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## M E M O R A N D U M

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The following is a description of the policies in the 5000 series. Many of the policies will apply without modification, but each one should be reviewed carefully to make sure that it conforms to the school district's practices.

**Policy 5001. Compulsory Attendance and Excessive Absenteeism.** This policy incorporates the statutory requirements regarding mandatory attendance age and discontinuing enrollment.

We have included two versions of this policy. The version labeled "traditional approach" includes the statutorily required elements of an attendance policy. It states when a student has excessive absences (defined in the policy as 5 unexcused absences in a quarter), the school must communicate with the persons who have legal or actual charge or control of the child, hold a meeting or meetings, and develop a "collaborative plan" to improve regular attendance. We have also included a sample collaborative plan.

The other version of the policy is labeled "nontraditional approach." We have been frustrated by the frequent amendments to 79-209 and have fielded many, many phone calls from school administrators who struggle to enforce student attendance requirements. We are very aware that student NeSA scores fall dramatically after as few as 10 absences per school year, so we understand that school boards are interested in encouraging consistent student attendance. Therefore the "nontraditional" policy takes a somewhat dramatic departure from the traditional approach to student attendance. We prepared it based on a review of the educational research on student attendance and truancy. As with all of the service policies, it is important that you customize this policy to reflect your school's unique circumstances and culture.

Regardless of the policy that your board adopts, state law requires that the policy be "developed and annually reviewed in collaboration with the county attorney of the county in which the principal office of the school district

is located.” We have prepared a sample county attorney letter to be used to document a district’s efforts to engage in the required collaboration.

**Policy 5002. Admission of Students.** This policy sets forth a list of the circumstances that permit a child to attend school. It also references the statutory restriction limiting public secondary education to persons 21 years of age and under, with the exception of participation in adult education classes or special education students who are finishing the school year in which they turn 21.

**Policy 5002.01. Admission of Out-of-State Students.** For schools which are close to Nebraska’s border with other states, you will want to review this revised policy carefully to be sure that it comports with what you want to do regarding this issue. Based on the requests of some clients who admit a lot of out-of-state students, we have added criteria for when students will and will not be admitted. As you can see, these criteria are fairly aggressive. Whatever your practice is, you should have an application and agreement for enrollment of these students consistent with your practices. Because practices vary so widely on this issue, we have not tried to set up a single application form.

**Policy 5002.02. [Intentionally Left Blank]**

**Policy 5003. Admission of Part-Time Students.** This policy defines the circumstances and requirements for a student to attend school on a part-time basis.

**Policy 5004. Option Enrollment.** This policy is based on the statute governing option enrollment and sets forth the standards for considering and accepting option students. We have included provisions that go beyond the statutory requirements but that we have found helpful (e.g., the authority to reject an applicant for false statements on the application form, dealing with late applications).

The statute requires school boards to have “specific” standards for acceptance or rejection for release of a resident or option student. We have attempted to add more specific standards for acceptance and rejection that are typical in option policies. We have also added some additional factors which are highlighted in green in the policy. Although we believe the option enrollment statutes permit the board to adopt additional standards, these highlighted standards have not been tested in a hearing before the State Board of Education. Before you deny an option application based on one of the factors highlighted in green, you should give one of us a call to visit about the specific facts of your situation.

School boards may no longer refuse to allow students to option out of the district when the application is submitted after March 15 based only on the fact that the application was submitted late. We have included standards for your board to consider in determining whether to reject applications to opt out of the district that are submitted after March 15. Please note that districts may still deny applications to opt into the school district after March 15 based only on the fact that the application was submitted late. We know from conversations with staff members at the Nebraska Department of Education that they would prefer schools not use the "late is late" approach to option applications. This policy requires you to choose between a factor-based approach or continuing with the "late is late" approach for students who want to option into your district (that portion of the policy is highlighted in yellow).

You must select one of the two options highlighted in yellow dealing with on late applications to opt out of the district. You should also discuss whether your board wants to adopt the standards that are highlighted in green.

**Policy 5005. Transportation of Option Students.** School districts are required to either provide transportation or pay mileage for option students who qualify for free (but not reduced) lunch. Districts are not required to provide transportation to other option students, but some boards do have a system for providing some option transportation.

The shortest version of policy 5005 states that the district does not provide transportation or pay mileage for option students unless required by law.

The second version of policy 5005 states that if an option student lives on an existing bus route, the district will allow the option student to board and ride the bus.

The longest version of policy 5005 is provided as an illustration of one way to provide option families with transportation without a major financial commitment by the district. This is an area where districts are highly individualized; if your district has a specific system that it uses to provide transportation to option students, please contact us for assistance in writing your practice into a lawful policy.

There are three options for this policy. Please select just one.

**Policy 5006. Foreign Exchange Students.** This policy sets forth considerations for determining whether to accept foreign exchange students.

**Policy 5007. Enrollment of Expelled Students.** This policy states the statutory prohibition against enrolling any student who is currently expelled from any other school, whether public or private, except by board action.

**Policy 5008. Pregnant or Parenting Students.** This policy outlines the state statutory requirements to accommodate pregnant or parenting students and to allow them to complete their high school education and participate in the district's programming to the maximum extent possible. These changes originated from LB 427, passed in 2017. Districts are required to ensure their policy aligns with a form policy adopted by NDE in December 2017. We will work with NDE to ensure this policy applies to its sample now and in the future. All districts must have this policy in place, aligned with NDE's form policy, no later than the 2018-2019 school year.

**Policy 5009. Adult Education.** This policy delegates to the superintendent the board's authority to offer adult education programs. Boards can approve the expenditures for these programs as they approve monthly claims or on any other as needed basis.

**Policy 5010. Immunizations.** This policy states the statutory requirements and exemptions regarding the immunization of students.

**Policy 5011. Physical Examination and Visual Evaluation of Students.** This policy states the statutory requirements and exemption regarding the requirement that students have a physical examination by a qualified health care provider.

**Policy 5012. Testing and Assessment Program.** This policy is a generic basic testing policy. It provides that the superintendent to report the results of that district-wide testing to the board of education in July of each year. If your district has adopted a policy that is more specific or if you do not report results in July, you should modify these policies to reflect your practice. Of course, if you would like us to review your modifications, we would be happy to do so.

**Policy 5013. [Intentionally Left Blank]**

**Policy 5014. Homeless Students.** This policy deals with enrollment of homeless students. The federal McKinney-Vento Homeless Assistance Act created very detailed obligations for school districts regarding the enrollment and education of students who are deemed to be homeless. These have been updated by the Every Student Succeeds Act, which replaced No Child Left Behind. We have worked with NDE to create and obtain their approval on this

policy. NDE reviews this policy as part of its Title I audit process, and we expect that to continue. As of March 2017, this policy has been given approval by NDE's Homeless Student representatives. This should help avoid any finding in your review.

The policy generally provides for the appointment of a "liaison" for the homeless students in your district, and that person is responsible for working with the family or student to comply with the policy and the law. The board gets to select the position (*e.g.*, guidance counselor or principal) that will serve as the liaison. Since the liaison must generally serve as an advocate for the student, your board may want to consider not appointing the superintendent. In the most recent revisions to this policy, the federal government has directed states to ensure that the duties of the liaison are included in the policy. We have added those, including an obligation to seek training for that person. Prior to amending this policy, you should consult with one of us to ensure your proposed changes will not create inconsistencies with what NDE expects to be in the policy.

**Policy 5015. Protection of Pupil Rights.** This policy is required by the federal Protection of Pupil Rights Amendment (PPRA).

**Policy 5016. Student Records.** The Family Education Records Privacy Act (FERPA) defines student records as those records "maintained" by the school district. The increasing digitization of student data has led to legal disputes between schools and parents in other states when parents claim that every e-mail, word processing file, and Google calendar entry about a student are student records because they are "maintained" on the school's computer systems. Even more concerning if a student is verified to receive special education services, the school district must provide notice to the special education parent before destroying records that are "maintained" by the school.

The cases have demonstrated that it is in school districts' interest to have a very clear definition of what records they "maintain." Therefore this policy has three choices:

- A definition of "maintain" which states that only student records which are actually printed constitute FERPA protected records;
- A definition of "maintain" which includes both printed records and the information about students which the school saves in PowerSchool or other student information system;

- A definition of “maintain” which includes basically every physical and digital record of a student.

You should select the option that describes how your school district would like to define student records. Although we suspect that most schools will select the second option, the other two options are lawful so long as they reflect your actual practice. As with all of these policies, KSB customize a different policy for you if your school district has a unique approach to maintaining student records.

This policy also states that no “student record” or record required to be retained by the Nebraska Secretary of State’s Record Retention Schedules will be destroyed unless it is first saved in a retrievable, digital format. The Public Records Act and the Secretary of State’s implementing regulations state that many district records must be maintained in “microfilm” with a copy sent to the Secretary of State before the records can be destroyed. However, we are not aware of many schools who continue this practice, which was put in place long before digital storage systems were developed. Informally, the Secretary of State has taken the position that so long as records are saved in a digital, retrievable format, they can be destroyed, rather than microfilming the records after the retention date passes. We have written this section of the policy in the most protective manner for schools that we could conceive; however you should be aware that the retention schedules do require schools to keep a large volume of records. This is one of the reasons why we believe that including the information in your student information system under the definition of “maintain” is a good practice.

You must select one of the three options available in this policy.

**Policy 5017. Routine Directory Information.** School districts must have a policy that identifies routine directory information (e.g., height and weight of athletes, students’ names telephone numbers, etc.) in order for the school to have authority to disclose the information. The schools must notify students and their parents or guardians of the information that constitutes directory information and give them an opportunity to forbid its disclosure. This policy addresses that issue and includes items brought about by technology, such as students’ likeness or image and their social media handles if the district has them documented.

**Policy 5018. Parental Involvement in Educational Practices.** State law requires school districts to have a policy regarding parents’ involvement in their child’s education. ESSA requires school districts receiving Title I funds to notify parents of students attending any school receiving Title I funds that they may information regarding any state or local policy

addressing student participation in assessments mandated by state and federal law. Schools must then provide that information in a timely manner.

Policy 5018 to make it clear that parent/guardian requests to opt out of state mandated assessments cannot be granted due to a conflict between the parent's right to opt out and the school's obligation to ensure "all public school students" participate in mandatory state testing. This language is consistent with state law, which requires that NDE's assessment and reporting plan must "include all public schools and all public school students" in grades designated by the state board. NEB. REV. STAT. § 79-760.03.

This policy does allow parents to opt out of the National Assessment of Educational Progress (NAEP). Again, this language is consistent with law—in this case, federal law (See <https://nces.ed.gov/nationsreportcard/faq.aspx>). Federal law stipulates that student participation in the NAEP is voluntary.

This policy requires schools to send parents notice of the date the NAEP will be administered and establish a three-day deadline for parents to submit an opt-out request. If you would like to require more or allow less notice, you may insert a different number of days. The only requirement is that your timeline be "reasonable."

We have included a sample notice in the forms that accompany the 5000 series. This short notice explains that the district has an opt-out policy, describes how it can be requested, and assures that the policy will be provided in a timely manner upon request. This notice can be published in student handbooks or provided to parents as a standalone document.

**Policy 5019. Communicating with Parents.** This policy describes methods by which the school will communicate with parents.

**Policy 5020. Rights of Custodial and Non-Custodial Parents.** Noncustodial parents have statutory rights regarding their children. This policy describes those rights. This policy also reviews the circumstances under which the district will not allow noncustodial parents access to their children or their records.

**Policy 5021. [Intentionally Left Blank]**

**Policy 5022. Investigations and Arrests by Police and Other Law Enforcement Officers.** This policy describes the manner that the school will handle investigations and arrests by other law enforcement officers. This is one you will need to review in detail with your board. There are two versions of this policy. In one, we have attempted to capture what we believe to be a

common approach in Nebraska schools. The other version of the policy is most protective of student or family rights and grants the least amount of access to students by law enforcement. However, keep in mind that there are several legal options for dealing with your interaction with law enforcement. Because they are so varied, we recommend reviewing these policy options, then discussing with one of Karen, Steve, Bobby, or Tim to see how it squares with your practices. If the policy doesn't reflect your practices, we can work with you to modify the policy to fit the legal requirements and your district's practices.

**Policy 5023. Student Illness.** This policy describes the protocol for dealing with students who become ill at school.

**Policy 5024. Medication of Students.** By statute and rule of the Nebraska Department of Education, every school district must have a policy regarding the medication of students. This policy addresses that issue.

**Policy 5025. Student Insurance.** This policy states that the school district is not an "insurer" of student safety and that parents and guardians should secure their own health insurance for their children.

**Policy 5026. [Intentionally Left Blank]**

**Policy 5027. [Intentionally Left Blank]**

**Policy 5028. Initiations and Hazing.** This policy prohibits hazing and limits initiations to those activities approved by the administration. It is intended to protect students and to comply with restrictions in statute and the rules of the Nebraska Department of Education.

**Policy 5029. [Intentionally Left Blank]**

**Policy 5030. Dating Violence.** School districts are statutorily required to have a policy addressing dating violence. This policy meets the minimum requirements of the statute. This policy must be printed in your student handbook.

**Policy 5031. Student Appearance.** This policy states that the school may take action regarding any manner of student dress, hair style, make up, or personal cleanliness that constitute a threat to the safety, health, welfare or morale of the student or interfere with the education process. This policy is broad enough that you should be able to implement more specific rules in your student handbook.



**Policy 5032. Closed Campus.** This policy is designed for districts that have a closed campus. If your district does not have a closed campus, do not adopt the policy. If you would like our assistance in creating a policy that meets your practices (e.g. open campus only for seniors) please contact one of us.

**Policy 5033. Student Driving and Parking.** This policy governs student driving and parking of their vehicles.

**Policy 5034. Handbooks.** This policy gives student handbooks the force of board policy.

**Policy 5035. Student Discipline.** This is an extensive policy that addresses the range of options and requirements under the Student Discipline Act for students who violate school rules. This policy also addresses the administration's duty to report some student misconduct to law enforcement. Note that there are some blanks in this policy where the Student Discipline Act requires you to fill in your district's practices.

**Policy 5036. Lockers.** This policy states that lockers are the property of the school and gives the school the authority to inspect student lockers.

**Policy 5037. Student Internet and Computer Access.** This policy sets forth the standards, requirements, and limitations for student use of computers and the internet.

**Policy 5038. [Intentionally Left Blank]**

**Policy 5039. Fundraising Activities.** This policy requires all fundraising activities to have the authorization of an administrator.

**Policy 5040. Work Permits.** This policy authorizes principals to issue work permits in accordance with statute.

**Policy 5041. Student Government.** This policy authorizes and encourages students to form and participate in student government activities and puts such activities under the administration of the superintendent or a designee.

**Policy 5042. Bulletin Boards.** This policy governs the use of bulletin boards and electronic publishing spaces.

**Policy 5043. School-Sponsored Publications.** This policy makes school-sponsored publications and electronic media publications part of the

school district's instructional program and sets standards for them. That gives the administration and board greater authority over publications.

**Policy 5044. Safe Pupil Transportation.** Rule 10 requires districts to adopt a safe pupil transportation plan. This policy is a generic safe pupil transportation plan. If your district has adopted a different plan, you will want to substitute yours for our form plan and, if you would like us to review it, please e-mail it to us.

**Policy 5045. Student Fees.** School districts are required to have a student fee policy and schedules that the board reviews every year as part of a public hearing. This policy gives a format for the policy, and the district should fill in the applicable amounts.

**Policy 5046 Secret Organizations.** This policy states the statutory prohibition against secret organizations.

**Policy 5047. [Intentionally Left Blank]**

**Policy 5048. Emergency Response to Life Threatening Asthma or Systemic Allergic Reactions (ANAPHYLAXIS).** School districts are required to have a policy and plan for providing emergency response to life threatening asthma or systemic allergic reactions.

**Policy 5049. Firearms and Weapons.** This policy addresses firearms and weapons and states they are not allowed on school grounds.

**Policy 5050. Reporting Related to Exempt (Home) Schools.** This policy states the superintendent's statutory requirements regarding reporting students who attend home schools (as opposed to private or denominational schools).

**Policy 5051. [Intentionally Left Blank]**

**Policy 5052. School Wellness Policy.** Schools districts are statutorily required to have wellness policies regarding nutrition and activities. This policy meets those requirements, which were updated by federal law effective July 2017.

**Policy 5053. Self-Management of Diabetes or Asthma/Anaphylaxis.** School districts are required to have a policy for the self-management of diabetes or asthma/anaphylaxis. This policy meets those requirements.

**Policy 5054. Student Bullying.** School districts are statutorily required to have a policy on student bullying. This policy meets those requirements.

This policy also attempts to resolve a conflict between state and federal law. The Nebraska Student Discipline Act says that school administrators may only long-term suspend or expel a student for misconduct which occurs on school grounds, in a school vehicle or at a school activity. But that does not mean that school administrators can simply ignore off-campus cyberbullying. The IDEA, Section 504 and Title IX all require school staff to take prompt remedial action to assist a student student who has been bullied or harassed due to a protected status characteristic -- disability, sex, race, etc. This obligation under federal law exists if the bullying or harassment is interfering with the student's ability to access education, regardless of where the student was when the bullying or harassment occurred. This policy makes the distinction between punishment of the bully and support for the victim clear under the policy. Please also notice that the limits of the Nebraska Student Discipline Act only apply to long-term suspension or expulsion. Schools can (and should) impose a whole range of other consequences on students who bully, including short-term suspension, in-school suspension, counseling, additional academic work detentions, and the like. These consequences serve both to punish the bully and to prove that the district was not deliberately indifferent to the victim, even if the bully could not be expelled.

Many school districts have adopted anonymous reporting systems to report threatening or bullying behavior. If your district has such a platform, insert it into the policy where indicated. If you do not have such a system, just delete the highlighted sentence.

**Policy 5055. Enrollment in Kindergarten.** This policy sets forth options for the enrollment of children in kindergarten. You must choose one of the options.

**Policy 5056. Free Expression by Students.** This policy addresses the rights and limitations of "free expression" by students.

**Policy 5057 District Title I Parent and Family Engagement Policy.** This policy meets the statutory requirements regarding parental participation in the Title I program.

**Policy 5058. [Intentionally Left Blank]**

**Policy 5059. Emergency Medical Treatment.** This policy states that the school will provide first aid and, when appropriate, summon rescue squad assistance for a student who is ill or injured at school

**Policy 5060. [Intentionally Left Blank]**

**Policy 5061. [Intentionally Left Blank]**

**Policy 5062. Lice and Nits.** This policy addresses Lice and Nits. There are two options to this policy and you must select only one. "Option A" includes nits as a basis for exclusion from school. "Option B" excludes nits as a basis for exclusion from school and permits exclusion for only live lice or louse eggs.

**Policy 5063. Audio and Video Recording.** This policy clarifies when staff, for educational purposes, or students for any purpose may make audio or video recordings at school, in a school vehicle, or at school activities. It also clarifies that the district may make audio and video recordings for things like safety and security, but that those recordings will not be maintained unless specifically copied and saved.

**Policy 5064. Title I Supplement, Not Supplant.** This policy addresses Title 1 Supplement. It states that the district will use Title 1 funds to supplement state and local funds.

**Policy 5065. Bed Bugs.** We have had several schools who have had to address bed bug infestations. This policy, much like Policy 5062 dealing with lice and nits, gives boards the ability to choose their preferred response to students who receive a diagnosis of bed bugs. "Option A" states that students will not be excluded when they are initially diagnosed as having bed bugs unless there have been repeated efforts to remedy the infestation. "Option B" says the student will remain out of the school building until the parents or guardians confirm treatment. The policy also states that parents will be notified if bed bugs are discovered in school buildings. You should review this policy with the board and administrative team to be sure that this is the protocol your school wishes to follow when and if bed bugs are discovered in your district.

**Policy 5066. Early Graduation.** Many school district clients have asked for policies or protocols regarding early graduation, so we have created this policy in response. It discusses the requirements for early graduation and requires board action for approval. It requires the student to make an application first to the high school principal, and the principal then makes a recommendation to the board.

**Policy 5067. Student Assistance Team Procedures.** The Safety and Security Protocols require schools to use student assistance teams for behavioral problems in addition to academic issues.