

NEBRASKA CHRISTIAN HOME EDUCATORS ASSOCIATION LEGISLATIVE ALERT¹

By David Lostroh, NCHEA Legislative Liaison

SUMMARY OF PROPOSED CHANGES IN RULES 12 AND 13

Public Hearing Scheduled for Wednesday, December 16, 2009, at 1:00 PM

Nebraska State Office Building, Nebraska Department of Education

State Board Meeting Room, 301 Centennial Mall South, Sixth Floor, Lincoln, Nebraska 68509

The following is a summary of proposed changes to Rules 12 and 13 that were recently adopted by the Commissioner of Education. The public hearings will be held on December 16, 2009. Any changes made as a result of the hearings will produce the versions for approval by the State Board of Education and subsequent approval by the Attorney General and the Governor.

The changes, for the most part, reflect current policy. LB549 (2009) changed the turning in of birth certificate copies from October 1 to "Upon enrollment". New single parent language has been added that reflects current policy and the legislature's Education Committee refusal to change the policy (LB101, 2007). The due date for resubmitting Rule 12 and 13 exemption notices with the NDE has been moved from August 1 to July 15.

The Nebraska Christian Home Educators Association does not intend to oppose these changes. They do not significantly impede the ability to home school any more than without the changes. Hence, we believe our freedom to home school is not significantly affected by these changes.

The NCHEA will be testifying in a neutral capacity at both the Rule 12 and Rule 13 hearings, unless substantial changes are made at the hearing that would reduce our current freedoms.

The NCHEA is dedicated to preserving our God given freedom and duty to train up our children in the fear and admonition of the Lord without losing any of the freedoms that were gained in 1984 with great hardship and courage.

The announcement of the hearing can be found at <http://www.nde.state.ne.us/LEGAL/drafts.html> and the official full text of the proposed changes can be found at: http://www.nde.state.ne.us/LEGAL/documents/Rule12draft11-10-09_000.pdf and http://www.nde.state.ne.us/LEGAL/documents/Rule13draft11-10-09_000.pdf.

Proposed changes are shown below. Additions are shown in red italics; deletions are shown in red cross-out italics. The following applies to changes in both Rules 12 and 13.

002.03 Mandatory Attendance Age:

The "*Prior to July 1, 2005,*" and "*On and after July 1, 2005,*" language has been dropped since those students for which the language originally applied are now out of the applicable time range. The proposed language merely simplifies the original to read as follows:

Shall mean a child that will reach six (6) years of age prior to January 1 of the then-current school year, and has not reached eighteen (18) years of age. A child that will reach six (6) years of age prior to January 1 of the then-current school year need not be enrolled in a public, private, denominational or parochial day school or a school that has elected under this Chapter or Chapter 12 not to meet accreditation or approval requirements when the provisions in Section 011 of this Chapter are met.

¹ This Alert does not constitute the giving of legal advice.

003 Statements of Objections and Assurances:

The following paragraphs have been added to section 003.01A Single Parent:

003.01A1 If the custody arrangement is changed by a court of law subsequent to the initial filing, a copy of that court order must be provided by the single parent filer.

003.01A2 If the court order specifies joint legal custody, both parents must complete a Form A, unless the court order provides that the custodial parent has sole educational decision-making authority. In that case, a copy of that court order must be provided.

003.02 Parent Representative Filings.

The following affected paragraphs

003.02A Thirty days prior to the date on which the exempt school is to begin operation, and annually thereafter by *July 15 August 1*, the parent representative will file a statement containing the names and ages of all children in the school and the names of their parents or guardians, and containing assurances regarding submission of information on enrollment and attendance, signed in the presence of and acknowledged by a notary public upon oath or affirmation. A copy of this statement is attached as Form B, which must be accompanied by a parent or guardian's statement (Form A) signed by each parent or guardian of all children who are to attend the exempt school.

003.02B If, at any time during the school year, new children *will* enroll in the exempt school, the parent representative shall submit to the Commissioner *or designee* an additional Form A statement for each new parent or guardian *prior to enrollment*.

The following paragraph has been added

003.02E If the address changes at any time during the school year, the parent representative shall promptly notify the Commissioner or designee in writing.

004 Information Summary. Prior to the date that the exempt school begins operation, and annually thereafter by *July 15 August 1*, the parent representative will submit to the Commissioner *or designee* the following:

The following paragraph has been added

004.04 The name of the public school district and county in which the child(ren) resides.

009 Birth Certificate. Pursuant to Section 43-2007(3) R.R.S. (part of the Missing Children Identification Act), *upon enrollment of a student who is receiving his or her education in an exempt school subject to sections 79-1601 to 79-1607, the parent or guardian of such student shall the parent or guardian of a child who is receiving his or her education in a home school subject to sections 79-1601 to 79-1607 shall, not later than October 1 of the first year of the child's attendance at the home school,* provide to the Commissioner of Education either (a) a certified copy of the child's birth certificate or (b) other reliable proof of the child's identity and age accompanied by an affidavit explaining the inability to produce a copy of the birth certificate. Upon failure of the parent or guardian to comply, the Commissioner of Education shall notify such parent or guardian in writing that unless he or she complies within ten days the matter shall be referred to the local law enforcement agency for investigation. If compliance is not obtained within such ten-day period, the Commissioner shall immediately report such matter.

010 Discontinuing Enrollment at the Exempt School.

The following paragraphs have been added to section 010.01A Single Parent:

010.01A1 If the custody arrangement is changed by a court of law subsequent to the initial filing, a copy of that court order must be provided by the single parent filer.

010.01A2 If the court order specifies joint legal custody, both parents must complete a Form C, unless the court order provides that the custodial parent has sole educational decision-making authority. In that case, a copy of that court order must be provided.

The following paragraphs have been added to section 010.02A Single Parent:

010.02A1 If the custody arrangement is changed by a court of law subsequent to the initial filing, a copy of that court order must be provided by the single parent filer.

010.02A2 If the court order specifies joint legal custody, both parents must complete a Form D, unless the court order provides that the custodial parent has sole educational decision-making authority. In that case, a copy of that court order must be provided.

011 Children Below Age Seven - Filing Requirement to the Resident Public School District

*(delaying entry until age seven). ~~Beginning with the 2005/2006 school year, p~~ Parents or guardians of a child who will reach six years of age prior to January 1 of the then-current school year, but has not reached seven years of age (*and wish to delay entry until age seven*), must sign an affidavit stating that the parent or guardian intends for the child to participate in an Exempt School and intends to file for exempt status with the Commissioner of Education on or before the child's seventh birthday. This affidavit is to be filed by the parent or guardian with the school district in which the child resides (resident public school district). Contact the resident public school district to request the affidavit form.*

The following paragraphs have been added

011.01 Parents or guardians of a child who will reach six years of age prior to January 1 of the then-current school year whose child will attend an exempt school must comply fully with the requirements as outlined in Rule 13, and begin educating the child accordingly.

012 Dual (Part-Time) Enrollment. Section 79-2,136 R.R.S. provides that public schools shall allow the part-time enrollment of students who are residents of the school district but attend an exempt (home) school. Contact the local public school district regarding their policies and procedures.

In Rule 12 only, Section 012 Immunizations becomes section 013 Immunizations.

The Rule 12 and 13 forms are modified to match these changes.