Date. ~~Accereditd Schools, Approved Schools, and Approved Early Childhood Education Programs shall comply with the requirement to adopt the protocol and be prepared to begin implementing the protocol in emergency situations no later than the end of the 2003-2004 academic school year.~~

006.03 006.04 Parental and/or Guardian Objections to Protocol. The requirements of this Chapter do not preclude ~~accredited schools, approved schools, and approved early childhood education programs~~ Accereditd Schools, Approved Schools, and Approved Early Childhood Education Programs from complying with a request from a parent or guardian that a minor student not receive emergency treatment under the protocol. A school district's decision to withhold emergency treatment in such circumstances is not governed by this Chapter.

TITLE 92
CHAPTER 59

007 Seizure Safe Schools Act – General Requirements.

007.01 Prior to the administration of a seizure rescue medication or medication prescribed to treat seizure disorder symptoms by a school employee, a student's parent or guardian must:

007.01A Provide the school with a written authorization to administer the medication at school;

007.01B Provide a written statement from the student's health care practitioner containing the following information:

007.01B1 The student's name;

007.01B2 The name and purpose of the medication;

007.01B3 The prescribed dosage;

007.01B4 The route of administration;

007.01B5 The frequency that the medication may be administered; and

007.01B6 The circumstances under which the medication may be administered;

007.01C Provide the medication to the school in its unopened, sealed package with the intact label affixed by the dispensing pharmacy; and

007.01D Collaborate with school employees to create a seizure action plan pursuant to Section 008 of this Chapter.

007.02 The authorization, statement, and seizure action plan must be kept on file in the office of the school nurse or school administrator.

007.03 Any authorization provided by a parent or guardian under this section will be effective for the school year in which it is provided and must be renewed each following school year upon fulfilling the requirements of subsection 007.03 of this Chapter.

007.04 If specified in a student's seizure action plan, the student must be permitted to possess the supplies, equipment, and medication necessary to treat a seizure disorder in accordance with such seizure action plan.

007.05 A school or school employee who acts in compliance with the Seizure Safe Schools Act will not be liable for damages related to the care of a student's seizure disorder unless such damages resulted from an act of willful or wanton misconduct by the school

TITLE 92
CHAPTER 59

or school employee.

007.06 A school employee will not be subject to any disciplinary proceeding related to an act taken in compliance with the Seizure Safe Schools Act unless such action constitutes willful or wanton misconduct.

008 Seizure Safe Schools Act – Seizure Action Plans.

008.01 Any certificated school employee employed by an accredited school or an approved school who is informed by a parent or guardian of a student that such student has a seizure disorder and has a seizure rescue medication or medication prescribed to treat seizure disorder symptoms must inform the parent or guardian of their right to request the development of a seizure action plan.

008.02 Upon request by a parent or guardian of a student that has a seizure disorder and has a seizure rescue medication or medication prescribed to treat seizure disorder symptoms, an accredited school or an approved school must arrange a collaborative meeting within five school days between the parent or guardian, the school nurse if the school employs a school nurse, a school administrator, and any school personnel or volunteers responsible for the supervision or care of the student who are able to attend. The parent or guardian may request the inclusion in such meeting of any other person, including the student, who has knowledge that may be beneficial in the development of the seizure action plan.

008.03 Each seizure action plan must include:

008.03A The student's name and birth date;

008.03B The name and phone number of each parent or guardian and any additional emergency contacts;

008.03C The name and phone number for the medical provider prescribing seizure rescue medication or medication to treat seizure disorder symptoms;

008.03D Information about the seizure type, length, and frequency of seizures the student has experienced and a description of what happens;

008.03E Information about seizure triggers, important medical history, allergies, and any other relevant health information;

008.03F Instructions for first aid for any seizure;

008.03G Instructions for when to call 911 and when to call the identified medical provider;

TITLE 92
CHAPTER 59

008.03H Instructions for when seizure rescue medication or medication to treat seizure disorder symptoms may be needed and how to administer the medication;

008.03I Instructions for care after a seizure;

008.03J Any special instructions for first responders or emergency departments; and

008.03K The signature of a parent or guardian and the date when the seizure action plan was signed.

008.04 Each seizure action plan must be distributed to any school personnel or volunteers responsible for the supervision or care of the student for whom such seizure action plan was created.

009 Seizure Safe Schools Act – Training Requirements.

009.01 In addition to any other professional development and collegial planning activities for certificated school employees, each certificated school employee employed by an accredited school or an approved school must participate in a minimum of one hour of self-study review of seizure disorder materials at least once in every two school years.

009.02 If an accredited school or approved school has a student enrolled who has a seizure disorder and has a seizure rescue medication or medication prescribed to treat seizure disorder symptoms, the school must have at least one school employee who has met the training requirements necessary to administer or assist with the self-administration of a seizure rescue medication or medication prescribed to treat seizure disorder symptoms.

009.03 Any school employee assigned the duties under subsection 007.02 of this Chapter must complete a training program that:

009.03A Includes instruction in administering seizure medications, recognizing the signs and symptoms of seizures, and responding to such signs and symptoms with the appropriate steps; and

009.03B Is consistent with training programs and guidelines developed by a nationally recognized organization focused on epilepsy.

~~010 007~~ Enforcement.

~~010.01 007.01~~ A school ~~will~~ ~~shall~~ be subject to discipline under Title 92, Nebraska Administrative Code, Chapter 10 or Chapter 14 for violation of the Medication Aide Act or Sections 002 through 005 in this Chapter, or provisions in Title 172, Nebraska Administrative Code, Chapter 95.

**EMERGENCY RESPONSE TO LIFE-THREATENING ASTHMA OR
SYSTEMIC ALLERGIC REACTIONS (ANAPHYLAXIS)**

DEFINITION: Life-threatening asthma consists of an acute episode of worsening airflow obstruction. Immediate action and monitoring are necessary.

A systemic allergic reaction (anaphylaxis) is a severe response resulting in cardiovascular collapse (shock) after the injection of an antigen (e.g. bee or other insect sting), ingestion of a food or *medication*, or exposure to other allergens, such as animal fur, chemical irritants, pollens or molds, among others. The blood pressure falls, the pulse becomes weak, **AND DEATH CAN OCCUR**. Immediate allergic reactions may require emergency treatment and medications.

LIFE-THREATENING ASTHMA SYMPTOMS: Any of these symptoms may occur:

- Chest tightness
- Wheezing
- Severe shortness of breath
- Retractions (chest or neck “sucked in”)
- Cyanosis (lips and nail beds exhibit a grayish or bluish color)
- Change in mental status, such as agitation, anxiety, or lethargy
- A hunched-over position
- Breathlessness causing speech in one-to-two word phrases or complete inability to speak

ANAPHYLACTIC SYMPTOMS OF BODY SYSTEM: Any of the symptoms may occur within seconds. The more immediate the ~~reaction reactions~~, the more severe the reaction may become. Any of the symptoms present ~~require requires~~ several hours of monitoring.

- Skin: warmth, itching, and/or tingling of underarms/groin, flushing, hives
- Abdominal: pain, nausea and vomiting, diarrhea
- Oral/Respiratory: sneezing, swelling of face (lips, mouth, tongue, throat), lump or tightness in the throat, hoarseness, difficulty inhaling, shortness of breath, decrease in peak flow meter reading, wheezing reaction
- Cardiovascular: headache, low blood pressure (shock), lightheadedness, fainting, loss of consciousness, rapid heart rate, ventricular fibrillation (no pulse)
- Mental status: apprehension, anxiety, restlessness, irritability

EMERGENCY PROTOCOL:

1. CALL 911.
2. Summon school nurse if available. If not, summon designated trained, non-medical staff to implement ~~an~~ emergency protocol.
3. Check airway patency, breathing, respiratory rate, and pulse.
4. Administer medications (~~EpiPen and albuterol~~) (~~epinephrine auto injector and nebulized albuterol~~) per standing order.
5. Determine cause as quickly as possible.
6. Monitor vital signs (pulse, respiration, etc.).
7. Contact parents immediately and ~~prescribing health care practitioner physician~~ as soon as possible.
8. Any individual treated for symptoms with epinephrine at ~~a~~ school will be transferred to ~~a~~ medical facility.

STANDING ORDERS FOR RESPONSE TO LIFE-THREATENING ASTHMA OR ANAPHYLAXIS:

- ~~Administer an IM EpiPen Jr. for a child less than 50 pounds or an adult EpiPen for any individual over 50 pounds~~
~~Administer epinephrine auto injector junior for any child less than 60 pounds or adult epinephrine auto injector for any individual over 60 pounds into the muscle towards the front and outer side of the thigh.~~
- Follow with nebulized albuterol (~~premixed~~) while awaiting EMS. ~~If not better, may repeat times two, back-to-back~~
- If symptoms persist, repeat epinephrine auto injector followed by nebulized albuterol every fifteen minutes while awaiting EMS arrival.
- Administer CPR, if indicated.

_____ Prescribing Health Care Practitioner	_____ Date
_____ (PHYSICIAN)	_____ Date
_____ (PHYSICIAN)	_____ Date

When signed by a licensed prescribing health care practitioner, these orders shall serve as a prescription as defined in Neb. Rev. Stat. § 71-2475 for emergency use for epinephrine auto injectors and nebulized albuterol to be used accordingly.