

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

CONTOOCOOK VALLEY SCHOOL BOARD

POLICY COMMITTEE MEETING

Tuesday, January 4, 2022

6:00 PM

Location: SAU Finch Conference Room

Agenda

Committee Members: Keira Christian, Katherine Heck (Chair), Janine Lesser, Kevin Pobst, Stephen Ullman

1. Call to order

2. Approval of the December 21st Minutes

3. 1st Read

DGA- Authorized Signatures

The above policy will go before the School Board tonight for a first read.

4. 2nd Read:

JRA - Students records. Privacy , Family, Student Rights

The above policy will go before the School Board tonight for a second read.

5. Policy Review-

LC – Relations with Education Research Agencies- review requested.

JCA – Change of Class of School Assignment Best Interests and Manifest Hardship
Related Policies: JFAA, JFAB & JG

• Revisions reflect 2021 amendments to RSA 193:3, I-II, & VI (HB388) which
(i) expanded allowable best interest and manifest hardship reassignments to
include “approved” private schools (irrespective of whether sectarian), and (ii)
added language to 193:3, IV clarifying that if denial of a manifest hardship
assignment is based upon a child’s disability, a complaint may be filed with the
N.H. Human Rights Commission.

6. Non-Public Session RSA 91-A:3 II (If Required)

Policy Status Update:

JLCL - Concussions and Head injuries

a. Under review

Under review by Education Committee

a. IK - Earning of Credit

b. IKF – High School Graduation Requirements

c. IMBC - Alternative Credit Options

d. IHCD/LEB – Advanced Course Work

i. Related Policies: IK, IKFA, JLBAA & IMBC

LCC- Dual Enrollment

a. Under review by district personnel, the Equity Committee will review.

In legal review:

GBCD - Background Investigation and Criminal History Records Check

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:

JBAB -Transgender and Gender Non-Conforming Students

LC – Relations with Education Research Agencies

CV Version

The potential contribution of appropriate educational research to teaching and school administration is recognized by the School Board, and it will cooperate, to the extent feasible, with colleges, universities, and other recognized agencies to promote research that will:

1. Increase professional knowledge of teaching and learning processes and the social setting in which they operate.
2. Sharpen perception of instructional and administrative problems.
3. Establish instructional and management objectives.
4. Assess progress toward accomplishment of school system objectives.

The appropriateness of all requests involving research projects to be conducted in the public schools will be judged by the School Board after they have been reviewed by the Superintendent and, as appropriate, school administrators, department heads, and/or program directors.

The decision to involve students, teachers, or other employees in any research project will be based on the following:

1. The objectives of the research should be clearly stated and the design should produce valid and reliable results which will then be made available to the school district prior to publication.
2. The research should be expected to contribute to the improvement of education or the general welfare of children.
3. The privacy of those involved in any research project must be protected. The confidentiality of records will be maintained at all times. Further, data derived from school records, interviews, or questionnaires which have a potential for invasion of privacy of students or their families or staff members may not be used unless advance written authorization has been given by the staff member or student (or his/her parent or guardian as appropriate) even though the information will be collected and reported under conditions of anonymity.
4. Research proposals should be of sufficient scope and depth to justify the time and effort of students and staff members. Using the time of teachers and students in any research activity is an investment by the school system which should increase the effectiveness of the educational effort.

5. In general, instructional activities must not be interrupted unless there is a clear significance for the educational program of our schools.
6. Projects involving student researchers must have prior written approval by:
 - Assistant Superintendent
 - Building Principal
 - A faculty member of the institution in which the student is enrolled. The faculty member must have direct responsibility for the research.

Category: 0

1st Read: June 7, 2011

2nd Read: July 19, 2011

Adopted: July 19, 2011

JCA – Change of School or Assignment

CV Version

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 15th. If the request is not received by March 15th, 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.

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

1st Read: October 15, 2019

2nd Read: November 5, 2019

Adopted: November 5, 2019

CHANGE OF CLASS OR SCHOOL ASSIGNMENT
BEST INTERESTS AND MANIFEST HARDSHIP

Category: Priority/Required by Law

Related Policies: JFAA, JFAB & JG

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ADOPTION/REVISION NOTES –

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

- (a) Important note regarding 2020 amendments to JCA: The 2020 revision to JCA also merged the subject matter of previous sample JEC (manifest educational hardship) with JCA to reflect the new statutory relationship between those two reassignment provisions. NHSBA withdrew sample JEC with the 2020 revision to JCA. Most of this policy specifically tracks language in the amended version of RSA 193:3. If a district wishes to modify miscellaneous provisions, it should review the statute carefully, and or consult with private counsel and/or NHSBA Policy Services.
(b) 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.
(c) {\*\*} indicates a reference to another NHSBA sample policy. A district should check its own current policies and codes to assure internal consistency. {##} indicates internal section/paragraph references, which may change if a district uses different enumeration than this sample.
(d) Highlighted footnotes should be removed before final approval of the policy.
(e) Withdrawn and earlier versions of revised policies should be maintained separately as part of the permanent records of the District.

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The Superintendent is charged with assigning students of the District to schools and classes consistent with Board policies and procedures. New Hampshire RSA 193:3 recognizes that there are limited instances when the class or school to which a student might be assigned under a district’s ordinary assignment policies and procedures, might not be in that student’s best interests, or other factors might exist under which create a manifest educational hardship upon the student such that a change (referred to in this policy as “reassignment”) in the student’s class or school assignment is warranted. The Board has adopted this policy consistent with RSA 193:3 and to provide procedures for parents/guardians to follow when they believe a reassignment is appropriate.

A. Best Interest Re-Assignment – Determination by Superintendent.

Consistent with RSA 193:3, I, and subject to the provisions below, the Superintendent is authorized to reassign a student residing in the District to a another class within the school, [if applicable} to another public school within the District], to another public school or public academy in another district, or approved private school.

Authorization granted to the Superintendent to make reassignments under this policy applies only after application is made by the parent/guardian of the student or with the parent/guardian’s

**CHANGE OF CLASS OR SCHOOL ASSIGNMENT
BEST INTERESTS AND MANIFEST HARDSHIP**

consent, and upon a finding by the Superintendent that reassignment is in the student's best interests, after taking into consideration the student's academic, physical, personal, or social needs.

This policy, however, does not limit the Superintendent's discretion to make other in-District assignments consistent with applicable Board policies and administrative rules.

1. Procedure:

- a. In order to initiate consideration of a reassignment based upon the child's best interests, the parent/guardian shall submit to the Superintendent a written request stating why and/or how the child's best interests warrant reassignment. In order to facilitate a determination, such application may also include any additional information described in 4 below. The written request should be mailed or delivered to the SAU office or emailed to the Superintendent at the email address provided on the District's website.
- b. Upon such request, the Superintendent shall schedule a meeting (the "reassignment meeting") with the parent/guardian, to be held within 10 days of receiving the request.
- c. Prior to or at the reassignment meeting, the parent/guardian shall make a specific request that the student be re-assigned to another class/grade within the same school, *[[if applicable]* to another public school, public academy, or approved private school within the district*]* or to a public school, public academy, or approved private school in another district.
- d. At the reassignment meeting, the parent/guardian may present documents, witnesses, or other relevant evidence supporting the parent's belief that reassignment is in the best interest of the student.
- e. The Superintendent may present such information as he or she deems appropriate.
- f. In determining whether reassignment is in the student's best interest the Superintendent shall consider the student's academic, physical, personal, or social needs.

2. Finding Reassignment Is or Is Not in Best Interest.

- a. Within five school days of the reassignment meeting, the Superintendent shall deliver to the parent/guardian a written determination as to whether or not reassignment is in the child's best interest. Delivery of the written determination should be done in a manner to produce evidence of the delivery (e.g., courier, email, fax).
- b. If the Superintendent finds it is in the best of the interest of the student to change the student's school or assignment, the Superintendent shall initiate:
 - i. A change of assignment within the student's current assigned school;
 - ii. The student's transfer to another public school, public academy, or approved private school within the district of residence; or

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- iii. The student's transfer to a public school, public academy, or approved private school in another district.
 - c. If the Superintendent does not find that it is in the best interest of the student to change the student's school or assignment, the parent/guardian may request a hearing before the School Board to determine if the student is experiencing a manifest educational hardship as provided in Section B of this policy.
- 3. **Tuition Determination.** If a student is to be reassigned to another school district or approved school as a result of a best interest determination, the Superintendent shall work with the Superintendent or administrator of the receiving school district/approved school to establish a tuition rate for such student. Pursuant to RSA 193:3, I(g), if the Superintendent has made a finding that it is in the best interest of the student to be reassigned, then the School Board shall approve the tuition payment consistent with the Board's ordinary manifest approval procedures.

If the student is reassigned to an approved private school as a result of a best interest determination, that school may charge tuition to the parent/guardian or may enter into an agreement for payment of tuition with the school district in which the student resides.¹ The Superintendent shall consult with counsel regarding tuition obligations in such an instance.

The Superintendent shall assure that the reassignment approval is placed on the agenda for the next regularly scheduled Board meeting.
- 4. **Transportation:** Transportation for a student reassigned to a school in another district under this Section A (best interest) shall be the responsibility of the parent/guardian.
- 5. **Tuition for Students Reassigned by Other Districts Pursuant to RSA 193:3, I.** It is the general policy of the Board that the tuition amount to be charged to another district for any student reassigned by that district to a school within this District under the best interest standard of 193:3, I, shall be the lesser of the tuition charged for non-residential students under Board policy ~~{**}JFAB~~ or as computed under the formula set out in RSA 193:4. The Superintendent, however, is authorized to reduce the tuition amount below those thresholds or for other good cause shown (e.g., reciprocal assignments between the two districts).²
delete footnote]
- 6. **Other In-District Assignments.** Nothing in this policy is intended to limit authority otherwise extended to the Superintendent to make assignments or reassignments according to the policies, regulations, and ordinary practices of the District.

¹ [Delete footnote.] This first sentence of this paragraph is taken directly from the 2021 amendment to RSA 193:13, I(h). It is unclear from the statutory language how this relates to the District's tuition negotiation/payment language relative to schools in other public districts.

² [Delete footnote.] RSA 193:3, I(g) includes the language: "Some or all of the tuition may be waived by the Superintendent for good cause shown or pursuant to school board policy of the receiving district." The language suggests that the two standards (good cause shown or policy) are not exclusive.

**CHANGE OF CLASS OR SCHOOL ASSIGNMENT
BEST INTERESTS AND MANIFEST HARDSHIP****B. Manifest Educational Hardship – Determination by School Board and Appeal to State Board.**

If, after following the procedure outlined in Section A of this policy, the Superintendent did not find that it was in the best interest of the student to reassign the student as requested by the student's parent/guardian, then the parent/guardian may request a hearing before the School Board to determine if the student is experiencing a manifest educational hardship.

1. **"Manifest Educational Hardship" Defined.** As provided in RSA 193:3, II (a), "manifest educational hardship" means that a student has a documented hardship in his or her current educational placement; and that such hardship has a detrimental or negative impact on the student's academic achievement or growth, physical safety, or social and emotional well-being. Such hardship must be so severe, pervasive, or persistent that it interferes with or limits the ability of the student to receive an education.
2. **Procedure for Determination of Manifest Educational Hardship.**
 - a. Within thirty (30) days after receipt of the Superintendent's written determination described that reassignment is not in a student's best interest as described in paragraph {###}A.2.C, above, the parent/guardian requesting a manifest educational hardship hearing shall submit a written application to the Superintendent detailing the specific reasons why they believe that the current assignment constitutes a manifest educational hardship.
 - b. The Superintendent shall duly notify the school board that the parent/guardian has requested a manifest educational hardship hearing, upon which the school board shall schedule a hearing to be held no more than 15 days³ after the request has been received by the Superintendent. The Board shall provide at least two full days notice of the hearing. The Board will conduct the hearing in non-public session, unless the parent/guardian requests the hearing be held in public session, subject to RSA 91-A:3, II(c).
 - c. Prior to or at such hearing, the parent/guardian shall provide to the Superintendent a specific request in writing that the student [*if applicable*] attend another public school, public academy, or approved private school in the District, or] attend a public school, public academy, or approved private school in another school district. The Superintendent shall provide such request to the School Board at the hearing. Although not required, the parent/guardian may include this request as part of the original hearing request.
 - d. At such hearing, the parent/guardian may present documents, witnesses, or other relevant evidence supporting their belief that the student is experiencing a manifest educational hardship. The Superintendent may present such information as he or she may deem appropriate to assist the School Board in reaching its decision. The parties (or their appointed designee) shall have the right to examine all evidence and witnesses. The

³ [Delete footnote.] The 2020 amendments to RSA 193:3, II require that the hearing be held within 15 days of the request by the parent. This supersedes the 30 day requirement of NH DOE Ed. 320.01 (e).

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formal rules of evidence shall not apply. The Superintendent will assure the means for the Board to establish an adequate record of the hearing.

- e. The parent/guardian shall have the burden of establishing the presence of a manifest educational hardship by clear and convincing evidence, which means that the evidence is highly and substantially more likely to be true than untrue, and the Board must be convinced that the contention is highly probable.⁴
 - f. The Board will render its decision in writing within seven (7) days after the hearing and will forward its written decision to the parent/guardian via means producing proof of delivery (e.g., courier, email, etc.). The decision will conform to the requirements of NH Dept. of Education Rule Ed 320(c)-(e).
3. Finding of Manifest Educational Hardship. If the School Board finds that the student has a manifest educational hardship, the School Board shall grant the parent's or guardian's request to reassign the student [*if applicable*] another public school, public academy, or approved private school in the District, or] to a public school, public academy, or approved private school in another district.
 4. Finding that Manifest Educational Hardship Was Not Established – Appeal to the New Hampshire State Board of Education. If the School Board finds that the parent/guardian has not met their burden of proof, the parent/guardian may appeal the local Board decision to the New Hampshire State Board of Education (“SBOE”), within thirty (30) days of receipt of the Board’s written decision in accordance with NH Dept. of Ed. Rule Ed. 204.01(g). If a parent/guardian believes that denial of a re-assignment under this policy upon the child’s disability, the parent/guardian may appeal to the SBOE or file a complaint with the N.H. Human Rights Commission under RSA 354-A:28.
 5. Tuition for Students Reassigned Upon Finding of Manifest Educational Hardship. If, after a finding of a manifest educational hardship - by either the School Board or the State Board - a student of the District is assigned to attend school in another district, or a student from another district is assigned to a school in this District, the district in which the student resides shall pay tuition to the district to which the child is re-assigned.

Such tuition shall be computed according to RSA 193:4. The school board of the district in which the student resides shall approve the tuition payment consistent with its ordinary manifest approval process.
 6. Transportation: Transportation for a student reassigned to schools in another district under this section B (manifest educational hardship) shall be the responsibility of the District unless otherwise ordered by the SBOE.

⁴ The clear and convincing standard differs from the “preponderance of the evidence” standard which only requires that evidence indicates that the contention is more likely than not.

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- C. **Admission Requirements.** Students reassigned under this Policy shall meet the admission requirements of the school to which the student is to be reassigned.
- D. **Statutory Reassignment Limit.** The total reassignments or transfer made under this policy in any one school year will not exceed one (1) percent of the average daily membership in residence of a school district, or five (5) percent of the average daily membership in residence of any single school, whichever is greater, unless the School Board votes to exceed this limit.
- E. **Count of Reassigned Pupils, Tuition Payment and Rate, and Transportation.** Pupils reassigned under this policy will be counted in the average daily membership in residence of a given pupil's resident school district. Said pupil's resident district will forward any tuition payment due to the District to which the pupil was assigned.
- F. **Notice to the Department of Education.** The Superintendent of the pupil's resident SAU will notify the Department of Education within thirty (30) days of any reassignment made under this policy.
- G. **Special Education Placements.** A placement made relative to a student's special education needs and services shall not be deemed a change of school assignment for purposes of this section.

District Policy History:

First reading: _____

Second reading/adopted: _____

District revision history:

Legal References:

Ed RSA 193:3, III, Change of School Assignment

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

N.H. Dept. of Education Administrative Rule Ed. 320 [Pending revision]

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 – Nov. 2020, Sept. 2018, Sept. 2016 (JCA only), Sept. 2015 (JCA only); Sept. 2011, Sept. 2008, July 1998.

**CHANGE OF CLASS OR SCHOOL ASSIGNMENT
BEST INTERESTS AND MANIFEST HARDSHIP**

NHSBA revision notes, Sept. 2021, revisions reflect 2021 amendments to RSA 193:3, I-II, & VI (HB388) which (i) expanded allowable best interest and manifest hardship re-assignments to include “approved” private schools (irrespective of whether sectarian), and (ii) added language to 193:3, IV clarifying that if denial of a manifest hardship assignment is based upon a child’s disability, a complaint may be filed with the N.H. Human Rights Commission. **November 2020**, the old version of policy JCA concerned only reassignments based on the best interest standard, while manifest educational hardship reassignments were addressed in sample JEC. Each of the former policies reflected different processes described in RSA 193:3, I-III. 2020 legislative changes to 193:3, I-III-a (see 2020 Laws 38:22, chaptered version of 2020 HB1558, including amended HB1328) made best interest and manifest hardship processes sequential, rather than separate. Accordingly, NHSBA has merged the two processes into one policy. It is possible/likely that at some point in the next couple of years, the NH DOE will amend Rule Ed 320 to reflect the 2020 legislative changes, and such rule revisions may require additional policy revisions.

w/p-update/2020-U3 Fall/JCA Manifest Hardship 2021-U2 (vF)

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