

Addendum to Employee Handbook Paraeducators Revised January 2011

Itinerant Paraeducators - Itinerant paraeducators are regularly hired employees who are assigned a set number of hours to work each day. While itinerants work as substitutes for paraeducators assigned to a building, they are not substitutes. Itinerant paraeducators are eligible to participate in the LPS benefit programs and staff development activities. Policies and procedures that apply to building assigned paraeducators also apply to itinerant paraeducators. Itinerant paraeducators perform all levels of special education work with students, typically working with students having more severe needs.

Substitute Paraeducators – Paraeducators who are to be absent must follow the procedure outlined in the SubFinder pamphlet. If you have misplaced your pamphlet, please call the Human Resources Department at Extension 1582 to request another one.

Substitute Teaching - Paraeducators who have the appropriate certification to be a substitute teacher or a local substitute teacher may substitute for the regular teacher. This action is to be approved by the building principal and the Human Resources Office. Compensation at the current rate for teacher substitutes is paid for each day worked in this capacity.

If you have questions concerning the qualifications for substitute teaching, please contact the Human Resources Department at Extension 1577.

Legal Implications for Paraeducators in Nebraska Schools

Clarification and Interpretation by the State of Nebraska Department of Education, Feb. 1996.

The passage of LB 655, Session Laws 1969, made it permissible for Nebraska schools to employ non-certified paraeducators. This law, which amends school laws 79-802 reads:

- 1) No person shall be employed to teach in any public, private, denominational, or parochial school in this state who does not hold a valid Nebraska certificate or permit issued by the Commissioner of Education legalizing him or her to teach the grade or subjects to which elected, except that no Nebraska certificate or permit shall be required of persons teaching exclusively in community colleges.
- 2) Public, private, denominational, or parochial schools in the state may employ persons who do not hold a valid Nebraska teaching certificate or permit issued by the Commissioner of Education to serve as paraeducators to a teacher or teachers. Such paraeducators may not assume any teaching responsibilities. A paraeducator may be assigned duties which are non-teaching in nature, if the employing school has assured itself that the paraeducator has been specifically prepared for such duties, including the handling of emergency situations which might arise in the course of his/her work.

Teaching is defined in Nebraska law as follows:

79-101 (13): The term teach shall mean and include, but not be limited to, the following responsibilities: (a) the organization and management of the classroom or the physical area in which the learning experiences of pupils takes place, (b) the assessment and diagnosis of the individual educational needs of the pupils, (c) the planning, selecting, organizing, prescribing, and directing of the learning experiences of pupils, (d) the planning of teaching strategies and the selection of available materials and equipment to be used, and (e) the evaluation and reporting of student progress.

The paraeducator's role is primarily to assist the teacher so that the teacher can carry out his/her responsibilities in a more efficient and effective manner. A non-certified paraeducator may not, under any circumstances, replace the classroom teacher. Paraeducators may not be assigned to perform and may not assume any of the teacher's professional responsibilities. Most educators would agree that the professional responsibilities of a certified teacher would include: diagnosing students' needs; prescribing learning activities, including both materials and methodology; being responsible for the implementation of the prescription; supervising the learning area and learning group; and evaluating pupil progress.

Activities carefully defined by the teacher which do not require a paraeducator to initiate a pedagogical judgment may be conducted by a paraeducator under the direction of the teacher. One guideline for identifying such activities might be this question: Could the activity to be performed by the paraeducator also be performed through the use of instructional aids and devices such as audio and visual tape recorders, language masters, projectors, manipulative devices (puzzles and games) and drill and practice exercises like those employing the use of flash cards? If the answer to this question is affirmative, that is, the activity could also be provided through the use of an instructional aid or device, then the activity is a legitimate one for the paraeducator. Actually, the function of the paraeducator could be considered as a part of the learning prescription as determined by the certified teacher.

Guidelines for the Use of Paraeducators by the Nebraska Professional Practices Commission, March, 1972

1. Q Why is the Professional Practices Commission concerned about the use of paraeducators?

A Teachers and administrators have expressed their concern to the Commission that paraeducators are being misused. Students are the chief concern of the education system; laws, rules, and regulations are for their protection and benefit. If, indeed there do exist situations in which paraeducators or any other personnel are misassigned, the students are the losers. The education profession must assume its laws, regulations and ethics have a valid basis, and live up to them. One of the Commission's purpose is to assist in maintaining adherence to ethical and professional practices.

2. Q What duties may paraeducators perform?

A They may perform any duties except those requiring professional judgment. Section 79-101 (13) defines "teaching." These responsibilities must be met by a teacher and cannot be delegated to a paraeducator.

The omission from this statement of a list of tasks to be done by paraeducators is intentional. The omission of such a list is an acknowledgment that, although the paraeducator will in fact do routine tasks, any arbitrary allocation of the work in the classroom to paraeducator and teacher is unrealistic and detrimental to the best use of a differentiated staff. What is important is that the teacher be established in a role of leadership and responsibility, and that the paraeducator be established in a supportive role. Within these role identities, they should approach the work of the school free of exact and externally imposed boundaries of action.

3. Q May a school district hire paraeducators to replace classroom teachers, and thus effect budgetary savings?

A No. There seems to be no doubt about this. The Nebraska State Department of Education memorandum states, "A non-certified paraeducator may not, under any circumstances, replace the classroom teacher."

4. Q May paraeducators be the sole adult assigned to playground supervision, bus loading stations, cafeterias or study halls?

A Paraeducators who are competent, mature and conversant with what would be reasonable care in meeting the management responsibilities of such an assignment may supervise such activities subject to district policy which requires that general supervisory responsibility rests with the principal and teaching staff.

5. Q May children be left in the care of paraeducators without the district or its personnel risking liability for injury to children or other accidental or unforeseen circumstances or events?

A The issue of liability does not rest on certification but on whether the responsible and assigned individuals in charge carry out their responsibilities in a manner demonstrating reasonable care and normal precaution.

6. Q May a paraeducator be the sole adult staffing an instructional station?

A A paraeducator may assist a teacher in instruction in subject matter or in conducting instructional activities. The teacher shall be continuously aware of the paraeducator's instructional activities and must be able to control or modify them. It is difficult to conceive of a teacher's being able to do this if the paraeducator staffs an instructional station alone, except possibly for very brief periods of time.

7. Q May a person who holds a valid teaching certificate be employed as a paraeducator?

A Yes. If the individual agrees to be employed as a paraeducator and the school wants to hire the person as such, the parties are free to enter into such an arrangement. However, such a person should not be assigned teaching responsibilities.

8. Q Why should a district not assign teaching responsibilities to a paraeducator who holds a valid teaching certificate?

A For the protection of students. Under such an arrangement, the students would be placed in a situation where no one is responsible for their learning. Only a teacher may assume the responsibilities set forth in Sec. 79-101 (13): a paraeducator cannot be held accountable for meeting these responsibilities. If the employing district believes the certified person is qualified and should be assigned to meet the responsibilities of teacher - Sec. 79-101 - (13), the district should hire that person under a regular teaching contract. To hire someone as a paraeducator and then expect that person to assume responsibilities for another position is unfair to all parties concerned.

The paraeducator law states, "Schools... may employ persons who do not hold a valid Nebraska teaching certificate or permit... to serve as paraeducators..." This seems to be a clear statement of legislative intent that paraeducators be uncertified. If, however, a certified person agrees to employment as a paraeducator, the holding of a teaching certificate is incidental to employment as a paraeducator. Therefore, a person employed as a paraeducator, but who happens to hold a teaching credential, must aid, not teach.

9. Q May a principal or superintendent serve as school librarian by assigning a paraeducator to a library instructional media center to serve under his supervision?

A No. The paraeducator may not be used in lieu of certified personnel.

10. Q May a paraeducator be assigned to a classroom to serve in lieu of a teacher under supervision of a building principal, an adjacent or nearby classroom teacher, or the supervisor?

A No. The paraeducator may not be used in lieu of certified personnel.

11. Q Suppose a person believes the school district is misassigning or misusing paraeducators. What should he/she do about it?

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- 1) Contact local school principal and request the situation be corrected. If the results of this contact are unsatisfactory,
- 2) Contact the Assistant Superintendent for Human Resources and register a complaint.
- 3) Contact Lincoln Paraeducators Association.

School Cancellation - The principal shall make the decision concerning if and how the time will be made up by paraeducators. If the principal determines that the paraeducators are to work on the day of school cancellation and the paraeducator is unable to attend, the para must use available appropriate leave or receive no compensation for the day.

If the principal determines that the paraeducators are not to work and the day is not to be made up, the paraeducator can use available emergency leave. If the paraeducator has no emergency leave, special leave may be used. If the paraeducator has no available special leave, a maximum of two days of sick leave may be used. If no emergency, special or sick leave is available, the paraeducator will receive no compensation for the day.

If the time is to be made up, it will be done in a manner that does not cause the paraeducator to work over 40 hours in a week.

If weather conditions make traveling extremely hazardous, a **district closure day** may be declared. On these rare days, only emergency personnel will be required to work. Emergency personnel are employees responsible for snow removal or employees otherwise designated as emergency personnel by their supervisor.

On a district closure day, employees will be paid as if they had worked. To be eligible for district closure day compensation, the employee must have actually worked on the workday prior to or the workday after the district closure day. For example, if there is a district closure day on Tuesday and an employee is absent Monday and Wednesday due to illness, that employee is not eligible for district closure pay on Tuesday but instead would utilize sick leave.

You may confirm whether it is a **school closure day** or a **district closure day** by checking your email or the LPS website or by phoning 436-1000.

Appraisal - All paraeducators are to be appraised at least once per year. The appraisal schedule and form are subject to change.

This addendum is not a contract of employment nor does it create any employment rights or expectations.