

**CONTOOCOOK VALLEY SCHOOL DISTRICT**  
**Office of the Superintendent of Schools**  
**106 Hancock Road, Peterborough, NH 03458-1197**

**POLICY COMMITTEE**

November 5, 2019

SAU Finch Room

6:00 PM

**Agenda**

**Committee Members:**

Rich Cahoon – Chair, Janine Lesser, Crista Salamy, Jerry Wilson, Stephan Morrissey, Katherine Heck, Tim Theberge

1. **Call to Order & Approval of October 15, 2019 Minutes**
2. **Non-Public Session: RSA 91-A:3,II (If Required)**
  - a. **Review of Sealed Minutes**
3. **The following policies will be submitted for a second read at the November 5<sup>th</sup> School Board meeting:**
  - a) JCA: Change of School or Assignment
  - b) JIA: Student Due Process

The following policy will be submitted for a first read at the November 5<sup>th</sup> School Board meeting:

- a) EBBD: Indoor Air Quality (revised Legal References) We do not have a procedure, unless the following is considered one: (Indoor Air Quality Management Plan)
- b) JLF: Reporting Child Abuse or Neglect – Priority policy; includes our policy as well as the NHSBA version. Also contains the updated Mandatory Reporting Protocol Outline (Oct. 2019)

4. **Returning Policies**

- a) GBEA: Staff Ethics – NHSBA 2019 Update; also includes our current policy. The following comments are from Kathleen Peahl, Legal:

Policy GBEA: This bulleted item in the list of additional ethical duties is the only one on the list that does not start with a verb. For consistency, I would change it.

- ~~Staff members shall maintain~~ **Maintain** a reasonable standard of care for the supervision, control and protection of students commensurate with their assigned duties and responsibilities.

I also have one substantive concern regarding the list of additional ethical duties in Policy GBEA. :

- Direct any criticism of other staff members toward improving the District. Such constructive criticism is to be made directly to the building administrator.

I am concerned that this can be interpreted to be a restriction on employees' first amendment rights. There is also a long line of precedent from the NLRB which holds that any restrictions on employees' ability to speak negatively about workplace issues is a restriction on their rights to engage in protected concerted activities. I don't think they really need this as an ethical standard and I would recommend deleting it.

- b) GBEB: Staff Conduct – NHSBA 2019 Update; we do not have this policy. Comments are from Kathleen Peahl, Legal:

Policy GBEB: Section A - this statement applies to all staff, but the oversight of students and contribution to education of students would not be applicable to all staff (ie custodians are not responsible for oversight or education. So, I would add "where applicable" to this statement:

All employees shall be expected to carry out their assigned duties, support and enforce Board policies and administrative regulations, submit required reports, protect District property, and, where applicable, provide oversight of students and contribute to the education and development of the District's students.

- c) JFABD: Education of Homeless Children and Unaccompanied Youth – Priority policy, NHSBA 2019 Update; also includes our current policy JFABD: Admission of Homeless Students. According to Dean Eggert:

With regard to policy **JFAB** you have asked the following:

**JFABD: Education of Homeless Children and Unaccompanied Youth** - can a (homeless) parent choose to attend a school in a multi-town district, even if they do not live in the town/school of choice. For example, a parent has temporary housing in Bennington, but wants the child to attend Dublin Consolidated School.

No, they would not. The only reason they would go to another school in ConVal is if the student was placed there by their IEP team, the child was reassigned under the "Best interest" or manifest hardship standards, or they had attended the school in Dublin before they became homeless.

Dean

*"If the homeless child or youth continues to live in the area served by the LEA in which the school of origin is located, that LEA must provide or arrange for the child's or youth's transportation to or from the school of origin."*

This is in contrast to the transportation obligation where the school of origin is outside the "area served by the LEA. That guidance states:

*"If the homeless child or youth continues his or her education in the school of origin but begins living in an area served by another LEA, the LEA of origin and the LEA in which the homeless child or youth is living must agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the LEAs cannot agree upon a method, the responsibility and costs for transportation are to be shared equally."*

From this contrast we can discern that when the child is homeless in multi-school district, that unless we can justify attendance in the local school under the federal factors, we have a duty to transport them to their school of origin.

Dean

- d) JFABE: Education of Children in Foster Care – NHSBA 2019 Update – edits by Legal
- e) EHB: Data Retention – the following comments are from Legal in response to the question regarding adult students. Legal's edited version is also included:

### ***Data/Records Retention***

The language on page 1, Section A., #2 literally comes directly from the poorly written statute. However, we think that the answer is yes, you can include the adult student who has graduated or is over the age of 21 even though New Hampshire law does not – on the basis that federal law extends rights to the adult student. Both Paragraphs 2 and 3 can be changed to read:

1. The parent(s)/guardian(s) **or adult student who has graduated or is over the age of 21**, may, at any time prior to the student's twenty-sixth birthday, request, in writing, that the records be retained until the student's thirtieth birthday.
2. Absent any request by a student's parents **or adult student who has graduated or is over the age of 21**, to destroy the records prior to the twenty-sixth birthday, or to retain such records until the student's thirtieth birthday, the District shall destroy a student's records and final individualized education program within a reasonable time after the student's twenty-sixth birthday, provided that all such records be destroyed by the student's thirtieth birthday.

**CONTOOCOOK VALLEY SCHOOL DISTRICT**  
**Office of the Superintendent of Schools**  
**106 Hancock Road, Peterborough, NH 03458-1197**

**POLICY COMMITTEE**

October 15, 2019

SAU Finch Room

6:00 PM

**Minutes**

**Committee Members:**

Rich Cahoon – Chair, Janine Lesser, Crista Salamy, Jerry Wilson, Stephan Morrissey, Katherine Heck, Tim Theberge

**Present:** Dr. Kimberly Saunders, Dr. Ann Forrest, Cari Christian-Coates, Tim Theberge, Katherine Heck, Stephan Morrissey

**1. Call to Order & Approval of October 1, 2019 Minutes**

**Tim Theberge called the meeting to order at 6:05p.m.**

**Katherine Heck moved to approve the minutes. Tim Theberge second. Unanimous.**

**2. Non-Public Session: RSA 91-A:3,II (If Required)**

**a. Review of Sealed Minutes**

None.

**3. The following policies will be submitted for a first read at the October 15 School Board meeting:**

**a) JCA: Change of School or Assignment**

Tim Theberge referenced the two policies going to the full board tonight for a first read. Tim Theberge reported that in policy JCA, the March 15<sup>th</sup> date is appropriate. It was noted that it appropriate in both places detailed.

Kimberly Saunders reported that the district legally has to notify staff by April 15<sup>th</sup> if they are not to return.

**b) JIA: Student Due Process**

Student Due process – paragraph added about IDEA. Kimberly said that a new letter to authorize her or a designee to suspend any student for ten days or less for violations of school rules or policies is needed. Dr. Forrest should also have a letter of authorization.

How much information should actually be included in the policy in terms of legalities? References are made at the bottom. Some school districts include all of the information written into the policy. RSA's have had changes in the past that would require a change in policy. If the policy simply references the RSA, the changes in the RSA would be applicable to the policy.

#### 4. **Returning Policies:**

- c) JLF: Reporting Child Abuse or Neglect – Priority policy; includes our policy as well as the NHSBA version. Also contains the updated Mandatory Reporting Protocol Outline (Oct. 2019)

This policy came up on the NHSBA update. If our policy is accurate, no update would be needed. Both the ConVal Policy and the NHSBA Policy were compared.

Cari Christian-Coates said that she reviewed the policy and RSA's. Our policy addresses mandated reporting and appropriate RSA's. She said that it is part of our guide in terms of who is responsible for mandated reporting. Our policy references four sections of RSA 169-C, theirs references two. The NHSBA elaborates on things that ConVal has in our policy.

Kimberly asked if there is a reason to change policy. Cari responded by saying that she sees no reason to. The question about 193-d is, is it covered in a different policy around Safe Schools. The Statute includes any resident of the State of NH as mandated to report abuse or neglect.

Tim Theberge said that contact information, phone number, for inclusion in the ConVal policy had been discussed.

"Measured in minutes" should also be included. It should also state that employees, contracted employees etc. are obligated.

#### 5. **New Policy:**

- a) EBBD: Indoor Air Quality, also included is the NHSBA version. This is a legal reference update only.

Stephan Morrissey said that it is mandatory and required by law. It is not clear to him what it actually does.

Kimberly said that the district works to improve air quality, for example, no idling signs are posted.

This will move, with updated legal references, for a first read in the future.

#### 6. **The following policies have been forwarded to Dean Eggert for review:**

- a) EHB: Data Retention – returning for further discussion
- b) GBEA: Staff Ethics – NHSBA 2019 Update; also includes our current policy
- c) GBEB: Staff Conduct – NHSBA 2019 Update; we do not have this policy
- d) JFABD: Education of Homeless Children and Unaccompanied Youth – Priority policy, NHSBA 2019 Update; also includes our current policy JFABD: Admission of Homeless Students
- e) JFABE: Education of Children in Foster Care – NHSBA 2019 Update

**Katherine Heck moved to adjourn at 6:31 p.m. Tim Theberge second. Unanimous.**

Respectfully submitted,

Brenda Marschok



## JCA - Change Of School Or Assignment

In circumstances where the best interests of a student warrant a change of school assignment, the Superintendent or his/her designee is authorized to reassign a student from the public school to which he/she is currently assigned to another public school, or to approve a request from another Superintendent to accept a transfer of a student from a school.

### Procedures for Reassignment of Students within the District:

1. The parent or legal guardian will submit a written request for student enrollment transfer to the home and receiving building principal. The written request will include a summary of the unique circumstances leading to the request for transfer. All requests will be reviewed on a case-by-case basis at the discretion of the Superintendent; priority in decision making given to the child, the school, and the district.
2. Once the request is received by the building principals, the home principal will schedule a meeting with the parent/guardian. This meeting shall occur within five days of receipt of the written request. All requests will be shared with the Director of Student Services.
3. If the home principal supports the transfer request, he/she will communicate the decision to the receiving building principal. Both administrators must support the request for the transfer to move forward. Once approved by both administrators, each will generate a joint, written notification to the Superintendents that outlines the agreement.

The Superintendent, within 10 school days of receipt of the agreement summary, shall review the submitted summary and approve or disapprove the agreement. A written placement decision shall be shared with the parent/guardian, as well as the two building principals.

4. If the home or receiving principal does not approve the request, the home principal will send a written denial, documenting the justification, to the parent/guardian within 15 days of receipt of the transfer request.
5. The Superintendent's reassignment decision shall be in writing, and shall be final and binding.
6. Parent/guardian requests must be made each year to the home and receiving principals, no later than March 15<sup>th</sup>. If the request is not received by March 15<sup>th</sup>, the student will attend school in the town in which the parent/guardian resides.

### Conditions and Procedures for Reassignment Outside the District:

The cost of transportation for any pupil reassigned under this policy will be the sole responsibility of the parent/guardian.

## JCA - Change Of School Or Assignment

The District acknowledges the provisions of RSA 193:3, which states that the District in which the student resides shall retain all responsibility for the provision of special education and related services pursuant to RSA 186-C. The Superintendent's decision on whether to enroll a nonresident student will not be based, in whole or in part, on whether that student is a student with a disability as defined by applicable State or Federal law.

### **Manifest Educational Hardship Change of Assignment**

When a parent/guardian believes that an initial assignment has been made which will result in a manifest educational hardship to the pupil, the parent/guardian may seek a change of assignment in accordance with applicable provisions of RSA 193:3 and Board Policy JEC – Manifest Educational Hardship.

#### ***Legal Reference:***

*RSA 193:3, III. (Change of School Assignment)*

*RSA 193:3, I, II, Manifest Educational Hardship*

*RSA 193:14-a, Change of School Assignment; Duties of State Board of Education*

#### ***Category: P***

1<sup>st</sup> Read: October 15, 2019

2<sup>nd</sup> Read: November 5, 2019

Adopted:



## JIA – Student Due Process Rights

Students facing discipline will be afforded all due process rights given by law. The Superintendent or designee appointed in writing, is authorized to suspend any student for ten days or less for violations of school rules or policies. The School Board, or representative thereof, designated in writing, is authorized to continue the suspension in excess of 10 days following a hearing with the aforementioned representative. Any suspension in excess of 10 days may be appealed to the Board committee charged with discipline review.

In addition to the provisions of this policy, the Board recognizes the application of all pertinent provisions of RSA 193:13 and associated Department of Education rules.

If a student is disabled under the Individuals with Disabilities Act (IDEA), the New Hampshire RSA 186-C, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, or any other law providing special rights to disabled students, those laws shall govern and shall supersede these local policies to the extent these local policies are inconsistent with those laws. Accordingly, any suspension or expulsion of a child with a disability as defined in Ed 1102.01(t) shall be in accordance with Ed 1124.01.

Student due process rights shall be printed in the Parent-Student Handbook and will be made available in another language, as necessary, or presented orally upon request.

### **Legal References:**

*RSA 189:15, Regulations*

*NH Code of Administrative Rules, Section Ed 306.04(a)(3), Policy Development, Discipline*

*NH Code of Administrative Rules, Section Ed 306.04(f), Student Discipline*

*NH Code of Administrative Rules, Section Ed 317.04(b), Disciplinary Procedures*

*Appendix: JICD - R*

### **Category: Recommended**

*See also JIC, JICD, JICDD, & JICK*

1<sup>st</sup> Read: October 15, 2019

2<sup>nd</sup> Read: November 5, 2019

Adopted:

## EBBD – Indoor Air Quality

In order to ensure that all school buildings have adequate indoor air quality, the Board directs the Superintendent to address methods of minimizing or eliminating emissions from buses, cars, delivery vehicles, and other motorized vehicles. The Superintendent may delegate the implementation of these methods to the Facilities Director. The Board encourages the Superintendent to utilize methods and recommendations established by various State agencies.

In addition to addressing methods eliminating emissions, the Facilities Director is directed to annually investigate air quality in school buildings using a checklist provided by the New Hampshire Department of Education.

In support of this policy, the Superintendent is authorized to establish regulations and/or administrative rules necessary to implement anti-idling and clear air measures aimed at improving indoor air quality.

### **Legal References:**

*RSA 200:11-a, Investigation of Air Quality*

*RSA 200:48, Air Quality in Schools*

*NH Code of Administrative Rules, Section Ed. 306.04(a)(24), Air Quality in School Buildings*

*NH Code of Administrative Rules, Section 306.07(a)(4), School Facilities*

*Category: P*

1st Read: ~~February 15, 2011~~ November 5, 2019

2nd Read: ~~March 15, 2011~~

Adoption: ~~March 15, 2011~~

## JLF: Reporting Child Abuse

Any **Each** school employee, **designated volunteer, or contracted service provider** having reason to suspect that a child is being or has been abused or neglected, shall immediately report (or have the Principal or designee report) his/her suspicions to the Division for Children, Youth, and Families (DCYF) Central Intake Unit, and the Building Principal or designee. **Reporting to the Principal, etc., will not cause any undue delay (measured in minutes) of the required reports to DCYF/law enforcement.**

**To report child abuse or neglect to DCYF, call 24/7 (800) 894-5533 (in state) or (603) 271-6562. In cases of current emergency or imminent danger, call 911.**

After business hours, if the employee believes the child is in imminent danger, a call must be made to the local police department. New Hampshire state law, RSA 169-C, the Child Protection Act, states that any person who has reason to suspect that a child under the age of 18 has been abused and/or neglected, must make a report to the Division of Children, Youth, and Families. RSA 169-C:30 requires an oral report to be made immediately and permits DCYF to request a written report within 48 hours.

Staff training is required on an annual basis on how to identify and report suspected child abuse and neglect.

### **Legal References:**

*NH Code of Administrative Rules, Section Ed 306.04(a)(10), Reporting of Suspected Abuse or Neglect*

***NH Code of Administrative Rules, Code of Conduct for NH Educators, Ed 510.05(e), Duty to Report***

*RSA 169-C:29, Persons Required to Report*

*RSA 169-C:30, Nature and Content of Report*

*RSA 169-C:31, Immunity from Liability*

*RSA 169-C:34, III, Duties of the Department of Health and Human Services*

**Category:** *Priority Policy - Required by Law*

Related Policies: GBEBA, IJOC, JICK

1st Reading: ~~September 21, 2010~~ **November 5, 2019**

2nd Reading: ~~February 15, 2011~~

Adopted: ~~February 15, 2011~~

**STAFF ETHICS***Category: Recommended**Related Policies GBEAB, GBEB & GBEBB***ADOPTION NOTES –*****This text box, and all highlights within the policy should be removed prior to adoption.***

- (a) This policy has been revised to (a) remove the discipline language that is more appropriate to Staff Conduct (see sample policy GBEB (Staff Conduct)), revised July 2019) (Ethics); and (b) incorporate as employment standards the newly enacted (11/18) Code of Ethics for NH Educators.*
- (b) As with all sample policies, NHSBA recommends that each district carefully review this sample policy prior to adoption to assure suitability with the district's own specific circumstances, organizational structures, etc., and current policies. Highlighted language or blank, underscored spaces indicate areas which Boards must change/complete to reflect local personnel titles, policy code references, duty assignments etc.*
- (c) {\*\*} indicates reference to another NHSBA sample policy. A district should check its own current policies and codes to assure internal consistency.*
- (d) Withdrawn and earlier versions of revised policies should be maintained separately as permanent records of the District.*

All employees of the District are expected to maintain high standards in their conduct both on and off duty. District employees are responsible for providing leadership in the school and community. This responsibility requires the employee to maintain standards of exemplary conduct. To these ends, the Board adopts the following statements of standards. District employees will adhere to the standards enunciated in this Policy in the decision-making process involving their interactions with students, the school community, colleagues, parents and the public.

**A. Adoption and Incorporation of Standards of Code of Ethics for New Hampshire Educators.**

The Board incorporates by reference and adopts as independent ethical standards relative to employment in the District, the provisions of the New Hampshire Code of Ethics for New Hampshire Educators (the "NH Code of Ethics"), as the same may be amended by the State from time to time.

**B. Additional Ethical Standards.**

In addition to the ethical standards set forth in the New Hampshire Code of Ethics, and without limiting the application thereof to District employment, employees will:

- Make the wellbeing of students the fundamental value of all decision-making and actions.

**STAFF ETHICS**

- Staff members shall maintain a reasonable standard of care for the supervision, control and protection of students commensurate with their assigned duties and responsibilities.
- Maintain just, courteous, and proper relationships with students, parents, staff members, and others.
- Fulfill their job responsibilities with honesty and integrity.
- Direct any criticism of other staff members toward improving the District. Such constructive criticism is to be made directly to the building administrator.
- Obey all local, state, and national laws.
- Obey and implement the School Board's policies, administrative rules and regulations.
- Avoid using position for personal gain through political, social, religious, economic, or other influence.
- Maintain the standards and seek to improve the effectiveness of the profession through research and continuing professional development.
- Honor all contracts until fulfillment or release.
- Maintain all privacy and confidentiality standards as required by law.
- Exhibit professional conduct both on and off duty.

**C. Dissemination.**

The content of this policy should be included in every employee/staff member handbook, and/or otherwise provided annually to each employee, designated volunteer, and contracted party.

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**District Policy History:**

*First reading:* \_\_\_\_\_

*Second reading/adopted:* \_\_\_\_\_

***District revision history:***

**Legal References:**

*N.H. Dept. of Education Administrative Rule – Ed 303.01*

*N.H. Dept. of Education Administrative Rule – Ed 510.01- 510.05, Code of Conduct for NH Educators*

*N.H. Dept of Education, Code of Ethics for NH Educators*

***Legal References Disclaimer:*** *These references are not intended to be considered part of this policy, nor should they be taken as a comprehensive statement of the legal basis for the Board to enact this policy, nor*

**STAFF ETHICS**

*as a complete recitation of related legal authority. Instead, they are provided as additional resources for those interested in the subject matter of the policy.*

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***When adopting this sample or variation of the same, a district should not include the NHSBA history or NHSBA policy notes. The district should, to the extent possible, include its own adoption/revision history.***

**NHSBA history:** Revised: April 2011, July 1998, November 1999, and July 2019

**NHSBA note, July 2019:** NHSBA revised policy GBEA, along with the related policies GBE, GBEB, and GBEBB, for better internal consistency relative to conduct, and to include provisions aligning with the New Hampshire Code of Ethics and Code of Conduct for Educators, passed in November 2018.

w/p-update/2019 Spring/ /GBEA Staff Ethics 2019-7 (d)

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*Category: R**See also GBCA***STAFF ETHICS**

An employee speaking or writing as a citizen is free from institutional censorship or discipline, but his/her special position in the community carries special obligations. The employee must remember that the public may judge the profession and institution by his/her speech. Hence the employee should, at all times, be accurate, exercise appropriate restraint, show respect for the opinion of others, and make every effort to indicate that he/she is not a school spokesperson.

All Employees of the District must abide by the following code of ethics:

1. Employees must demonstrate the highest standard of personal and professional integrity, truthfulness, and honesty in all public activities to inspire public confidence and trust.
2. Employees must fulfill their professional responsibilities with honesty and integrity and must avoid conflicts of interest, or the appearance thereof, when performing their professional responsibilities.
3. Employees must comply with all State and Federal laws and regulations and policies adopted by the School Board.

Legal Reference:

*RSA 98-E, Public Employee Freedom of Expression*

1<sup>st</sup> Read: September 6, 2011

2<sup>nd</sup> Read: October 18, 2011

Adoption: October 18, 2011

**STAFF CONDUCT***Category: Recommended**Related Policies: GBEA, GBEAB & GBEBB***ADOPTION NOTES –*****This text box, and all highlights within the policy should be removed prior to adoption.***

- (a) This policy has been revised to (a) include the discipline language that formerly appeared in sample policy GBEA (Staff Ethics); and (b) incorporate as employment standards the newly enacted (11/18) Code of Conduct for NH Educators, Ed. 510.01-510.05 (without incorporation, the state Code of Conduct would only pertain to credentialing status by the state as opposed to standards which can be enforced by the District).*
- (b) {\*\*} indicates a reference to another NHSBA sample policy. A district should check its own current policies and codes to assure internal consistency.*
- (c) As with all sample policies, NHSBA recommends that each district carefully review this sample policy prior to adoption to assure suitability with the district's own specific circumstances, organizational structures, etc., and current policies. Highlighted language or blank, underscored spaces indicate areas which Boards must change/complete to reflect local personnel titles, policy references, duty assignments etc.*
- (d) Withdrawn and earlier versions of revised policies should be maintained separately as permanent records of the District. Some districts maintain a "Repealed/Revised" section within their manuals.*

**A. General Provisions.**

All employees have the responsibility to make themselves familiar with, and abide by, the laws of the State of New Hampshire as they affect their work, all policies and decisions of the Board, and the administrative regulations and directives designed to implement them.

All employees shall be expected to carry out their assigned duties, support and enforce Board policies and administrative regulations, submit required reports, protect District property, oversight of students and contribute to the education and development of the District's students.

Employees are advised that failure to abide by this and other school board policies can lead to disciplinary action, up to and including dismissal, and can result in non-renewal. Any action taken regarding an employee's employment with the District will be consistent with all rules, laws, and collective bargaining agreements, if applicable.

**B. Adoption and Incorporation of Standards of Code of Conduct for New Hampshire Educators.**

The Board incorporates by reference, and adopts as independent standards of conduct relative to employment in the District, the provisions of the New Hampshire Code of Conduct for New Hampshire Educators (Ed 510.01-510.05) (the "NH Code of Conduct"), as the same may be amended by the State from time to time. The District reserves the right to take employment action against any employee based upon the District's interpretation of the provisions of the NH Code of Conduct and the District's independent assessment of whether an employee has violated



**STAFF CONDUCT**

said provisions. The District's interpretation, assessment and/or action thereon, are independent of any interpretation by the New Hampshire Department of Education ("DOE") with respect to those standards, and irrespective of any investigation by or action taken by the DOE relative to a District employee's conduct.

**C. Dissemination.**

The content or a copy of this policy should be included in every employee/staff member handbook, and/or otherwise provided annually to each employee, designated volunteer, and contracted party.

**District Policy History:**

*First reading:* \_\_\_\_\_

*Second reading/adopted:* \_\_\_\_\_

***District revision history:*****Legal References:**

*N.H. Dept. of Education Administrative Rule – Ed 303.01*

*N.H. Dept. of Education Administrative Rule – Ed 510.01- 510.05, Code of Conduct for NH Educators*

*NH Code of Administrative Rules, Section Ed 511, Denial, Suspension or Revocation of Certified Personnel*

*N.H. Dept of Education, Code of Ethics for NH Educators*

*RSA 189:13, Dismissal of Teacher*

*RSA 189:14-a, Failure to be Renominated or Reelected*

*RSA 189:14-d, Termination of Employment*

***Legal References Disclaimer:*** *These references are not intended to be considered part of this policy, nor should they be taken as a comprehensive statement of the legal basis for the Board to enact this policy, nor as a complete recitation of related legal authority. Instead, they are provided as additional resources for those interested in the subject matter of the policy.*

***When adopting this sample or variation of the same, a district should not include the NHSBA history or NHSBA policy notes. The district should, to the extent possible, include its own adoption/revision history.***

**NHSBA history:** Revised – July 2019; New Policy - August 2006

**NHSBA note, July 2019:** NHSBA revised policy GBEB, along with the related policies GBE, GBEA, and GBEBB, for better internal consistency relative to conduct, and to include provisions aligning with the New Hampshire Code of Ethics and Code of Conduct for Educators, passed in November 2018.

w/p-update/2019 Spring/ /GBEB Employee Conduct 2019-7 (d)

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## EDUCATION OF HOMELESS CHILDREN AND UNACCOMPANIED YOUTH

Category: Priority/Required by Law

Related Policies: EEA, JFA, JFAA, &amp; JFABE

**ADOPTION NOTES –*****This text box, and all highlights within the policy should be removed prior to adoption.***

- (a) *This policy has been revised substantially, with the aim to reflect changes to the McKinney-Vento Act, most specifically the removal of children “awaiting foster care” from the definition of homeless, (see new policy JBABE) and requirements regarding transportation of homeless students. The revisions to JFABD, also includes clarification of an LEA’s responsibilities and limitations when dealing with disputes and decision making with respect to enrollment or transportation of homeless students.*
- (b) **[\*\*]** *indicates a reference to another NHSBA sample policy. A district should check its own current policies and codes to assure internal consistency.*
- (c) *As with all sample policies, NHSBA recommends that each district carefully review this sample policy prior to adoption to assure suitability with the district’s own specific circumstances, organizational structures, etc., and current policies. Highlighted language or blank, underscored spaces indicate areas which Boards must change/complete to reflect local personnel titles, policy references, duty assignments etc.*
- (d) *Withdrawn and earlier versions of revised policies should be maintained separately as permanent records of the District. Some districts maintain a “Repealed/Revised” section within their manuals.*

It is the Board's intent to remove barriers to the identification, enrollment and retention in schools of homeless children and youth. All staff shall take reasonable steps to ensure that homeless students and children are not segregated or stigmatized and that educational decisions are made in the best interests of those students.

**A. Homeless Students.**

Under the federal McKinney-Vento Homeless Assistance Act (“McKinney-Vento”), and guidance provided by the New Hampshire Department of Education (“NHDOE”), the term “homeless children and youths” means “individuals who lack a fixed, regular and adequate nighttime residence.” Under both section 752(2) of McKinney-Vento and the NHDOE guidance\*, the term includes children and youth who are:

1. sharing the housing of other persons due to loss of housing, economic hardship or a similar reason;
2. living in motels, hotels, trailer parks or camping grounds due to lack of alternative adequate accommodations;
3. living in emergency or transitional shelters;
4. abandoned in hospitals;
5. have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;

**EDUCATION OF HOMELESS CHILDREN AND UNACCOMPANIED YOUTH**

6. living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
7. are migratory children who qualify as homeless because they are living in circumstances described above.

Additionally, as used in this policy, the terms “unaccompanied youth,” “school of origin,” “enrollment,” and “attendance area school” shall have the same meanings as set forth in the McKinney-Vento Homeless Assistance Act (“McKinney-Vento”) and guidance provided by the New Hampshire Department of Education (“NHDOE”). For purposes of this policy and its accompanying regulation, “homeless students” shall refer to and include “homeless children and youth” and “unaccompanied youth.”

\*Note: under RSA 193:12, IV, the definition of “homeless children and youth” also includes children “awaiting foster care placement”, see RSA 193:12, IV (a). That criterion, however, was removed from McKinney-Vento in 2015 as well as NHDOE guidance documents regarding McKinney-Vento. Under both McKinney-Vento, and NHDOE guidance, children who are awaiting foster care may fall within the definition of a homeless student if they meet other criteria as set forth above. See also Policy **{\*\*}JFABE**.

Each homeless student shall have access to and shall be provided education services for which the student is eligible comparable to services provided to other students in the school, including career and technical education programs, gifted education programs, and school nutrition programs. Transportation services for homeless students shall be provided in accordance with applicable law and as generally described below.

**B. Enrollment and School Stability.**

Enrollment of a homeless student shall be immediate even if the homeless student lacks records routinely required prior to enrollment or has missed application or enrollment deadlines (academic, immunization, etc.). The District shall make arrangements to obtain any necessary records and to have the student receive any necessary immunizations. When feasible, the District shall seek immunization through no- or low-cost health care providers. If an expense is incurred, the District shall seek reimbursement through Medicaid if possible.

If a homeless student becomes permanently housed during the school year, the student shall no longer be considered homeless and may only continue enrollment in the District for the remainder of that school year.

**C. Homeless Liaison.**

The Superintendent shall appoint a staff member to serve as the local liaison for homeless students and their families/guardians (the “Homeless Liaison” or the “District Homeless Liaison”). The District shall provide training and other technical assistance to Homeless Liaison and other appropriate District staff regarding the District’s obligations to homeless students. Duties of the District Homeless Liaison shall be as provided in state and federal law, as well as local policies and procedures. The duties shall include, among others: procedures for identification, enrollment, transportation, dispute resolution for homeless students, as well as

**EDUCATION OF HOMELESS CHILDREN AND UNACCOMPANIED YOUTH**

direct assistance shall be made in accordance with the accompanying regulation and applicable law.

Among other things, the District Homeless Liaison shall:

- a) assist in requesting the student's records;
- b) mediate and assist with disputes concerning school enrollment and homelessness determinations;
- c) assist in making transportation arrangements;
- d) ensure that homeless students receive the educational services for which they are eligible or entitled;
- e) coordinate with other Districts, entities, institutions and agencies to help assure that homeless children and youths are identified by school personnel;
- f) ensure that unaccompanied youth and/or parents of homeless students are informed of the educational and related opportunities available to homeless students;
- g) work to assure that parents/guardians of such students are provided with opportunities to participate in the education of their children (excepting instances when court or other protective orders indicate otherwise);
- h) ensure that unaccompanied youth and/or parents of homeless students are informed of all transportation services including transportation to the school of origin;
- i) assure that notice is publicly disseminated of the educational rights of homeless children and youths;
- j) coordinate with other Districts and with local social services agencies and other agencies or programs providing services to homeless students as needed;
- k) assist any unaccompanied youth with enrollment, credit accrual, and career and college readiness decisions;
- l) work with the Superintendent or designee to monitor regulations and guidance related to this policy that may be issued by applicable state and federal agencies (e.g., DCYF, NHDOE, and the U.S. Department of Education).

**D. Enrollment Determinations for Homeless Students.**

Enrollment determinations shall be based upon the best interests of the homeless student, with the presumption that keeping the homeless student in the school of origin is in the homeless student's best interests, except when doing so is contrary to the request of the parent/guardian, or if applicable, unaccompanied youth.

**E. Transportation of Homeless Students.**

Under McKinney-Vento, homeless students are entitled to transportation to their school of origin or the school where they are to be enrolled. If the homeless student is located outside of District boundaries but a determination has been made that the student shall remain in the school of origin within the District, or, if a homeless student is located within this District, but a

**EDUCATION OF HOMELESS CHILDREN AND UNACCOMPANIED YOUTH**

determination had been made that the student shall remain in the school of origin outside of the District, then the two Districts shall agree on a method to apportion cost and responsibility for the student's transportation or share the cost and responsibility equally.

**F. Dispute Resolution.**

For any decision in the enrollment process of a homeless student, including any determination whether a living situation meets the definition of homeless, if the decision is in conflict with the wishes of the homeless student's parent/guardian, or, if applicable, the unaccompanied youth, the District shall provide a written explanation, in a manner and form understandable to the student's parent, guardian or unaccompanied youth. District personnel receiving enrollment requests or information pertaining to homeless students should immediately refer those request to the District Homeless Liaison and Superintendent's office.

In the event of a dispute, the District shall immediately enroll the student in the school in which the parent/guardian or unaccompanied youth seeks to enroll, which enrollment shall continue pending resolution of the dispute. Additionally, while enrollment disputes are pending, students have the right to participate fully in school and receive all services for which they would be eligible, as the definition of enrollment includes "attending classes and participating fully in school activities."

**1. Notification of Appeal Process.**

If the District seeks to place a homeless child in a school other than the school of origin or the school requested by the parent, or the District has determined that the living situation does not qualify as homeless ("eligibility decision"), the District shall inform the parent or the unaccompanied youth of the right to appeal. The District shall provide the parent or unaccompanied youth with written notice including:

- a. A succinct explanation of the child's placement/eligibility decision and contact information for the District Homeless Liaison, as well as the NHDOE State Coordinator for Education of Homeless Children and Youth;
- b. Notification of the parent's right to appeal(s);
- c. Notification of the right to enroll in the school of choice pending resolution of the dispute;
- d. A description of the dispute resolution process including a petition/appeal form that can be returned to the school to initiate the process and timelines; and
- e. A summary of the McKinney-Vento Act.

While the Superintendent or Homeless Liaison may prepare and make available forms for the process, use of such forms is not required to initiate the appeal process.

**EDUCATION OF HOMELESS CHILDREN AND UNACCOMPANIED YOUTH****2. Appeal to the District Homeless Liaison – Level I.**

- a. If the parent or unaccompanied youth disagrees with the District's placement decision, he/she/they may appeal by filing a written request for dispute resolution/appeal ("appeal") with the school, the District Homeless Liaison, or Superintendent. The request for dispute resolution should be submitted within fifteen business days of receiving notification of the District's placement.
- b. If the appeal/request for dispute resolution is submitted to the school or Superintendent, it will be immediately forwarded to the Homeless Liaison.
- c. The District Homeless Liaison must log the complaint including a brief description of the situation and reason for the dispute and the date and time of the appeal was filed. Upon receipt, the District Homeless Liaison will forward a copy of the appeal document to the Superintendent.
- d. Within five business days of the receiving the appeal, the Homeless Liaison must provide the parent or unaccompanied youth with a written decision and notification of the parent's right to further appeal, with a copy to the Superintendent. At this time, the Homeless Liaison will also provide to the parent or unaccompanied youth an "appeals package" consisting of a copy of the written decision, a copy of the original appeal document, and copies of any additional materials provided to the Homeless Liaison by the parent or unaccompanied youth.

**3. Appeal to the Superintendent – Level II.**

The parent or unaccompanied youth may appeal the Level I decision to the Superintendent or the Superintendent's designee, using the appeals package provided at Level I.

- a. The Superintendent/designee will arrange for a personal conference to be held with the parent or unaccompanied youth within five business days of receiving the Level I appeals package. (Upon the request of the parent or unaccompanied youth, this conference may be held telephonically).
- b. Within five business days of the conference with the parent or unaccompanied youth, the Superintendent/designee will provide that individual with a written decision with supporting evidence and notification of their right to appeal to NHDOE.
- c. The Superintendent/designee shall provide a copy of the Superintendent's decision to the District's Homeless Liaison, as well as the NHDOE State Coordinator for Education of Homeless Children and Youth.

**G. Records.**

The District shall maintain copies of all written decisions, appeals and notifications concerning eligibility or enrollment requests made under this policy for the same period as it does for Title I records.

## EDUCATION OF HOMELESS CHILDREN AND UNACCOMPANIED YOUTH

**District Policy History:***First reading:* \_\_\_\_\_*Second reading/adopted:* \_\_\_\_\_***District revision history:*****Legal References:***20 U.S.C. 1232g (Family Educational Rights and Privacy Act – “FERPA”)**20 U.S.C. 1701-1758 (Equal Educational Opportunities Act of 1974 – “EEOA”)**20 U.S.C. 6313(c)(3) (reservation of Title I funding for homeless children and youths)**42 U.S.C. §11431 and §11432 (McKinney-Vento Homeless Assistance Act – Education for Homeless Children and Youth)**Plyler v. Doe, 457 U.S. 202 (1982)**RSA 193:12, Legal Residence Required**NH Code of Administrative Rules, Section Ed 306.04(a)(19), Homeless Students*

***Legal References Disclaimer:*** *These references are not intended to be considered part of this policy, nor should they be taken as a comprehensive statement of the legal basis for the Board to enact this policy, nor as a complete recitation of related legal authority. Instead, they are provided as additional resources for those interested in the subject matter of the policy.*

***When adopting this sample or variation of the same, a District should not include the NHSBA history or NHSBA policy notes. The District should, to the extent possible, include its own adoption/revision history.***

**NHSBA history:** REVISED – July 2019, May 2018, May 2008, February 2005

**NHSBA note, July 2019:** NHSBA substantially revised sample policy JFABD with the aim to reflect changes to the McKinney-Vento Act, most specifically the removal of children “awaiting foster care” from the definition of homeless, (see new policy JBABE) and requirements regarding transportation of homeless students. The revisions to JFABD, also include clarification of an LEA’s responsibilities and limitations when dealing with disputes and decision making with respect to enrollment or transportation of homeless students.

w/p-update/2019 Spring/ JFABD Homeless Students 2019-7 (d5)

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## JFABD – Admission Of Homeless Students

To the extent practical and as required by law, the District will work with the homeless students and their families to provide stability in school attendance and other services. Special attention will be given to ensuring the enrollment and attendance of homeless students not currently attending school. Homeless students will be provided District services for which they are eligible.

Subtitle VII-B of the McKinney-Vento Homeless Assistance Act (per Title IX, Part A of the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act) defines homeless as follows:

The term "homeless children and youths"--

(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)); and

(B) includes--

(i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;\*

(ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C));

(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(iv) migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii).

### **Liaison:**

The Superintendent shall designate an appropriate staff person to be the district's liaison for homeless students and their families.

### **Enrollment:**

To the extent feasible, homeless students will continue to be enrolled in their school of origin while they remain homeless or until the end of the academic year in which they obtain permanent housing. Instead of remaining in the school of origin, parents or guardians of homeless students may request enrollment in the school in which attendance area the student is actually living, or other schools.

If there is an enrollment dispute, the student shall be immediately enrolled in the school in which enrollment is sought, pending resolution of the dispute. The parent or guardian shall be informed of the district's decision and their appeal rights in writing. Unaccompanied youth will also be enrolled pending resolution of the dispute.



## JFABD – Admission Of Homeless Students

Once the enrollment decision is made, the school shall immediately enroll the student, pursuant to district policies. If the student does not have immediate access to the immunization records, the student shall be admitted under a personal exception. Students and families should be encouraged to obtain current immunization records or immunizations as soon as possible, and the district liaison is directed to assist. Records from the student's previous school shall be requested from the previous school pursuant to district policies. Emergency contact information is required at the time of enrollment consistent with district policies.

Homeless students are entitled to transportation to their school of origin or the school where they are to be enrolled. If the school of origin is in a different district, or a homeless student is living in another district but will attend his or her school of origin in this district, the districts will make reasonable efforts to coordinate the transportation services necessary for the student.

The district's liaison for homeless students and their families shall coordinate with local social services agencies that provide services to homeless children and youths and their families; other school districts on issues of transportation and records transfers; and state and local housing agencies responsible for comprehensive housing affordability strategies. The district's liaison will also review and recommend to the district policies that may act as barriers to the enrollment of homeless students.

### **Legal References:**

***NH Code of Administrative Rules, Section Ed 306.04(a)(19), Homeless Students***

***RSA 193:12, Legal Residence Required***

*No Child Left Behind Act, 2002*

*McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431, et seq.*

### ***Category: P***

*1st Read: September 4, 2018*

*2nd Read: September 18, 2018*

*Adoption: September 18, 2018*

## EDUCATION OF CHILDREN IN FOSTER CARE

Category: *Recommended*Related Policies: *EEA, JFA, JFAA, & JFABD***ADOPTION NOTES –*****This text box, and all highlights within the policy should be removed prior to adoption.***

- (a) *This is a NEW POLICY to reflect changes to the McKinney-Vento Act (included as part of ESSA) which create several substantive and procedural requirements relative to enrollment, education and transportation of children placed (or awaiting placement) in foster care.*
- (b) **{\*\*}** *indicates a reference to another NHSBA sample policy. A district should check its own current policies and codes to assure internal consistency.*
- (c) *As with all sample policies, NHSBA recommends that each district carefully review this sample policy prior to adoption to assure suitability with the district's own specific circumstances, organizational structures, etc., and current policies. Highlighted language or blank, underscored spaces indicate areas which Boards must change/complete to reflect local personnel titles, policy references, duty assignments etc.*

It is the Board's intent to remove barriers to the identification, enrollment and retention in school of children who are in foster care. All staff shall take reasonable steps to ensure that children in foster care are not segregated or stigmatized and that educational decisions are made in the best interests of those students.

**A. Definition.**

Under guidance issued jointly by NHDOE and the N.H. Department of Health and Human Services, and for the purposes of this Policy, “foster care” shall mean “24 hour substitute care for children placed away from their parents or guardians for whom the child welfare agency has placement and care responsibility. This includes children in foster family homes, shelters, relative foster homes, group homes and residential facilities, regardless of whether the foster care facility is licensed or whether payments are made by the state.” To the extent required under applicable law, a child in foster care under this policy also includes children whom an appropriate child welfare agency indicates are awaiting a foster care placement. (Note: children awaiting foster care may also qualify as homeless under policy **{\*\*/JFABE.**)

The District shall coordinate with other districts and with local child welfare agencies and other agencies or programs providing services to students in foster care as needed. The coordination requirements apply to both situations (i) when a student who is a resident of the District is placed in foster care in another district, or (ii) when a student residing in another district is placed foster care in a home within this District.

The Superintendent is responsible for providing any required assurances to applicable state and federal agencies that the District is complying with applicable requirements related to ensuring the educational stability of children in foster care; and for reasonably monitoring compliance with such assurances. In doing such, the Superintendent is entitled to reasonably rely upon the information and assurances provide to her/him by District staff, including the District's “Foster Care POC.”

**EDUCATION OF CHILDREN IN FOSTER CARE****B. District Point of Contact with Child Welfare Agencies.**

The Superintendent shall designate a staff member to serve as the District's point of contact (the "Foster Care POC") between the New Hampshire Division of Children, Youth and Families ("DCYF"), NHDOE, other districts, and other child welfare agencies. The main duty of the Foster Care POC is to facilitate the prompt and appropriate placement, transfer, and enrollment of students in foster care, pursuant to applicable state and federal statutes, regulations and guidance. Additionally, the Foster Care POC shall work with the Superintendent or designee to monitor regulations and guidance related to this policy that may be issued by applicable state and federal agencies (e.g., DCYF, NHDOE, and the U.S. Department of Education).

The District shall provide training opportunities and other technical assistance to the Foster Care POC and other appropriate district staff regarding the District's obligations to students in foster care.

**C. Best Interest Enrollment Determinations, Disputes and Enrollment.**

Generally, a student in foster care will remain in his/her school of origin, unless there is a determination that it is not in the student's best interest. The Foster Care POC shall assist DCYF or any other child welfare agency to make a "best interest determination" education decision, particularly the determination of whether or not it is in the best interest of the student in foster care to remain in his/her school of origin or to enroll in a new school. Unless local procedures are established in accordance with state and federal law, the District will use the model procedures prepared jointly by the NHDOE and DCYF.

If the determination is that the best interests of a child is not to remain in the school of origin, and instead placed within a new school within this District, the child in foster care shall be immediately enrolled in the new school ("receiving school"), even if any documents or records otherwise required for enrollment are not immediately available.

If there are disputes regarding a determination regarding the best interest determination for a child in foster care, it is expected that DCYF and the separate school districts, both sending and receiving, will work collaboratively at the local level to resolve the issue. Should there be no resolution, RSA 193.12, V-b, requires the Department of Health and Human Services to request in writing that the two Superintendents involved resolve the dispute. If the residency dispute remains unresolved after 10 days after such request, the Department of Health and Human Services shall request that the Commissioner of the Department of Education determine the residence of the child for purposes of school enrollment.

If a school within the District is a receiving school, such receiving school shall accept the student's certified coursework as if it had been completed at the receiving school. To the extent such coursework is not aligned with the curriculum, the awarded credit may be elective, but it must be counted toward required credits for advancement or graduation.

**D. Transportation.**

**EDUCATION OF CHILDREN IN FOSTER CARE**

When the District is notified that a student in foster care needs, or may need, transportation to a District school, the Foster Care POC will take steps to establish an individualized plan that addresses transportation to maintain the student in his/her school of origin will be arranged, provided and funded for the duration of time that the student in foster care is attending his/her school of origin.

In establishing such a plan, the Foster Care POC and other district staff shall follow any existing transportation procedures, systems-level plan or agreement that the District, acting in collaboration with DCYF and/or other departments of human services, has adopted or otherwise expressly agreed to implement for the cost-effective transportation of the student. Out of District transportation of children in foster care shall be provided in accordance with DCYF's or other child welfare agency's authority to use child welfare funding for school of origin transportation.

If there are disputes regarding the provision or funding of transportation, the school district foster care point of contact and child welfare agency representative will contact their respective Supervisor and Superintendent of the school to resolve the dispute. To the extent feasible and appropriate, the school districts involved should ensure that a child remains in his or her school of origin while the disputes are being resolved to minimize disruptions and reduce school transitions.

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**District Policy History:**

First reading: \_\_\_\_\_

Second reading/adopted: \_\_\_\_\_

**District revision history:****Legal References:**

-20 U.S.C. 1232g (Family Educational Rights and Privacy Act – “FERPA”)

-20 U.S.C. 1701-1758 (Equal Educational Opportunities Act of 1974 – “EEOA”)

-20 U.S.C. 6311 (g)(1)(E) and 6312(c)(5) (provisions in ESSA regarding obligations to students in foster care)

-42 U.S.C. 671 (a)(10) and 675 (1)(G) (child welfare agency requirements related to supporting normalcy for children in foster care and ensuring educational stability of children in foster care)

-42 U.S.C. §11431 and §11432 (McKinney-Vento Homeless Assistance Act – Education for Homeless Children and Youth)

-Public Law 110-351, The Fostering Connections to Success and Increasing Adoptions Act of 2008

-34 C.F.R. 200.30 (f)(1)(iii) (ESSA's definition of “foster care”)

-Plyler v. Doe, 457 U.S. 202 (1982)

-RSA 193:12, Legal Residence Required

-“N.H. Guidance on ESSA and Foster Care to Ensure that the Educational Needs of Children and Youth in Foster Care are Being Addressed”, January 2017, NHDOE and NHDHHS

[“Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care,” U.S. Department of Education and US Department of Health and Human Services, June 23, 2016](#)

**EDUCATION OF CHILDREN IN FOSTER CARE**

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**NHSBA history:** NEW POLICY July 2019

w/p-update/2019 Spring/ [JFABE Foster Children 2019-7 \(f\)](#)JFABE-Foster-Children-2019-7-(d2)

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**DATA/RECORDS RETENTION***Category: Priority - Required by Law**Related Policies: EH, EHAB, JRA, & JBJ  
See also: EHB-R (Records Retention Schedule)*

The Superintendent shall develop procedures for a records retention system that is in compliance with RSA 189:29-a and Department of Education regulations, and also addresses retention/destruction of all other records which are not subject to specific statutes or regulations. The procedures should ensure that all pertinent records are stored safely and are stored for such durations as are required by law. The Superintendent shall develop procedures necessary to protect individual rights and preserve confidential information.

This policy shall apply to all district records, irrespective of the specific medium of the record, i.e., paper, electronic, digital, cloud, or other media, etc.

**A. Special Education Records.**

1. Upon a student's graduation from high school, his or her parent(s)/guardian(s) may request in writing that the District destroy the student's special education records, including any final individualized education program.
2. The parent(s)/guardian(s) may, at any time prior to the student's twenty-sixth birthday, request, in writing, that the records be retained until the student's thirtieth birthday.
3. Absent any request by a student's parents to destroy the records prior to the twenty-sixth birthday, or to retain such records until the student's thirtieth birthday, the District shall destroy a student's records and final individualized education program within a reasonable time after the student's twenty-sixth birthday, provided that all such records be destroyed by the student's thirtieth birthday.
4. A permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation. 34 CFR 300.624.
5. The District shall provide parents/guardians, or where applicable, the adult student, with a written notice of the District's document destruction policies upon the student's graduation with a regular high school diploma or at the transfer of parental rights to the adult student, whichever occurs first.
6. The District shall provide public notice of its document destruction policy at least annually. The method of destruction for digital, electronic and cloud-based records shall be thorough enough to ensure that they are deleted and no longer accessible.

**B. Litigation Hold.**

On receipt of notice from legal counsel representing the District ~~in~~ that a litigation hold is required, the routine destruction of governmental records, including paper and electronic or digital records, which are or may be subject to the litigation hold shall cease. All third party letters and notices requesting a litigation hold shall promptly be forwarded to legal counsel

**DATA/RECORDS RETENTION**

for the District, and routine destruction of potentially relevant records shall be suspended pending advice of counsel.

The destruction of records subject to a litigation hold shall not resume until the District has received a written directive from legal counsel authorizing resumption of the routine destruction of those records in accordance with the retention requirements of this policy and the associated procedures.

**C. Right-to-Know Request Hold.**

On receipt of a Right-to-Know law request to inspect or copy governmental records, the Superintendent shall cease any destruction of governmental records which are or may be the subject of the request. The records shall be retained regardless of whether they are subject to disclosure under RSA Chapter 91-A, the Right-to-Know law. If a request for inspection is denied on the grounds that the information is exempt under this chapter, the requested material shall be preserved for no less than ninety (90) days and until any lawsuit pursuant to RSA 91-A:7-8 has been finally resolved, all appeal periods have expired, and a written directive from legal counsel representing the District authorizing destruction of the records has been received.

**Board Policy History:**

First reading: \_\_\_\_\_  
Second reading/adopted: \_\_\_\_\_

**District revision history:****Legal References:**

- RSA 91-A, Right to Know Law
- RSA 189-C:10-a Retention of Individualized Education Programs
- RSA 189:29-a, Records Retention and Disposition
- NH Code of Administrative Rules, Section Ed 306.04(a)(4), Records Retention
- NH Code of Administrative Rules, Section Ed 306.04(h), Records Retention
- NH Code of Administrative Rules, Section Ed. 1119.01, Confidentiality Requirements
- 20 U.S.C. 1232g, Family Educational Rights and Privacy Act (FERPA)

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**DATA/RECORDS RETENTION**

**NHSBA history:** Revised: September 2018; May 2018; May 2017; May 2008; October 2005

**NHSBA revision note, September 2018:** Policy EHB has been amended to reflect the 2018 passage of HB 1551. That bill, which amended 186-C by adding new section 186-C:10-a, requires LEAs to destroy special education records within a reasonable time after a student's 26<sup>th</sup> birthday, but no later than the student's 30<sup>th</sup> birthday. The student's parents/guardians, however, may require the District to either destroy the records upon the child's graduation or to retain the records until the child's thirtieth birthday. The policy has also been modified to include information pertaining to digital or electronic records.

**NHSBA revision note, May 2018:** Minor, style and grammatical changes made in the first two paragraphs of what is now Section A.

**NHSBA revision note, May 2017:** Department of Education Administrative Rules, effective March 2017, require a policy regarding the retention and destruction of special education records. Provisions are added to address the need to cease records destruction in the event of a litigation hold or receipt of a Right-to-Know law request to inspect or copy governmental records. The sample retention schedule, EHB-R was also update to reflect this requirement and other changes to law.