

**OFFICE OF THE SUPERINTENDENT OF SCHOOLS
106 Hancock Road
Peterborough, New Hampshire**

CONTOOCOOK VALLEY SCHOOL BOARD

Policy Committee

**Tuesday, October 19, 2021
SAU Office
6:00 p.m.**

Agenda

School Board Committee Members:

- Keira Christian
- Katherine Heck
- Janine Lesser
- Kevin Pobst
- Stephen Ullman

- 1. Call to order**
- 2. Accept September 21, 2021 Minutes**
- 3. Tonight's School Board Agenda –**
 - 2nd read: DN-School Properties Disposal Procedure**
 - CBI – Evaluation of the Superintendent and Goal Setting**
 - Procedure for policy CBI**

Policy Review-Priority/Required by Law

- 4. IGE- Parental Objections to Specific Course Material-** Reference RSA 193:40 and RSA 186:11 enacted in 2021.
- 5. DAF– Administration of Federal Grant Funds**
- 6. EEAEA – Mandatory Drug and Alcohol Testing – School Bus Drivers and Contracted Carriers -** Amendments needed to include contracted carriers, in accordance with the new contracted carrier provisions in SB 147 (Part III), which will be codified as RSA 376:2, and to indicate which provisions of this policy affect both bus drivers and contracted carriers.
- 7. GBCD – Background Investigation and Criminal History Records Check-** Revisions to include addition of “designee” language to reflect 2021 amendments to RSA 189:13-a, and also to clarify prohibition of employing an applicant who has been charged pending disposition or convicted of a Section V offense.
- 8. Non-Public Session RSA 91-A:3 II (If Required)**

Policy status update:

- **JLCL -Concussions and Head injuries**
 - Under review
- **GBEF- Acceptable use Policy :Staff**
 - Under review
- **JRA- Students records. Privacy , Family, Student Rights**
 - Sent to legal for review
- **JICD - Student Behavior, Conduct, Discipline and Due Process**
 - Comments submitted for legal review
 - **JJ/JIA/JIC Student Discipline Policies under JICD**
- **IHCD/LEB – Advanced Course Work- Adopted 2015- LCC- Dual Enrollment-Adopted 2017**
 - Under review by district personnel, the Equity Committee will review.

In legal review:

- **EBCF - Pandemic/Epidemic Emergencies**
- **JLCE - Emergency Care and First Aid**
- **EBCG- Communicable and Infectious Diseases**
- **JLCG- Exclusion of Students Who Present a Hazard**

Next Agenda Items:

- **“D” Financial Policy Review Schedule**

Requests for Policy Review:

- IMC – Controversial Speakers and Programs
- LC – Relations with Education Research Agencies
- JBAB -Transgender and Gender Non-Conforming Students

IGE – Parental Objections To Specific Course Material

The ConVal School Board recognizes that there may be specific course materials that some parents/guardians find objectionable.

Parents who wish for particular instructional material be reviewed for appropriateness may submit a request for review in accordance with Board Policy KEC.

Not less than two weeks advance notice shall be provided to parents/legal guardians of curriculum course material used for instruction of human sexuality or human sexual education. Notice shall be provided by the School District via US mail prior to the presentation of these course materials. Notification will include how and where a parent can review the course materials.

In the event a parent/guardian finds specific course material objectionable, the parent/guardian may notify the building principal of the specific material to which they object and request that the student receive alternative instruction, sufficient to enable the child to meet state requirements for education in the particular subject area. This notification and request shall be in writing.

The building principal and the parent must mutually agree to the alternative instruction. The alternative instruction agreed upon must meet state minimum standards.

School district staff will make reasonable efforts, within the scope of existing time, schedules, resources and other duties, to accommodate alternative instruction for the student. Alternative instruction may be provided by the school, through approved independent study, or through other method agreed to by the parent/guardian and the building principal. Any cost associated with the alternative instruction shall be borne by the parent/guardian.

Legal References:

RSA 186:11, IX-c, State Board of Education; Duties

See also KEC

1st Read: August 10, 2019

2nd Read: August 20, 2019

Adopted: August 20, 2019

< IGDG - Student Activities Fund Management and Fundraising

IHAK - Character and Citizenship Education (<https://schoolboard.convalsd.net/district-policies/ihak-character-and-citizenship-education/>)

PARENTAL OBJECTIONS TO SPECIFIC COURSE MATERIAL*Category: Priority/Required by Law**Related policies: IHAM & KEC***ADOPTION/REVISION NOTES –**

Text between the highlighted lines “~ ~ ~ ~”, and highlights in this sample should be removed prior to adoption.

- (a) *General – As with all sample policies, NHSBA recommends that each district carefully review this sample prior to adoption/revision to assure suitability with the district’s own specific circumstances, internal coding system, current policies, and organizational structures.*
- (b) *Highlighted language or blank, underscored spaces indicate areas which Boards should review, change or complete to reflect local personnel titles, internal/ external policy references, duty assignments etc.*
- (c) *{**} indicates a reference to another NHSBA sample policy. A district should check its own current policies and codes to assure internal consistency.*
- (d) *Withdrawn & earlier versions of revised policies should be maintained separately as part of the permanent records of the District.*

The Board recognizes that there may be specific course materials which some parents/guardians find objectionable.

In the event a parent/guardian finds specific course material objectionable, the parent/guardian may notify the building Principal of the specific material to which they object and request that the student receive alternative instruction, sufficient to enable the child to meet state requirements for education in the particular subject area. This notification and request shall be in writing.

The building Principal and the parent/guardian must mutually agree to the alternative instruction. The alternative instruction agreed upon must meet state requirements for education in the particular subject area.

School District staff will make reasonable efforts, within the scope of existing time, schedules, resources and other duties, to accommodate alternative instruction for the student. Alternative instruction may be provided by the school through approved independent study, or through another method agreed to by the parent/guardian and the building Principal. Any cost associated with the alternative instruction shall be borne by the parent/guardian.

Nothing in this policy shall be construed as giving parents/guardians the right to appeal to the School Board.

Parents/guardians who wish for particular instructional material be reviewed for appropriateness may submit a request for review in accordance with Board policy **{**}KEC**.

In accordance with the federal Protection of Pupil Rights statute, as a School District that receives federal Department of Education funds, the Superintendent shall develop procedures to allow parent/guardian of a student to inspect any instructional material used as part of the educational

PARENTAL OBJECTIONS TO SPECIFIC COURSE MATERIAL

curriculum for the student. The procedures will provide reasonable access to instructional material within a reasonable period of time after the request is received.

NOTE regarding human sexuality and human sexual education: In addition to the protections under this policy, per RSA 186:11-c and Board policy **{**}IHAM**, parents/guardians are afforded additional affirmative rights with respect to instruction of human sexuality or human sex education, including, among other things, the right to receive a minimum of 2 weeks advance notice of all materials to be used with respect to such instruction.

District Policy History:

First reading: _____

Second reading/adopted: _____

District revision history:

Legal References:

RSA 186:11, IX-b & IX-c State Board of Education; Duties.
20 U.S.C §1232h, (c)(1)(C), Protection of pupil rights
RSA 193:40, Prohibition on Teaching Discrimination

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 appearing below. The district should, to the extent possible, include its own adoption/revision history, as well as the legal references and disclaimer as indicated above.

NHSBA history: Revised – Sept. 2021, Sept. 2017; New policy – January 2012

NHSBA note, September 2021, revision included (i) reference to RSA 193:40 “Prohibition on Teaching Discrimination” enacted in 2021, (ii) modifying language regarding minimum state standards to track language of 186:11, IX-c; (iii) addition of related policies; and (iv) revising provision regarding human sexual education; **September 2017**, The 2017 update adds new second paragraph requiring notice to parents and guardians in response to 2017 House Bill 103, Laws of 2017 Chapter 9 which added a requirement that advance notice of no less than two (2) weeks be given of curriculum course material to be used for instruction of human sexuality or human sexual education. The last paragraph applies only for School Districts that receive federal funds administered by the federal Department of Education. It addresses a requirement in the Protection of Pupil Rights Amendment (PPRA), that Local Education Agencies adopt a policy that permits parents to inspect instructional material.

w/p-update/2021-U2 Fall/IGE Parental Objections 2021-U2 (v1)

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PARENTAL OBJECTIONS TO SPECIFIC COURSE MATERIAL

policy development. School Districts and boards of education should consult with legal counsel and revise all sample policies and regulations to address local facts and circumstances prior to adoption. NHSBA continually makes revisions based on school Districts' needs and local, state and federal laws, regulations and court decisions, and other relevant education activity.

DAF -ADMINISTRATION OF FEDERAL GRANT FUNDS

All funds awarded directly or indirectly through any federal grant or subsidy programs shall be administered in accordance with this policy, and any administrative procedures adopted implementing this policy.

The School Board intends to administer federal grant awards efficiently, effectively and in compliance with all requirements imposed by law, the awarding agency and the New Hampshire Department of Education or other applicable pass-through entity.

This policy establishes the minimum standards regarding internal controls and grants management to be used by the District in the administration of any funds received by the District through federal grants programs as required by applicable New Hampshire and federal laws or regulations including, without limitation, the Uniform Grant Guidance.

The Board directs the Superintendent or designee to develop, monitor and enforce effective administrative procedures and other internal controls over federal awards as necessary in order to provide reasonable assurances that the District is managing the awards in compliance with all requirements for federal grants and awards.

Systems and controls must meet all requirements of federal and/or law and regulation and shall be based on best practices. The Superintendent is directed to assure that all individuals responsible for the administration of a federal grant or award shall be provided training sufficient to carry out their duties in accordance with all applicable requirements for the federal grants or award and this policy.

To the extent not covered by this policy, the administrative procedures and internal controls must provide for:

1. identification of all federal funds received and expended and their program source;
2. accurate, current and complete disclosure of financial data in accordance with federal requirements;
3. records sufficient to track the receipt and use of funds;
4. effective control and accountability over assets to assure they are used only for authorized purposes; and
5. comparison of expenditures against budget.

Notwithstanding any other policy of the District, all funds awarded directly or indirectly through any Federal grant or subsidy programs shall be administered in accordance with this Policy, and the administrative procedures developed to accompany this policy.

DAF-1-R ALLOWABILITY

DAF-2-R CASH MANAGEMENT AND FUND CONTROL

DAF-3-R PROCUREMENT

DAF-4-R PROCUREMENT – ADDITIONAL PROVISIONS PERTINENT TO FOOD SERVICE PROGRAM
DAF-5-R CONFLICT OF INTEREST AND MANDATORY DISCLOSURES
DAF-6-R INVENTORY MANAGEMENT - EQUIPMENT AND SUPPLIES PURCHASED WITH FEDERAL FUNDS
DAF-7-R TRAVEL REIMBURSEMENT – FEDERAL FUNDS
DAF-8-R ACCOUNTABILITY AND CERTIFICATIONS
DAF-9-R TIME AND EFFORT REPORTING / OVERSIGHT
DAF-10-R FEDERAL GRANT FUND BUDGET RECONCILIATIONS
DAF-11-R SUB-RECIPIENT MONITORING AND MANAGEMENT

Legal References: 2 C.F.R. Part 180 2 C.F.R. Part 200 200.305; 200.313(d); 200.317-.326; 200.403-.406; 200.413(a)-(c); 200.430; 200.431; 200.458; 200.474(b) 200 Appendix II 7 CFR Part 210 210.16; 210.19; 210.21; 215.14a; 220.16 Title 2 CFR Part 200

Related Policies: DI, DID, DJ, DJC, DJE, DJF & DK

See also: ADB, EFAA, EHB, JICI & JRA

Proposed:

Adopted:

EEAEA – Mandatory Drug and Alcohol Testing- School Bus Drivers

1. Statement of Policy

The School Board believes that the safety of students while being transported to and from school or school activities is of utmost importance and is the primary responsibility of the driver of the

vehicle. To fulfill such a responsibility, each driver, as well as others who perform safety sensitive functions with commercial vehicles that transport students, must be mentally and physically alert at all times while on duty. To that end, the Board has established this policy

related to the fitness for duty of transportation personnel.

2. Medical Examination of School Bus Operators

In accordance with RSA 200:37, before employing any person as a school bus operator, directly or through a vendor, the School District shall require that such persons submit a certificate signed by a licensed physician setting forth the physician's findings as a result of the examination to determine the physical condition of drivers in accordance with the requirements of 49 C.F.R. Part 391.41-391.49. Such certificate shall be submitted to the School District prior to the commencement of such employment and the District shall retain a copy of such certification. Every 2 years thereafter, either prior to the commencement of the school year or prior to the reemployment of such persons as a school bus operator, the School District shall require submission of a like certificate. School bus operators attaining the age of 70 shall be required to undergo an annual examination and to submit a certificate annually.

3. School Bus Driver's Certificate

No person shall be employed as a school bus operator, directly or through a vendor, unless the person has received a School Bus Driver's Certificate from the NH Department of Motor Vehicles as required by RSA 263:29.

4. Criminal Background Investigation

Before employing any person as a school bus operator, directly or through a vendor, the School District shall require a criminal background investigation as set forth in RSA 189:13-a and School District policy. If the school bus operators are employed directly by the District, the employee will pay for the investigation. If the District contracts with a vendor to provide student transportation services, either the vendor or the bus operator will pay for the investigation at the discretion of the vendor.

5. Mandatory Drug and Alcohol Testing

The term "CDL holder" means someone who is required as part of their job duties to hold a Commercial Driver's License (CDL). The term "safety-sensitive function" refers to all

tasks associated with the operation and maintenance of commercial vehicles. A “commercial vehicle” is any vehicle capable of carrying 16 or more passengers including the driver. In compliance with the United States Department of Transportation’s Title 49 Code of Federal Regulations, Part 391, all CDL holders and personnel performing safety-sensitive functions related to the transportation of the students of this School District will be required to submit to drug and alcohol testing. Testing procedures and facilities used for the tests shall conform to the requirements of the 49 C.F.R. Part 40.

If the School District employs the transportation personnel directly, the District will be responsible for ensuring compliance with the Mandatory Drug and Alcohol Testing requirements. If the School District contracts with a vendor to provide student transportations services, the vendor shall be the employer and provide assurance to the District on an annual basis that they are in compliance with the Mandatory Drug and Alcohol Testing requirements.

The Drug and Alcohol Testing will include pre-employment, random, reasonable suspicion and post-accident testing as defined by Department of Labor Regulations. The School District supports a zero tolerance policy related to substance abuse. Any personnel who have a confirmed positive test for drugs or a confirmed alcohol concentration of 0.02 or greater will be terminated from employment.

Legal References:

RSA 200:37, Medical Examination of School Bus Operators

RSA 263:29, School Bus Driver’s Certificate

RSA 189:13-a, School Employee & Volunteer Background Investigations

49 C.F.R. Part 40.1-40.13 (2001), Transportation Workplace Drug Testing Program

49 C.F.R. Part 391 (1995), Qualifications of Drivers

Category: P

Appendix EEAEA-R

1st Read: September 7, 2010

2nd Read: January 20, 2011

Adoption: January 20, 2011

< EEAE - School Bus Safety Program

EEAEA-R – Drug And Alcohol Testing for School Bus and Commercial Vehicle Drivers

(<https://schoolboard.convalsd.net/district-policies/eeaea-r-drug-and-alcohol-testing-for-school-bus-and-commercial-vehicle-drivers/>)

**MANDATORY DRUG AND ALCOHOL TESTING – SCHOOL BUS DRIVERS
AND CONTRACTED CARRIERS***Category: Priority/Required by Law**Related Administrative Procedure: EEAEA-R***ADOPTION/REVISION NOTES –*****Text between the highlighted lines “~ ~ ~ ~”, and highlights in this sample should be removed prior to adoption.***

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- (d) *Withdrawn & earlier versions of revised policies should be maintained separately as part of the permanent records of the District.*

1. Statement of Policy

The School Board believes that the safety of students while being transported to and from school or school activities is of utmost importance and is the primary responsibility of the driver of the vehicle.

This policy applies to two categories of drivers:

- a. school bus drivers (see RSA 189:13-b; 263:29 & 29-a);
- b. “contracted carriers”: drivers of vehicles designed to transport 16 or more passengers, including the driver, which are a contract carrier of passengers that has been contracted by the school (see RSA 376:2).

Each driver, as well as others who perform safety-sensitive functions with commercial vehicles that transport students, must be mentally and physically alert at all times while on duty. To that end, the Board has established this policy related to the fitness for duty of transportation personnel.

The Superintendent/designee shall adopt and enact any procedures necessary or appropriate to assure compliance with applicable state and federal laws and regulations.

2. Medical Examination of School Bus Operators

In accordance with RSA 200:37, before employing any person as a school bus driver, directly or through a vendor, the District shall require that such persons submit a certificate signed by a licensed physician setting forth the physician’s findings as a result of the examination to determine the physical condition of drivers in accordance with the requirements of 49 C.F.R. Part 391.41-391.49. Such certificate shall be submitted to the District prior to the commencement of

**MANDATORY DRUG AND ALCOHOL TESTING – SCHOOL BUS DRIVERS
AND CONTRACTED CARRIERS**

such employment and the District shall retain a copy of such certification. Every 2 years thereafter, either prior to the commencement of the school year or prior to the reemployment of such persons as a school bus driver, the School District shall require submission of a like certificate, except that school bus operators attaining the age of 70 shall be required to undergo an annual examination and to submit a certificate annually. *This provision does not apply to contracted carriers.*

3. Certification

No person shall be employed as a school bus driver, directly or through a vendor, unless the person has received a School Bus Driver's Certificate from the NH Department of Motor Vehicles as required by RSA 263:29.

Contracted carriers shall comply with all applicable provisions of RSA 376:2, as well as have a valid commercial driver's license and operate a vehicle with a valid state inspection sticker.

4. Criminal Background Investigation

Before employing any person as a school bus driver, directly or through a vendor, or as a contracted carrier, the School District shall require a criminal background investigation as set forth in RSA 189:13-a and School District policy {**}GBCD. For a school bus driver employed directly by or who volunteers for the District, then the employee will pay for the investigation. If the District contracts with a vendor to provide transportation services, either the vendor or the driver will pay for the investigation at the discretion of the vendor.

5. Mandatory Drug and Alcohol Testing

In compliance with the United States Department of Transportation's Title 49 Code of Federal Regulations, Part 391, all commercial driver's license holders and personnel performing safety-sensitive functions related to the transportation of the students of this School District will be required to submit to drug and alcohol testing. Testing procedures and facilities used for the tests shall conform to the requirements of the 49 C.F.R. Part 40. The District and any transportation contractor transporting students on behalf of the District shall utilize the Drug and Alcohol Clearinghouse to comply with all requirements for drug and alcohol testing and reporting, in accordance with 49 C.F.R. Parts 382 and 391.

The term "CDL holder" means someone who is required as part of their job duties to hold a Commercial Driver's License. The term "safety-sensitive function" refers to all tasks associated with the operation and maintenance of commercial vehicles. A "commercial vehicle" is any vehicle capable of carrying 16 or more passengers including the driver.

If the School District employs the transportation personnel directly, the District will be responsible for ensuring compliance with the Mandatory Drug and Alcohol Testing requirements. If the School District contracts with a vendor to provide student transportation services, the vendor shall be the employer and provide assurance to the District on an annual basis that they are in compliance with the Mandatory Drug and Alcohol Testing requirements.

The Drug and Alcohol Testing will include pre-employment, random, reasonable suspicion and post-accident testing as defined by Department of Labor Regulations. The School District

MANDATORY DRUG AND ALCOHOL TESTING – SCHOOL BUS DRIVERS AND CONTRACTED CARRIERS

supports a zero tolerance policy related to substance abuse. Therefore any personnel who have a confirmed positive test for drugs or a confirmed alcohol concentration of 0.02¹ or greater will be terminated from employment.

District Policy History:

First reading: _____

Second reading/adopted: _____

District revision history:

Legal References:

Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. §5331
 RSA 200:37, Medical Examination of School Bus Operators
 RSA 263:29, School Bus Driver's Certificate
 RSA 189:13-a, School Employee & Volunteer Background Investigations
 RSA 376:2, VII, Motor Carriage of Passengers
 49 C.F.R. § 40.1-40.13 (2001), Transportation Workplace Drug Testing Program
 49 C.F.R. Part 382, Controlled Substances and Alcohol Use and Testing
 49 C.F.R. Part 391, Qualifications of Drivers

***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.*

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NHSBA history. Revised – August 2021, September 2008, May 2006; New policy – November 1999

NHSBA revision notes. August 2021, Amendments were made to this sample policy to include contracted carriers, in accordance with the new contracted carrier provisions in SB 147 (Part III), which will be codified as RSA 376:2, and to indicate which provisions of this policy affect both bus drivers and contracted carriers. Additionally, reference to the federal requirements relative to the Drug and Alcohol were inserted in Section 5. Some language has been edited for consistency and clarity.

w/p-update/2021-U2/EEAEA Drug Testing Drivers 2021-U2 (vF)

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¹ **[Delete footnote.]** In adopting and altering this policy, the recommended blood alcohol concentration maximum of 0.02 should not be raised past the threshold of 0.04, which is the regulatory maximum under 49 C.F.R. 391.21(e)(3)(i).

ConVal Policy

GBCD – Background Investigation and Criminal Records Check

Background Investigation

The Superintendent, or his/her designee, shall conduct a thorough investigation into the past employment history, and other applicable background, of any person considered for employment with the District.

The Superintendent shall develop a background investigation protocol for use in completing a background investigation and shall keep a written record of all background investigations which have been done.

As part of the application process, each applicant for a position shall be asked whether he/she has ever been convicted of any crime, and whether there are any criminal charges pending against him/her at the time of application. The falsification or omission of any information on a job application or in a job interview, including, but not limited to, information concerning criminal convictions or pending criminal charges, shall be grounds for disqualification from consideration for employment or immediate discharge from employment.

Any person for whom the Board requires a Criminal Records Check shall be directly paid for, or reimbursed for state and federal processing fees associated with the Criminal Records Check, unless otherwise determined by the Board.

Criminal Records Check

Each person considered for employment by the Board must submit to a State and FBI Criminal Records Check and any other background check deemed appropriate by the Superintendent.

The Superintendent is responsible to establish all necessary internal procedures relative to the initiation and completion of the State and FBI Criminal Records Check and any other background check deemed appropriate by the Superintendent.

Designated Volunteers

A designated volunteer is a volunteer who routinely participates in the classroom environment and is regularly assigned and meets with students in a group or on a one-on-one basis. This shall include but is not limited to:

- a. volunteer drivers and chaperones
- b. volunteer aides who may work alone with a student in a private setting

Designated volunteers are subject to a background investigation/criminal records check and the provisions of this policy. The Board recognizes that rare occasions occur when a building principal may, on short notice, need to replace a designated volunteer with a non-designated volunteer. In such cases, it is the School Board's expectation that the designated volunteer pool will be looked at first for a replacement and every effort will be made to find a designated volunteer as a replacement before using a non-designated volunteer.

Conditional Employment

Persons who have been selected for employment may be hired on a conditional basis, pending a successful completion of the State, FBI Criminal Records Check, and any other records checks as deemed necessary by the Superintendent.

No selected applicant for employment shall start work until the Superintendent, or his/her designee, has initiated the formal State and FBI Criminal Records Check process.

Any person who is offered conditional employment, by way of individual contract or other type of letter of employment, will have clearly stated in such contract or letter of employment that his/her contract and continuation of employment is entirely conditioned upon the completion of a Criminal Records Check which is satisfactory to the District.

All persons employed under a conditional offer of employment may be covered under the District's health insurance program, at the sole discretion of the Board, and in accordance with Board policies and/or collective bargaining agreements, if applicable. However, any such coverage will immediately cease and will not be subject to extension under COBRA, if the Board does not tender the person a final offer of employment by reason of application of this Policy.

Final Offer of Employment

A person who has been extended a conditional offer of employment may be extended a final offer of employment upon the completion of a Criminal Records Check which is satisfactory to the Board.

No person with a conditional offer of employment shall be extended a final offer of employment if such person has been convicted of a felony offense, referenced in RSA 189:13-a, V. In addition to the felonies in RSA 189:13-a, a person may be denied a final offer of employment if he/she has been convicted of ANY felony. Such determination will be made by the Superintendent or a designee, on a case by case basis.

The Superintendent, or designee, will transmit the required, completed forms to the State Police, who will then screen the criminal records check for any selected applicant for employment, or designated volunteer, and will notify the district whether the record of said selected applicant or volunteer contains any felony convictions.

When the District receives a notification of a felony conviction from the State Police on a particular person which it finds unsatisfactory, the Superintendent shall dismiss said person within twenty-four (24) hours of the receipt of such report, excluding Saturdays, Sundays, or legally recognized holidays.

Additionally, a person may be denied a final offer of employment if the Superintendent becomes aware of other conduct which he/she determines would render the person unsuitable to perform the responsibilities of the position involved. Such determinations shall be made on a case-by-case basis.

Additional Criminal Records Checks

The District may require a Criminal Records Check of any employee or designated volunteer at any time.

Legal Reference:

RSA 189:13-a, School Employee and Volunteer Background Investigations

*Appendix GBCD-R: Sample Background Check, Criminal History Records
Check Protocol*

Category: *P*

See also: *See IJOC*

First Read: May 15, 2018

Second Read: June 5, 2018

Adopted: June 5, 2018

**BACKGROUND INVESTIGATION AND
CRIMINAL HISTORY RECORDS CHECK***Category: Priority/Required by Law**Related Policies: GBCE, GDF & IJOC***ADOPTION/REVISION NOTES –**

Text between the highlighted lines “~ ~ ~”, and highlights in this sample should be removed prior to adoption.

- (a) General – As with all sample policies, NHSBA recommends that each district carefully review this sample prior to adoption/revision to assure suitability with the district’s own specific circumstances, internal coding system, current policies, and organizational structures. Highlighted language or blank, underscored spaces indicate areas which Boards must change/complete to reflect local personnel titles, policy references, duty assignments etc.*
- (b) {**} indicates a reference to another NHSBA sample policy. A district should check its own current policies and codes to assure internal consistency.*
- (c) Highlighted footnotes should be removed before final approval of the policy.*
- (d) Withdrawn and earlier versions of revised policies should be maintained separately as part of the permanent records of the District.*

A. Background Investigation. The Superintendent, or his/her designee, will conduct a thorough investigation into the past employment history, criminal history records, and other appropriate background of any applicant as defined in this policy. This investigation shall be completed prior to making a final offer of employment, approving the contract with an individual contracting directly with the District, or approving the assignment of an employee of a contractor, a student teacher, or “designated volunteer” (as defined in policy {**}IJOC) to work or serve within the District. All decisions regarding employment and the pre-employment process shall conform to the District’s Anti-Discrimination and Equal Opportunity policy, {**}AC.

As part of the application process, each applicant shall be asked whether he/she has ever been convicted of any crime and whether there are any criminal charges pending against him/her at the time of application. The applicant will also be directed to report any criminal charges brought against him or her after the application is submitted and until either hired or notified that he or she will not be hired.

Record of background investigations (not necessarily source documentation) shall be retained pursuant to the District’s Record Retention Schedule {**}EHB-R.

- B. False Information.** The falsification or omission of any information on a job application, during the pendency of the application, or in a job interview, including, but not limited to, information concerning criminal convictions or pending criminal charges, shall be grounds for disqualification from consideration for employment, withdrawal of any offer of employment, or immediate discharge from employment.
- C. “Covered Person” and “Applicant” Defined.** Except as otherwise provided in this Policy, the term “Covered Person” shall mean employee, coaches, trainers, designated volunteer, whether direct or through a volunteer organization, including but not limited to cafeteria workers, school

BACKGROUND INVESTIGATION AND CRIMINAL HISTORY RECORDS CHECK

bus drivers, custodial personnel, or any other service where the contractor or employees of the contractor provide services directly to students of the district.

The term "**applicant**" as used in this policy shall include an applicant for employment or any person seeking to serve in any position falling with the term "covered person" as defined above.

- D. Criminal History Records Check.** As part of the District's background check, each covered person/applicant must submit to a criminal history records check through the State of New Hampshire in full compliance with RSA 189:13-a. No covered person shall be employed, extended a conditional offer of employment (as described below), or begin service in the District, until the Superintendent, or his/her designee, has initiated the formal State and FBI criminal history records check process and a background investigation.

The applicant shall provide the District with a criminal history records release form as provided by the New Hampshire State Police along with a full set of fingerprints taken according to that statute. The release form generally authorizes the State Police to conduct a criminal history records check through its state and records of the Federal Bureau of Investigation, and to release a report of any misdemeanors and/or felony convictions, as well as any charges pending disposition for any crimes listed in the then current paragraph V of RSA 189:13-a ("**Section V Offenses**"). Refusal to provide the required criminal history records release form (with fingerprints) and any other required releases to authorize the criminal history records check will result in immediate disqualification of the applicant and no further consideration for the position.

- E. Exceptions for, Substitute Teachers, Bus Drivers & Bus Monitors.** The following exceptions apply only to the State Police/FBI criminal history records check provisions of this policy. The Superintendent shall, nonetheless, require a full background investigation for the excepted employees, and for applicants for school bus drivers or monitors employed directly by the District, the background check shall include a full background check, including a state criminal record release from an applicant for a bus driver or monitor for district positions. ^[1 delete fn.]

- 1. Substitute Teachers and Other Non-"Applicant" Educational Staff.** Pursuant to RSA 189:13-a, IX(a), substitute teachers and other staff who do not meet the definition of "applicant" above, may initiate a criminal history records check with the Superintendent as described above. The State Police, however, shall issue its report directly to the potential substitute teacher/staff person. The report shall be valid for 30 days from the date of issuance and constitutes satisfactory proof of compliance with RSA 189:13-a.

¹ **[Delete footnote]** Starting in 2021 State Police/FBI criminal background checks for bus drivers and monitors are conducted by the DOE. However, under that process, the District does not receive any information other than the fact that the person's record had no Section V offenses. The additional state check referenced in this paragraph does not require fingerprinting, and only provides state information, but that information can be important in order to protect students. Districts are not required to provide the additional check described in the introductory paragraph of Section E.

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- 2. Bus Drivers and Bus Monitors.**^[2delete footnote] Pursuant to RSA 189:13-a, VI and RSA 189:13-b, criminal history records checks for bus drivers and bus monitors shall be processed through the New Hampshire **Department of Education**.

- F. Results of Criminal History Records Check.** The results of the criminal history records check shall be delivered to the Superintendent or designee who shall be responsible for maintaining their confidentiality.

As used in this Section **F**, a “**designee**” of the Superintendent authorized to receive and inspect results of the criminal history records check, may only be an assistant superintendent, head of human resources, the personnel director, the business administrator or the finance director.³

If the results of the records check disclose no criminal record, the results and information shall be destroyed immediately following review by the Superintendent or designee. If the results indicate criminal conviction or indicate any charge pending disposition of a Section V Offense, then the Superintendent or designee shall review the information for a hiring decision but shall destroy the records within 60 days of receiving the information.

Section V Offense. If the results of the record check disclose that the Applicant or Covered Person has either been convicted or is charged pending disposition of a violation or attempted violation of a Section V offense, that person shall not receive an offer or final offer of employment.

Non-Section V Offenses. In addition to disqualification based upon conviction or pending charges for a Section V Offense, the District may deny a final offer of employment or permit service/work in the schools based upon convictions or charges of other misdemeanors or felonies, provided the basis for disqualifying the candidate is job related for the position in question and is consistent with business necessity and the best interests of the students and the District. Such determination will be made by the Superintendent or designee in accordance with the established protocol and on a case-by-case basis. For non-Section V Offenses, which the applicant discloses, or which come to light during the background check, the presumption of innocence shall apply, however, the Superintendent or designee shall consider all reliable information in assessing the applicant's suitability. The Superintendent or designee shall assess whether, in light of the totality of the circumstances, the pending charges or convictions raise reasonable cause to doubt the applicant's suitability for the position.

If the Superintendent chooses to nominate an applicant who has a history of conviction or pending charges of a crime (non-Section V Offense), then the final hiring decision must be

² **[Delete footnote]** The statutory provisions identified in this paragraph took effect on January 1, 2021. Until that time, bus drivers and monitors fall within the definition of “applicant” for all purposes of this policy.

³ **[Delete footnote]** Prior to the 2021 amendments to RSA 189:13-a, only the superintendent could receive and review results of the mandated records check. The amendments allow the superintendent to delegate those functions to Asst. Super, BA, or directors of HR, personnel director or finance. The discretion to delegate is the Superintendent's.

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approved by the School Board, who shall be informed generally of that history in non-public session.

- G. Conditional Offer of Employment.** Persons who have been selected for employment may be given a conditional offer of employment, with the final offer subject to the successful completion of the background check, the State Police and FBI criminal history records check, and a determination that there are no disqualifying pending charges or convictions.

Any person who is offered conditional employment, by way of individual contract or other type of letter of employment, will have clearly stated in such contract or letter of employment that his/her employment or approval to work within the District as a contractor or employee of a contractor is entirely conditioned upon the results of a criminal history records check and background check being satisfactory to the District.

- H. Final Offer of Employment.** No applicant shall be extended a final offer of employment or be allowed to serve in the District if such person has charges pending or has been convicted of any Section V Offense; or where such person has been convicted of the same conduct in another state, territory, or possession of the United States; or where such person has been convicted of the same conduct in a foreign country.

An applicant may only be extended a final offer of employment or final approval to work/serve within the District's schools upon the satisfactory completion and results of criminal history records check and background check,

- I. Fees for Criminal History Records Check.** Any applicant for whom the Board requires a criminal history records check, or, in the instance of third party contractors, the applicant's employer, shall pay the actual fees and costs associated with the fingerprinting process and/or the submission or processing of the requests for the criminal history records check, unless otherwise determined by the Board.
- J. Administrative Protocols/Procedures.** The Superintendent is authorized to establish written protocols for background investigations, which protocols may vary depending on the nature of the position(s) (e.g., verification of academic records and achievements for certified professionals, credit checks for personnel with fiscal responsibilities). The written protocols may include additional disqualifying misdemeanor or felony convictions or charges in addition to the Section V Offenses.
- K. Contractor and Vendor Provisions.** The Superintendent shall take such steps as are necessary to assure third party agreements which involve covered personnel to include a provision for such personnel to complete criminal history records checks as required under this policy, as well as training and information required under policy ******GBCE.
- L. Additional Criminal Records Checks.** The Superintendent may require a state criminal history records check of any covered person at any time to the extent permitted by law.

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M. Reports of Post-Employment/Service Section V Offenses. When the District receives a notification of a covered person being charged with or convicted of a Section V Offense or other crime which is evidence of the individual's unsuitability to continue in their role, the Superintendent shall take immediate appropriate action to remove the individual from contact with students. Employees shall be placed on paid administrative leave, if not subject to and immediately discharged. The Superintendent will then take appropriate employment or other action, consistent with law and any applicable employment contract or collective bargaining agreement to address the individual's ongoing relationship with the District. If the person charged/convicted of a Section V Offense is a credential holder as defined in the New Hampshire Code of Conduct for Educators, the Superintendent shall make report to the Department of Education pursuant to section 510.05 of the Code and Board policy **{**}**GBEAB.

District Policy History:

First reading: _____

Second reading/adopted: _____

District revision history:

Legal References:

RSA 189:13-a, School Employee and Designated School Volunteer Criminal History Records Check
 RSA 189:13-b, School Bus Driver and Transportation Monitor Criminal History Records Check
 Code of Conduct for New Hampshire 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 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 appearing below. The district should, to the extent possible, include its own adoption/revision history, as well as the legal references and disclaimer as indicated above.

NHSBA history: Revised – Sept. 2021, Nov. 2020, Sept. 2017, Sept. 2016, Sept. 2010, Aug. 2007, Dec. 2004, Nov. 1999

NHSBA revision notes, September 2021, added “designee” language in Section F to reflect 2021 amendments to RSA 189:13-a, added legal references, and revised language to clarify prohibition of employing applicant who has been charged pending disposition or convicted of a Section V offense; **November 2020,** NHSBA revised GBCD to reflect 2020 amendments to RSA 189:13-a, and more generally to improve usability.

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