

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

**CONTOOCCOOK VALLEY SCHOOL BOARD**

**POLICY COMMITTEE MEETING**

**Tuesday, September 26 2023**

**6:45 PM**

**Location: SAU Board Room**

**Agenda**

**Committee Members:** Katherine Heck, Michael Hoyt, Thomas Kirlin, Janine Lesser, Erin Pils-Martin

- 1. Call to order**
- 2. Approval of the September 7, 2023 Minutes**
- 3. Policy Review**
  - JBAB: Transgender and Gender Non-Conforming Procedure
  - IKFC: Alternate Diploma for Students with Significant Cognitive Disabilities
  - AC: Non-Discrimination, Equal Opportunity Employment and District Anti-Discrimination Plan
  - BDE: Committees and School Board Member Special-Duty Assignments
  - JKAA: Use of Restraint, Seclusion, and Physical Contact
- 4. Non-Public Session RSA 91-A:3 II (If Required)**
- 5. Policy Status Update:**

**Scheduled for Next School Board Agenda:**

**Under review/revision by Administration:**

- JJJ: Access to Public School by Nonpublic, Charter Schools, and Home Educated Students
- JLDDB: Suicide Prevention and Response
- JLCB: Immunization of Students (Reworded and Re-lettered)
- JLCA: Physical Exams

**Under review by Legal:**

- IHBAA: Evaluation Requirements for Students
- IHBG: Home Education Instruction

**Under review by School Board Committee:**

- Capital Plan Policy (Budget & Property)
- EG/KDA: Public Information Program (Communication)
- IKL: Academic Integrity and Honesty
- JLCF: Wellness

**Under review with Nurses:**

- JLCA: Physical Examination of Students

**On Hold:**

- DJB/DJB-R: Purchasing Procedures
- DJE: Bidding Requirements

**Future Agenda Items:**

- Fall Update Items

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

CONTOOCOOK VALLEY SCHOOL BOARD

POLICY COMMITTEE MEETING

Thursday, September 7 2023  
7:00 PM  
Location: SAU Finch Conference Room

Minutes

**Committee Members:** Katherine Heck, Michael Hoyt, Thomas Kirlin, Janine Lesser, Erin Pils-Martin

**Present:** Katherine Heck, Michael Hoyt, Janine Lesser, Erin Pils-Martin, Dick Dunning, Dr. Ann Forrest

**1. Call to order**

**Katherine Heck called the meeting to order at 7:03 p.m.**

Elect Committee Chair -

**Mike Hoyt nominated Katherine Heck. Janine Lesser seconded. Unanimous.**

Meeting Schedule -

In favor of keeping the meeting on the first Tuesday of every month at 5:45 p.m.

Katherine Heck said that she cannot get there at 5:45 p.m.

Dick Dunning suggested that the Policy Committee meet on the first Thursday of each month. Discussion took place.

The fourth Tuesday of each month beginning at 6:00 p.m. was decided. Tom Kirlin will be confirmed.

**2. Approval of the August 8, 2023 Minutes**

**Janine Lesser moved to approve the minutes of August 8, 2023. Katherine Heck seconded. Unanimous.**

**3. Policy Review**

- JICA: Student Dress Code

The committee confirmed that the policy, as presented, should move for a first read at the next School Board meeting.

- JBAB: Transgender and Gender Non-Conforming Procedure

42% of school districts have a transgender policy. The remainder use their non-discrimination policy.

ConVal has a procedure. It is believed that the administration wants a policy.

Other school district policies were noted for review.

A statement that we support our administration and the procedures they develop was suggested. Referring to AC and ACAC was suggested. It could be modified as laws and rules change.

This topic has transformed and changed rapidly over time. Flexibility should be provided to allow for this moving forward.

In the absence of policy, procedure can be implemented.

Erin Pils-Martin shared her concern that there is not a lot of voice for students, especially older students, in the procedure. If we are putting a policy in place we need to do our absolute best to protect our students.

Katherine Heck that it was developed by legal counsel and we would need to bring them in if we were going to look at the procedure.

Janine Lesser said that language could be reviewed by the Superintendent and she might choose to share it with legal.

Erin Pils-Martin said that if a student voices an objection a note should be placed in their file to note that an objection was voiced.

Michael Hoyt asked what the NHIAA's stand is on this. It was stated that the NHIAA states that a student would play on the team that they identify with.

Federal laws provide protections as well.

Following ACAC was in place to assure non-discrimination.

Procedure addresses implementing a plan for the student as well.

Dick Dunning said that when a teacher asks a student what their pronoun is could set kids up. He said that it is more appropriate for the student to approach the teacher.

The policies from other districts should be looked at as well as ConVal's procedure.

The ConVal procedure should be reviewed.

- IKFC: Alternate Diploma

There is not a current policy. This is pending the Director of Special Education's input.

How many students are taking the alternative test? This policy says that unless you take a test, one is not eligible.

- AC: Non-Discrimination, Equal Opportunity Employment and District Anti-Discrimination

NHSBA and ConVal's policies were reviewed.

Terms "gender" and "gender identity" appear differently in each of the two policies.

Does ConVal have a procedure developed "District Anti-Discrimination Plan"?

It was noted that AC and ACAC have some similar components.

The complaint procedures in ACAC are specific to sexual harassment. AC is broad harassment.

References to policies as a result of one or more being eliminated factors into the NHSBA update.

In Monday.com, it stated that this policy update is pending legal review.

This policy will return to Policy Committee.

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

None.

#### **5. Policy Status Update:**

**Scheduled for Next School Board Agenda:**

**Under review/revision by Administration:**



- JJJ: Access to Public School by Nonpublic, Charter Schools, and Home Educated Students
- JLDDB: Suicide Prevention and Response
- JLCB: Immunization of Students (Reworded and Re-lettered)
- JLCA: Physical Exams

**Under review by Legal:**

- IHBAA: Evaluation Requirements for Students
- IHBG: Home Education Instruction
- AC: Non-Discrimination, Equal Opportunity Employment and District Anti-Discrimination Plan
- AC-E: Non-Discrimination

**Under review by School Board Committee:**

- Capital Plan Policy (Budget & Property)
- EG/KDA: Public Information Program (Communication)
- IKL: Academic Integrity and Honesty – (Education Committee) - should go to the administration.

Policies that would normally go to committee will now appear on School Board agendas three times e.g. review and discussion, first read, second read. Input and direction will be important for the board.

Ann Forrest reported that previous discussion on this policy resulted in administration's thought that the policy was not needed. Things may have changed. The discussion is important.

Dick Dunning asked how one would write a policy for K-12 to address this. Would it be better to address it in the school handbooks or in policy?

Katherine Heck said that a statement of policy sets a tone of the high expectations in the handbook as a procedure.

What it means to have integrity around your work could be the focus rather than being told not to use (AI) as an example.

- JLCF: Wellness

**Under review with Nurses:**

- JLCA: Physical Examination of Students

**On Hold:**

- DJB/DJB-R: Purchasing Procedures
- DJE: Bidding Requirements

**Future Agenda Items:**

- Fall Update Items

**Janine Lesser motioned to adjourn at 8:11 p.m. Erin Pils-Martin seconded. Unanimous.**

Respectfully submitted,

Brenda Marschok

## **Transgender and Gender Non-Conforming Procedure**

### **I. Introduction**

The Contoocook Valley School District is committed to providing a safe and supportive learning environment for all students that is free from discrimination, harassment, bullying and intimidation, as well as to assist in the educational and social integration of transgender and gender nonconforming students in our schools. These procedures are designed in keeping with these mandates to create a safe learning environment for all students and to ensure that every student has equal access to all school programs and activities. District policy requires that all schools and all personnel promote acceptance and respect among students and staff. Additionally, federal and state law, as well as District policy, requires that all programs, activities, and employment practices be free from discrimination based on sex, sexual orientation, or gender identity. These procedures are intended to be interpreted in light of applicable federal and state laws and regulations, as well as Board policies, procedures and school rules.

These procedures set out guidelines for schools and District staff to address the needs of transgender and gender nonconforming students and clarifies how state and federal law should be implemented in situations where questions may arise about how to protect the legal rights or safety of such students. These procedures do not anticipate every situation that might occur with respect to transgender or gender nonconforming students, and the needs of each transgender or gender nonconforming student must be assessed on a case-by-case basis. In all cases, the goal is to facilitate the safety, privacy, and healthy development of the transgender or gender nonconforming student while maximizing the student's access to education and social integration and minimizing the stigmatization of the student.

Parental knowledge, support and participation in this process is imperative. Unless the District has knowledge that disclosure to parents presents a tangible risk of physical or psychological harm to students, the District should involve parents and support students in making disclosure of their gender identity or expression to their parents/guardians.

### **II. Definitions**

The following definitions are not intended to provide rigid labels for students, but to assist in discussing and addressing the needs of students. The terminology in this area is constantly evolving, and preference for particular terminology varies widely. Administrators, school staff, volunteers, students and others who interact with students are expected to be sensitive to the ways in which particular transgender or gender nonconforming students may wish to be identified.

*Gender identity:* A person's deeply held sense or psychological knowledge of their own gender. One's gender identity can be the same or different than that traditionally associated with their assigned sex at birth.

*Gender expression:* The multiple ways in which a person represents or expresses their gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms. Gender expression could be referred to as masculine, feminine, gender nonconforming, etc.

*Cisgender:* Describes a person whose gender identity and expression are aligned with those traditionally associated with their assigned sex at birth.

*Transgender:* Describes a person whose gender identity and/or expression is not aligned with that traditionally associated with their assigned sex at birth. A student will be considered transgender if, at school, they consistently assert a gender identity or expression different from that traditionally associated with their assigned sex at birth. This involves more than a casual declaration of gender identity or expression, but it does not require a medical diagnosis. "Transgender" is often used as an umbrella term to refer to students who identify as transgender, who are gender nonconforming or gender non-binary, gender variant, genderfluid, genderqueer, agender, non-labeling, in the process of questioning their gender, etc.

*Gender non-conforming:* Describes a person whose gender expression, differs from societal and stereotypical gender expectations traditionally associated with their assigned sex at birth.

*Gender non-binary:* Describes a person whose gender identity and/or expression does not align with the gender binary of male or female. A gender non-binary person may describe their gender identity and/or expression as androgynous, genderfluid, genderqueer, agender, non-labeling, etc.

*Genderfluid:* Describes a person whose gender identity and/or expression may be gender nonconforming or non-binary, who has a wider and more flexible range of gender expression that may even change from day to day. While the gender expression of a student who is genderfluid is flexible or may appear to change with some frequency, their gender fluid identity can be recognized as the "gender which the student consistently asserts at school" in regard to this procedure.

*Gender Transition:* The process by which a person goes from living and identifying as one gender to living and identifying as another gender. Gender transition is typically prompted by the feeling that an individual's gender identity does not match the one typically associated with their assigned sex at birth. Examples include: Transitioning from a boy to a girl, a girl to a boy, a girl to gender non-binary, or a boy to gender non-binary. For elementary and secondary students, this involves minimal or no medical interventions. In most cases, transgender students under the age of 18 are in a process of "social transition" from one gender to another.

*Sexual Orientation:* Describes a person's romantic and/or sexual attraction. Sexual orientation is different and not the same as gender identity or gender expression. In this procedure, sexual orientation refers to an individual's "actual or perceived" sexual orientation.

This procedure will be used to address needs raised by transgender or gender nonconforming students and/or their parent(s)/guardian(s). All students and their families should be aware of all students' rights and policies and the District's commitment to create supportive learning communities for all students, including transgender and nonconforming students.

### **III. Gender Support Plan**

While a student's need to transition at school can come to the school's attention in a number of ways, the school's procedures for developing and implementing a plan of support is activated only when the school is notified by either the parent/guardian or the student, and they request that the school assist in the development of how the transition will be communicated to the school community.

1. A parent or guardian may approach a school or District administrator about their child's transition. In such a case, the administrator should meet with the parents and student to discuss the school's role in supporting the student's transition, and if appropriate and requested by the parent/student, develop a Gender Support Plan. The meeting may include such additional school personnel as are necessary to support the student provided the family or student specifically requests or consents to their presence. The meeting should include a discussion as to the appropriate school personnel to whom the Plan should be distributed, as well as documentation of the parent and/or the adult student's consent to the Plan. The Gender Support Plan would include the timing of the transition, planning responses to questions from school staff and students, and updating the student's information in the school records, among other questions that may arise. **If the parties cannot reach an agreement about the elements to be included in the plan, the Superintendent or designee shall be consulted.**

A transgender or gender nonconforming student and/or their parent(s)/guardian(s) can contact the student's counselor or building administrator to discuss ways that we can support a student. In the case of a student who has not yet enrolled in school, the appropriate building administrator should be contacted.

2. A student may approach a staff member about their transition. While not the only way, the most frequent way this happens is students approaching staff members requesting a name change. The staff member response should be:

- a. Thank the student for their disclosure.
- b. Let the student know that we have a process in place to support them and their family.
- c. Affirm that we want them to feel safe in school and that we respect them and their gender identity and expression.
- d. Let them know that we will support them in their transition and that we are committed to ensuring that they have equal access to the school and its programs.
- e. If they have not yet disclosed their gender identity to their parents, we are able to support them in doing so; if the student indicates that their parents are aware, or if the student indicates that they would like support in disclosing to their parents the staff

member should reach out to the building administrator. The District shall encourage and support prompt disclosure to the Parents.

The staff member should then share the information with the building administrator, who will coordinate next steps, which will involve working with the student and their parents/guardian.

If a student, who is a minor (which includes those who have not graduated high school and is still attending school), asks District staff and/or administrators to keep information related to their transgender or gender nonconforming status from their parent(s)/guardian(s), the District staff/administrator should not make any promises concerning confidentiality to the minor student. While the District recognizes that it is important to speak with the student prior to involving parents, guardians, or other family members to determine whether doing so would be safe and support the student's health and well-being, these determinations related to disclosure should be made on a case-by-case basis in conjunction with the Director of Student Services. Individual considerations will need to be made based on the age of the student and any other mitigating circumstances, including the safety and wellbeing of the student. In these cases, schools should develop a plan for information sharing which supports the student, while balancing the parents right to information under FERPA.

The District notes that studies show, in most cases, parental involvement is beneficial to children who are in transition. Therefore, wherever possible, provided no concerns for the student's safety or wellbeing would arise from the disclosure, the administrator should, with the student's consent, arrange a meeting with the family to discuss the student's transition. The planning for this meeting should involve the student to determine what role, if any, the student would like to play during the meeting. For example, in some instances a student may want to disclose their transgender status themselves, while in others the student may not want to be at the meeting at all. In either scenario, the administrator should be prepared to discuss how this issue is affecting the student in school and the importance of family acceptance to a student's short- and long-term well-being. Additionally, where appropriate, the school counselor may participate in this meeting with the student's consent.

#### **Guidance on Specific Issues:**

- 1.) Privacy: The student's Gender Support Plan should address how to deal with disclosures that the student is transgender or gender nonconforming. In some cases, a student may want school staff and students to know, and in other cases the student may not want this information to be widely known. School staff should take care to follow the student's Gender Support Plan and not to inadvertently disclose information that is intended to be kept private or that is protected from disclosure. The breadth of disclosure of the Gender Support Plan should be consistent with the student privacy concerns.

School staff should keep in mind that under FERPA, student records may only be accessed and disclosed to staff with a legitimate educational interest in the information. Disclosures to others should only be made with appropriate authorization from the Administration and/or parents/guardians in a manner consistent with FERPA.



- 2.) Official Records: Schools are required to maintain a permanent record for each student which includes legal name and gender. This information is also required for standardized tests and official school unit reports. This official information will only be changed upon receipt of documentation that a student's name or gender has been changed in accordance with any applicable laws. Any requests to change a student's legal name (not to include adoption) or gender in official records should be referred to the Superintendent

To the extent that the school is not required to use a student's legal name or gender on school records or other documents, the school should use the name and gender identified in the student's Gender Support Plan.

- 3.) Names/Pronouns: A student who has been identified as transgender or gender nonconforming under this procedure should be addressed by school staff and other students by the name and pronouns corresponding to their gender identity that is consistently asserted in school.
- 4.) Restrooms: As a general rule, all students, including students who have been identified as transgender or gender nonconforming under this procedure, should be permitted to use the restrooms consistent with the gender which the student consistently asserts at school. Any student who expresses a need for additional privacy will be provided with reasonable alternative facilities or accommodations such as using a separate single-occupancy or a staff facility. However, a student shall not be required to use a separate single-occupancy facility.
- 5.) Locker Rooms: As a general rule, all students, including transgender or gender nonconforming students, will be permitted to use the locker room assigned to the gender which the student consistently asserts at school. No student will be required to use the locker room that conflicts with the gender identity consistently asserted in school. Any student who expresses a need for privacy will be provided with reasonable alternative facilities or accommodations, such as using a separate stall, a staff facility or separate schedule.
- 6.) Other Gender-Segregated Facilities or Activities: As a general rule, in any other facilities or activities when students may be separated by gender, all students, including transgender, and gender nonconforming students, may participate in accordance with the gender identity consistently asserted in school. Any unique considerations that need to be expanded regarding overnight field trips should be brought to the attention of the Administration. Interscholastic athletic activities should be addressed through the NHIAA participation policy, Article II, Section 21.
- 7.) If there are no facilities (restrooms, locker rooms, or other gender-segregated facilities) that align with the gender which the student consistently asserts at school (ie. in the case

of a student who is gender non-binary), recommendations of the student, parent(s)/guardian(s) and medical or mental health professionals should be obtained by the school and considered into the Plan developed for the student.

- 8.) All students, including transgender and gender nonconforming students, may dress in accordance with their consistently asserted gender identity, consistent with any applicable requirements in the dress code or school rules.
- 9.) Safety and Support for Transgender, Gender Nonconforming Students and Transitioning Students: School staff are expected to comply with any Plan developed for a transgender, gender nonconforming, and/or transitioning student and to notify the building administrator or other designated support person for the student if there are concerns about the Plan, or about the student's safety or welfare.

School staff should be sensitive to the fact that transgender, gender nonconforming and transitioning students may be at a higher risk for being bullied or harassed or self harm to include suicidality, and should immediately notify the appropriate administrator upon becoming aware of any related concerns.

**Staff Training and Informational Materials This area will be expanded as we implement this guidance and evaluate what more is needed.**

- 1.) The Superintendent or designee (such as building principal) may institute in-service training and/or distribute educational materials about transgender and/or gender nonconforming matters to school staff as deemed appropriate.
- 2.) Teachers and other staff who have responsibilities for a transgender and/or gender nonconforming student with a Gender Support Plan will receive support in implementing the Plan.
- 3.) A template of the Gender Support Plan will be provided as the process is rolled out.
- 4.) A Gender Support Plan, if developed, should be filed in a file separate from the student's other educational records, and should be kept in a manner that protects the student's privacy with respect to their transgender or gender nonconforming status.

# **ALTERNATE DIPLOMA FOR STUDENTS WITH SIGNIFICANT COGNITIVE DISABILITIES**

*Category: Recommended*

*Related Policies: IHBA, IHBI, IKF*

## **ADOPTION/REVISION NOTES –**

**Text between the highlighted lines "~~~~", and highlights in this sample should be removed prior to FINAL adoption, but policy committee and/or board should review before removal.**

- (a) **USER SUGGESTION** – Because of ADA compliance requirements, and other technological restrictions, some intended formatting does not appear on sample policies available through the NHSBA main policy database page. For MS Word versions of the samples (after 2008), we recommend accessing samples through the "Previous Policy Updates" link on the bottom of the NHSBA policy homepage. The password is the same as for the main policy database page.
- (b) **General** – As with all sample policies/procedures, 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.
- (c) **General** – **Highlighted language** or blank, underscored spaces indicate specific areas which Boards should review, change or complete to reflect local personnel titles, internal/ external policy references, duty assignments etc.
- (d) **General** – **{\*\*}** indicates a reference to another NHSBA sample policy. A district should check its own current policies and codes to assure internal consistency.
- (e) **General** – Withdrawn & earlier versions of revised policies should be maintained separately as part of the permanent records of the District.

**A. PURPOSE.** The purpose of this policy is to meet the requirements of the federal Every Student Succeeds Act ("ESSA") to establish and allow the awarding of a District Alternate Diploma to certain students with the most significant cognitive disabilities.

**B. INTRODUCTION.** Under ESSA, states may adopt alternate content standards and alternate assessments for students with the most significant cognitive disabilities. In states that have adopted such alternative content standards, ESSA allows local school boards to adopt policies allowing certain students with significant cognitive disabilities the ability to earn an Alternate Diploma based on the alternative content standards.

An Alternate Diploma provides students who may have ordinarily earned certificates of attendance, or completion under New Hampshire Administrative Rule Ed 306.27(q), with the option to earn a diploma.

New Hampshire has adopted Dynamic Learning Maps (DLM) as an alternate assessment tool. The DLM assessment measures yearly student progress, and provides independent standards which align with the NH Statewide Assessment.

Accordingly, this policy authorizes the District to award an Alternate Diploma in accordance with the below requirements and conditions.

## **C. ELIGIBILITY.**

Consistent with ESSA, the Alternate Diploma may be awarded to students who:



## **ALTERNATE DIPLOMA FOR STUDENTS WITH SIGNIFICANT COGNITIVE DISABILITIES**

1. Have significant cognitive disabilities;
2. Have a current Individualized Education Program ("IEP"); and
3. Participate in the state authorized alternate assessment (currently DLM).

The Alternate Diploma is NOT available to students without IEP's, including students with Section 504 plans.

### **D. DETERMINATION OF AWARD.**

The determination to award the Alternate Diploma is the responsibility of the student's IEP team, including the student's parent(s)/guardian(s). The IEP team's consideration of the appropriateness of an Alternate Diploma should be included in transition planning beginning at age sixteen (16). Details of this decision shall be included in the student's IEP transition plan in accordance with Ed 1109.03.

### **E. TIME OF AWARD.**

The student may choose (individually or through the IEP team) to receive the Alternate Diploma at one (1) of three (3) times:

1. At graduation with common age peers;
2. At the conclusion of the student's IEP; or
3. Upon reaching age twenty-two (22).

If the student participates in the traditional graduation ceremony, the student will be included in the graduation program with no difference in listing from his/her peers awarded a regular diploma.

### **F. EFFECT OF AWARD AND CONTINUED ELIGIBILITY.**

1. Under 34 CFR 300.102 (a)(3), the awarding of any document other than regular high school diploma shall not terminate a child's eligibility for a free and appropriate public education ("FAPE"). Accordingly, earning an Alternate Diploma does not end a student's eligibility for special education services. Rather, students who have earned the Alternate Diploma, and are otherwise eligible for special education services, may continue to receive such services and may continue working towards meeting the requirements for the regular high school diploma.
2. Alternate Diplomas awarded under this policy are counted in the state graduation rate, while certificates of attendance or equivalency are not.

### **G. IMPLEMENTATION.**

The Superintendent, with the assistance of the [Director of Special Education/Student Services Director] is directed to establish and make available procedures and administrative rules to implement this policy.

## ALTERNATE DIPLOMA FOR STUDENTS WITH SIGNIFICANT COGNITIVE DISABILITIES

### District Policy History:

First reading: \_\_\_\_\_ Last revised: \_\_\_\_\_  
 Second reading/adopted: \_\_\_\_\_ Reviewed/reaffirmed: \_\_\_\_\_  
 Other district policy history: \_\_\_\_\_

### Legal References:

20 U.S.C. §7801 (23) - Every Student Succeeds Act (§ 8101(a)(23))  
 34 CFR 300.102 (a)(3); 300.43; and 300.320(b)  
 RSA 193-E - Adequate Public Education  
 RSA 186-C:2, Definitions  
 Ed 306.27(q)(4)- Minimum Standards/High School Requirements/Equivalency Diplomas  
 Ed 1109.03- When and IEP is in Effect...Transition Services

***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 – August 2022; New policy – May 2018.

**NHSBA revision notes, August 2022**, revised to reflect 2022's SB 394 and HB 1513 which both amend the definition in RSA 186-C:2 of "child with a disability" to include persons up to 21 years of age (inclusive). **May 2018** This is a new policy intended to adopt the provisions of the federal Every Student Succeeds Act ("ESSA") which allow the awarding of a "state-defined" Alternate Diploma to certain students with the most significant cognitive disabilities. NHSBA adoption consideration: If adopting this sample policy, language of the designated parties should be checked for consistency with District personnel (e.g., Director of Special Education, Student Services Director, etc.).

w/p-update/2022-U2 Fall/IKFC Alternate Diploma for Students w Significant Cog. Disabilities 2022-U2 (F)

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**NON-DISCRIMINATION, EQUAL OPPORTUNITY EMPLOYMENT  
and DISTRICT ANTI-DISCRIMINATION PLAN**

*Category: Priority/Required by Law  
JICK KED, KEE*

*Related Policies: ACD, ACE, GBAA, JBAA,  
See also: EF, EFAA, IKG, AC-E & AC-R*

**A. Prohibition Against Discrimination of Students in Educational Programs and Activities.**

Under New Hampshire law and Board policy, no person shall be excluded from, denied the benefits of, or subjected to discrimination in the District's public schools because of their age, sex, gender identity, sexual orientation, race, color, marital status, familial status, disability, religion or national origin. Discrimination, including harassment, against any student in the District's education programs, on the basis of any of the above classes, or a student's creed, is prohibited. Finally, there shall be no denial to any person of the benefits of educational programs or activities, on the basis of any of the above classes, or economic status.

Harassment of students other than on the basis of any of the classes or categories listed above is prohibited under Board policy JICK Pupil Safety and Violence Prevention.

**B. Equal Opportunity of Employment and Prohibition Against Discrimination in Employment.**

The School District is an Equal Opportunity Employer. The District ensures equal employment opportunities without regard to age, color, creed, disability, gender identity, marital status, national origin, pregnancy, race, religion, sex, or sexual orientation. The District will employ individuals who meet the physical and mental requirements, and who have the education, training, and experience established as necessary for the performance of the job as specified in the pertinent job description(s).

Discrimination against and harassment of school employees because of age, sex, race, creed, religion, color, marital status, familial status, physical or mental disability, genetic information, national origin, ancestry, sexual orientation, or gender identity are prohibited. Additionally, the District will not discriminate against any employee who is a victim of domestic violence, harassment, sexual assault, or stalking.

**C. Policy Application.**

This Policy is applicable to all persons employed or served by the District. It applies to all sites and activities the District supervises, controls, or where it has jurisdiction under the law, including where it (a) occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or (b) occurs off of school property or outside of a school-sponsored activity or event, if the conduct interferes with a student's educational opportunities or substantially disrupts the orderly operations of the school or school-sponsored activity or event, as set forth in Board policy JICK, Pupil Safety and Violence Prevention. Examples of sites and activities include all District buildings and grounds, school buses and other vehicles, field trips, and athletic competitions.

**D. District Anti-Discrimination Plan.**

No later than October 15, 2020, the Superintendent shall develop and provide to the Board for approval, a coordinated written District Anti-Discrimination Plan (the "Plan") to include

## **NON-DISCRIMINATION, EQUAL OPPORTUNITY EMPLOYMENT and DISTRICT ANTI-DISCRIMINATION PLAN**

guidelines, protocols and procedures intended to prevent, assess the presence of, intervene in, and respond to incidents of discrimination.

Among other things, the Plan should include provisions, and recommendations with respect to resources, policies, complaint procedures, student education programs, Plan dissemination and training appropriate to carrying out the Plan objectives stated in the preceding paragraph.

In developing the Plan, the Superintendent is encouraged to seek input from appropriate groups of the school and local community and coordinate with the District's Human Rights [*Non-Discrimination*] Officer and Title IX and 504 Coordinators.

No less than once every two years (off years from review of the District's Suicide Prevention Plan per Policy JLDDB), the Superintendent shall update the District Anti-Discrimination Plan, and present the same to the Board for review. Such Plan updates should be submitted to the Board in time for appropriate budget consideration.

### **E. Human Rights [or Non-Discrimination], Title IX, 504 and other Coordinators or Officers.**

The Superintendent shall assure that District and or building personnel are assigned to the positions listed below. Each year, the Superintendent shall prepare and disseminate as an Appendix AC-E to this Policy an updated list of the person or persons acting in those positions, along with their District contact information, including telephone number, email, postal and physical addresses.

The Appendix will also include current contact for relevant state and federal agencies including:

- U.S. Department of Education, Office of Civil Rights
- U.S. Department of Agriculture, Office of Civil Rights
- N.H. Human Rights Commission
- N.H. Department of Justice, Civil Rights Unit
- N.H. Department of Education, Commissioner of Education

### **F. Complaint and Reporting Procedures.**

Any person who believes that he or she has been discriminated against, harassed, or bullied in violation of this policy by any student, employee, or other person under the supervision and control of the school system, or any third person who knows or suspects conduct that may constitute discrimination, harassment, or bullying, should contact the District Human Rights Officer, or otherwise as provided in the policies referenced below under this same heading.

Any employee who has witnessed, or who has reliable information that another person may have been subjected to discrimination, harassment, or bullying in violation of this policy has a duty to report such conduct to his/her immediate supervisor, the District Human Rights Officer, or as provided in one of the policies or administrative procedures referenced below under this same heading. Additionally, employees who observe an incident of harassment or bullying are expected to intervene to stop the conduct in situations in which they have supervisory control

## **NON-DISCRIMINATION, EQUAL OPPORTUNITY EMPLOYMENT and DISTRICT ANTI-DISCRIMINATION PLAN**

over the perpetrator and it is safe to do so. If an employee knows of an incident involving discrimination, harassment, or bullying and the employee fails to report the conduct or take proper action or knowingly provides false information in regard to the incident, the employee will be subject to disciplinary action up to, and including, dismissal.

Investigations and resolution of any complaints shall be according to the policies listed below and related administrative procedures or regulations. Complaints or reports regarding matters not covered in one or the other of those policies should be made to the District Human Rights Officer.

1. Reports or complaints of sexual harassment or sexual violence by employees or third party contractors should be made under Board policy GBAA;
2. Reports or complaints of sexual harassment or sexual violence by students should be made under Board policy JBAA;
3. Reports or complaints of discrimination on the basis of disability should be made under Board policy ACE, except for complaints regarding facilities accessibility by disabled non-students or employees, which should be made under Board policy KED and
4. Reports or complaints of bullying or other harassment of pupils should be made under Board policy JICK.

### **G. Alternative Complaint Procedures and Legal Remedies.**

At any time, whether or not an individual files a complaint or report under this Policy, an individual may file a complaint with the Office for Civil Rights (“OCR”), of the United States Department of Education, or with the New Hampshire Commissioner for Human Rights.

1. Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8<sup>th</sup> Floor, Boston, MA 02109-3921; Telephone number: (617) 289-0111; Fax number: (617) 289-0150; Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

*Note:* Complaints to OCR must be filed in writing no later than 180 days after the alleged act(s) of discrimination. OCR may waive its 180 day time limit based on OCR policies and procedures.

2. New Hampshire Commission for Human Rights, 2 Industrial Park Drive, Concord, NH 03301; Telephone number: (603) 271-2767; Email: [humanrights@nh.gov](mailto:humanrights@nh.gov)

Notwithstanding any other remedy, any person may contact the police or pursue a criminal prosecution under state or federal criminal law.

### **H. Retaliation Prohibited.**

No reprisals or retaliation of any kind will be taken by the Board or by any District employee against the complainant or other individual on account of his or her filing a complaint or report or participating in an investigation of a complaint or report filed and decided pursuant to this policy, unless that person knew the complaint or report was false or knowingly provided false information.

**NON-DISCRIMINATION, EQUAL OPPORTUNITY EMPLOYMENT  
and DISTRICT ANTI-DISCRIMINATION PLAN**

**I. Administrative Procedures and Regulations.**

The Superintendent shall develop such other procedures and regulations as are necessary and appropriate to implement this Policy.

**J. Notice of Compliance.**

The Superintendent will provide notice of compliance with federal and state civil rights laws to all applicants for employment, employees, students, parents, and other interested persons, as appropriate.

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**Legal References:**

RSA 186:11, XXXIII, Discrimination  
RSA 193:38, Discrimination in Public Schools  
RSA 193-F, Student Safety and Violence Protection Act  
RSA 275:71, Prohibited Conduct by Employer  
RSA 354-A, State Commission for Human Rights  
The Age Discrimination in Employment Act of 1967, 29 U.S.C. 621, et seq.  
The Rehabilitation Act of 1973, 29 U.S.C. 705 and 794  
Title II of The Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq.  
Title IV of the Civil Rights Act of 1964, 42 U.S.C. §2000c  
Title VII of The Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq  
Title IX of the Education Amendments of 1972, 20 U.S.C 1681, et seq  
NH Dept of Ed. Rule 303.01 (i), School Board Substantive Duties



# AC – Non-Discrimination

The School Board, in accordance with the requirements of the federal and state laws, and the regulations which implement those laws, hereby declares formally that it is the policy of the Board, in its actions and those of its employees and students, that there shall be no discrimination on the basis of age, sex, gender, race, creed, color, marital status, physical or mental disability, national origin, sexual orientation, or any other categories protected by law for employment in, participation in, admission/access to, or operation and administration of any educational program or activity in the School District. Notwithstanding the language of any other policy adopted by this Board, we will abide by the Department of Education Final Rule 34 CFR Part 106.

Inquiries, complaints, and other communications relative to this policy and to the applicable laws and regulations concerned with non-discrimination shall be received by the Superintendent or designee.

This policy of non-discrimination is applicable to all persons employed or served by the District. Any complaints or alleged infractions of the policy, law or applicable regulations will be processed through the non-discrimination grievance procedure. This policy implements PL 94-142, Section 504 of the Rehabilitation Act of 1973, Title II of the American with Disabilities Act, Title VI or VII of the Civil Rights act of 1964, Title IX of the Education Amendments of 1972, and the laws of New Hampshire pertaining to non-discrimination.

## **Legal Reference:**

*RSA 354-A:6, Opportunity for Employment without Discrimination a Civil Right*

*RSA 354-A:7, Unlawful Discriminatory Practices*

*The Age Discrimination in Employment Act of 1967*

*Title I of The Americans with Disabilities Act of 1990*

*Title VII of The Civil Rights Act of 1964 (15 or more employees)*

*Appendix: AC-R*

*1st Read: July 7, 2020*

*2nd Read: July 28, 2020*

*Adopted: July 28, 2020*

< ABA – Community Involvement In Decision Making

ACAC - Title IX Sexual Harassment Policy and Grievance Process

(<https://schoolboard.convalsd.net/district-policies/acac-title-ix-sexual-harassment-policy-and-grievance-process/>)

## NON-DISCRIMINATION, EQUAL OPPORTUNITY EMPLOYMENT and DISTRICT ANTI-DISCRIMINATION PLAN

**Category: Priority/Required by Law**  
**JICK KED, KEE**

**Related Policies: ACD, ACE, GBAA, JBAA,**  
**See also: EF, EFAA, IKG, AC-E & AC-R**

### ADOPTION NOTES –

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

- (a) The November 2019 revision is intended to meet the basic policy requirements of SB263, (2019 N.H. Laws 282) while more extensive revisions to related NHSBA sample discrimination policies and procedures undergo review and revision. See NHSBA Revision Note, below.
- (b) Additionally, this revision incorporates the provisions (revised) of previous NHSBA sample GBA, which has been withdrawn as of December 2019.
- (c) **††** Many districts have adopted policies other than NHSBA's policies relative to discrimination, harassment, etc., and used different policy codes than NHSBA. Districts should take extra care to cross-reference according to their own policies and policy codes.
- (d) General – As with all sample policies, NHSBA recommends that each district carefully review this sample prior to adoption 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.
- (e) Withdrawn and earlier versions of revised policies should be maintained as permanent records of the District. Some districts maintain a "Repealed/Revised" section within their manuals.
- (f) **{\*\*}** indicates a reference to another NHSBA sample policy. A district should check its own current policies and codes to assure internal consistency.

### A. **†† see adoption note (c) Prohibition Against Discrimination of Students in Educational Programs and Activities.**

Under New Hampshire law and Board policy, no person shall be excluded from, denied the benefits of, or subjected to discrimination in the District's public schools because of their age, sex, gender identity, sexual orientation, race, color, marital status, familial status, disability, religion or national origin. Discrimination, including harassment, against any student in the District's education programs, on the basis of any of the above classes, or a student's creed, is prohibited. Finally, there shall be no denial to any person of the benefits of educational programs or activities, on the basis of any of the above classes, or economic status.

Harassment of students other than on the basis of any of the classes or categories listed above is prohibited under Board policy JICK **{\*\*}** Pupil Safety and Violence Prevention.

### B. **Equal Opportunity of Employment and Prohibition Against Discrimination in Employment.**

The School District is an Equal Opportunity Employer. The District ensures equal employment opportunities without regard to age, color, creed, disability, gender identity, marital status, national origin, pregnancy, race, religion, sex, or sexual orientation. The District will employ individuals who meet the physical and mental requirements, and who have the education,



## NON-DISCRIMINATION, EQUAL OPPORTUNITY EMPLOYMENT and DISTRICT ANTI-DISCRIMINATION PLAN

training, and experience established as necessary for the performance of the job as specified in the pertinent job description(s).

Discrimination against and harassment of school employees because of age, sex, race, creed, religion, color, marital status, familial status, physical or mental disability, genetic information, national origin, ancestry, sexual orientation, or gender identity are prohibited. Additionally, the District will not discriminate against any employee who is a victim of domestic violence, harassment, sexual assault, or stalking.

### C. Policy Application.

This Policy is applicable to all persons employed or served by the District. It applies to all sites and activities the District supervises, controls, or where it has jurisdiction under the law, including where it (a) occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or (b) occurs off of school property or outside of a school-sponsored activity or event, if the conduct interferes with a student's educational opportunities or substantially disrupts the orderly operations of the school or school-sponsored activity or event, as set forth in Board policy JICK{\*\*}, Pupil Safety and Violence Prevention. Examples of sites and activities include all District buildings and grounds, school buses and other vehicles, field trips, and athletic competitions.

### D. District Anti-Discrimination Plan.

No later than October 15, 2020, the Superintendent shall develop and provide to the Board for approval, a coordinated written District Anti-Discrimination Plan (the "Plan") to include guidelines, protocols and procedures intended to prevent, assess the presence of, intervene in, and respond to incidents of discrimination.

Among other things, the Plan should include provisions, and recommendations with respect to resources, policies, complaint procedures, student education programs, Plan dissemination and training appropriate to carrying out the Plan objectives stated in the preceding paragraph.

In developing the Plan, the Superintendent is encouraged to seek input from appropriate groups of the school and local community and coordinate with the District's Human Rights [Non-Discrimination] Officer and Title IX and 504 Coordinators.

No less than once every two years (off years from review of the District's Suicide Prevention Plan per Policy JLDBB{\*\*}), the Superintendent shall update the District Anti-Discrimination Plan, and present the same to the Board for review. Such Plan updates should be submitted to the Board in time for appropriate budget consideration.

### E. Human Rights [or Non-Discrimination], Title IX, 504 and other Coordinators or Officers.

The Superintendent shall assure that District and or building personnel are assigned to the positions listed below. Each year, the Superintendent shall prepare and disseminate as an Appendix AC-E {\*\*} to this Policy an updated list of the person or persons acting in those positions, along with their District contact information, including telephone number, email, postal and physical addresses.



## NON-DISCRIMINATION, EQUAL OPPORTUNITY EMPLOYMENT and DISTRICT ANTI-DISCRIMINATION PLAN

Human Rights [or Non-Discrimination] Officer \_\_\_\_\_ [check district policies for title]

Title IX Coordinator \_\_\_\_\_ [check district policies (e.g., JBAA, GBAA?) for title]

504 Coordinator \_\_\_\_\_ [check district policies for title]

The Appendix will also include current contact for relevant state and federal agencies including:

- U.S. Department of Education, Office of Civil Rights
- U.S. Department of Agriculture, Office of Civil Rights
- N.H. Human Rights Commission
- N.H. Department of Justice, Civil Rights Unit
- N.H. Department of Education, Commissioner of Education

### F. Complaint and Reporting Procedures.

Any person who believes that he or she has been discriminated against, harassed, or bullied in violation of this policy by any student, employee, or other person under the supervision and control of the school system, or any third person who knows or suspects conduct that may constitute discrimination, harassment, or bullying, should contact the District Human Rights Officer, or otherwise as provided in the policies referenced below under this same heading.

Any employee who has witnessed, or who has reliable information that another person may have been subjected to discrimination, harassment, or bullying in violation of this policy has a duty to report such conduct to his/her immediate supervisor, the District Human Rights Officer, or as provided in one of the policies or administrative procedures referenced below under this same heading. Additionally, employees who observe an incident of harassment or bullying are expected to intervene to stop the conduct in situations in which they have supervisory control over the perpetrator and it is safe to do so. If an employee knows of an incident involving discrimination, harassment, or bullying and the employee fails to report the conduct or take proper action or knowingly provides false information in regard to the incident, the employee will be subject to disciplinary action up to, and including, dismissal.

Investigations and resolution of any complaints shall be according to the policies listed below and related administrative procedures or regulations. Complaints or reports regarding matters not covered in one or the other of those policies should be made to the District Human Rights Officer.

1. Reports or complaints of sexual harassment or sexual violence by employees or third party contractors should be made under Board policy GBAA{\*\*};
2. Reports or complaints of sexual harassment or sexual violence by students should be made under Board policy JBAA{\*\*};
3. Reports or complaints of discrimination on the basis of disability should be made under Board policy ACE{\*\*}, except for complaints regarding facilities accessibility by

**NON-DISCRIMINATION, EQUAL OPPORTUNITY EMPLOYMENT  
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disabled non-students or employees, which should be made under Board policy KED{\*\*}; and

4. Reports or complaints of bullying or other harassment of pupils should be made under Board policy JICK{\*\*}.

**G. Alternative Complaint Procedures and Legal Remedies.**

At any time, whether or not an individual files a complaint or report under this Policy, an individual may file a complaint with the Office for Civil Rights (“OCR”), of the United States Department of Education, or with the New Hampshire Commissioner for Human Rights.

1. Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8<sup>th</sup> Floor, Boston, MA 02109-3921; Telephone number: (617) 289-0111; Fax number: (617) 289-0150; Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)

*Note:* Complaints to OCR must be filed in writing no later than 180 days after the alleged act(s) of discrimination. OCR may waive its 180 day time limit based on OCR policies and procedures.

2. New Hampshire Commission for Human Rights, 2 Industrial Park Drive, Concord, NH 03301; Telephone number: (603) 271-2767; Email: [humanrights@nh.gov](mailto:humanrights@nh.gov)

Notwithstanding any other remedy, any person may contact the police or pursue a criminal prosecution under state or federal criminal law.

**H. Retaliation Prohibited.**

No reprisals or retaliation of any kind will be taken by the Board or by any District employee against the complainant or other individual on account of his or her filing a complaint or report or participating in an investigation of a complaint or report filed and decided pursuant to this policy, unless that person knew the complaint or report was false or knowingly provided false information.

**I. Administrative Procedures and Regulations.**

The Superintendent shall develop such other procedures and regulations as are necessary and appropriate to implement this Policy.

**J. Notice of Compliance.**

The Superintendent will provide notice of compliance with federal and state civil rights laws to all applicants for employment, employees, students, parents, and other interested persons, as appropriate.

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**District Policy History:**

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



**NON-DISCRIMINATION, EQUAL OPPORTUNITY EMPLOYMENT  
and DISTRICT ANTI-DISCRIMINATION PLAN**

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

*District revision history:*

**Legal References:**

RSA 186:11, XXXIII, Discrimination  
RSA 193:38, Discrimination in Public Schools  
RSA 193-F, Student Safety and Violence Protection Act  
RSA 275:71, Prohibited Conduct by Employer  
RSA 354-A, State Commission for Human Rights  
The Age Discrimination in Employment Act of 1967, 29 U.S.C. 621, et seq.  
The Rehabilitation Act of 1973, 29 U.S.C. 705 and 794  
Title II of The Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq.  
Title IV of the Civil Rights Act of 1964, 42 U.S.C. §2000c  
Title VII of The Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq  
Title IX of the Education Amendments of 1972, 20 U.S.C 1681, et seq  
NH Dept of Ed. Rule 303.01 (i), School Board Substantive Duties

**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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***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 - November 2019; September 2018; September 2008; February 2005; February 2004, July 1998

**NHSBA Notes, November 2019:** Sample policy AC was revised to reflect the 2019 passage of SB263, 2019 N.H. Laws Ch. 282, which among other things: (1) identifies education as a civil right protected under RSA 354-A; (2) expanded (or clarified) the list of classes protected against discrimination under state law; (3) created specific right of claimants or the state attorney General's office to bring discrimination complaints to the NH Human Rights Commission and Superior Court, and (3) requires each district to adopt a policy that sets the framework for developing a coordinated plan to prevent and address incidents of discrimination. The November 2019 revision is intended to meet the minimum requirements of SB263, while more extensive revisions to related NHSBA sample discrimination policies and procedures undergo review and revision. Additionally, incorporates the substantive provisions of former NHSBA sample policy GBA. **September 2018:** Addition of provision prohibiting discrimination in employment practices on the basis of gender identity is required by the passage of HB1319 (2018), which, among other things, amended

**NON-DISCRIMINATION, EQUAL OPPORTUNITY EMPLOYMENT  
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RSA 354-A:6, and 354-A:7. **NHSBA Note, September 2014:** Addition of provision prohibiting discrimination on the basis of economic status, per RSA 186:11, XXXIII (effective July 2014). Addition of new paragraph prohibiting discrimination in employment matters against victims of domestic violence, harassment, sexual assault, or stalking, per RSA 275:71 (effective July 2014).

w/p-update/2019 Fall/ /AC Non Discrimination Eq Opp 2019 (d3)

**DISCLAIMER:** This sample policy is copyrighted to the New Hampshire School Boards Association and is intended for the sole and exclusive use of NHSBA Policy Service Subscribers. This sample is provided for general information only and as a resource to assist subscribing Districts with 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.

**Non- Discrimination**

*Related Policies:AC, ACAC*

- **District Civil Rights Coordinator**

Dr. Ann Forrest, Assistant Superintendent  
106 Hancock Road, Peterborough NH 03458  
Telephone: (603) 924-3336 ext 2068  
Email: [aforrest@conval.edu](mailto:aforrest@conval.edu)

- **Title IX Coordinator**

Dr. Ann Forrest, Assistant Superintendent  
106 Hancock Road, Peterborough NH 03458  
Telephone: (603) 924-3336 ext 2068  
Email: [aforrest@conval.edu](mailto:aforrest@conval.edu)

- **504 Coordinator**

Cari Christian-Coates, M.Ed., Director of Student Services  
106 Hancock Road, Peterborough, NH 03458  
Telephone: (603) 924-3336 x2048  
Email: [ccoates@conval.edu](mailto:ccoates@conval.edu)

- **Other Contact information**

U.S. Department of Education, Office of Civil Rights  
Lyndon Baines Johnson Department of Education Bldg  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Telephone: (800) 421-3481  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)



**Non- Discrimination**

**Office for Civil Rights for New Hampshire**

**U.S. Department of Education**

**5 Post Office Square**

**Boston, MA 02109-3921**

**Telephone: (617) 289-0111**

**Fax: (617) 289-0150**

**TDD: (877) 521-2172**

**Email: [OCR.Boston@ed.gov](mailto:OCR.Boston@ed.gov)**

**U.S. Department of Agriculture, Office of Civil Rights**

**Director, Center for Civil Rights Enforcement**

**1400 Independence Avenue, SW**

**Washington, DC 20250-9410**

**Telephone: (866) 632-9992**

**Email: [CR-Info@USDA.gov](mailto:CR-Info@USDA.gov)**

**New Hampshire Commission for Human Rights**

**2 Industrial Park Drive, Bldg. One**

**Concord, NH 03301**

**Telephone: (603) 271-2767**

**Fax: (603) 271-6339**

**E-mail: [humanrights@hrc.nh.gov](mailto:humanrights@hrc.nh.gov)**

**N.H. Department of Justice, Civil Rights Unit**

**33 Capitol Street**

**Concord, NH 03301**

**Telephone: (603) 271-3658**

**Fax: (603) 271-2110**

**TDD Access: Relay NH 1-800-735-2964**

**Email: [attorneygeneral@doj.nh.gov](mailto:attorneygeneral@doj.nh.gov)**

**Non- Discrimination**

N.H. Department of Education, Office of the Commissioner of Education

25 Hall Street, Concord, NH 03301-3860

Telephone: (603) 271-3494

Email: [Stephen.W.Berwick@doe.nh.gov](mailto:Stephen.W.Berwick@doe.nh.gov)



# BDE – Committees and School Board Member Special-Duty Assignments

## Category: O

### Standing Committees Purpose

The ConVal School Board utilizes standing committees to consider issues, proposals, and tasks in a smaller venue to allow members to delve more deeply into issues than may be possible at full School Board meetings. The committee structure is an efficient way of allowing for more thorough consideration of policy proposals, constructing budgets, initiating new programs, reviewing curricular issues, monitoring of progress toward Board goals, and Board communication. The committees may initiate and investigate any matter within their jurisdiction. All recommendations of these committees should represent a majority vote of committee members. No vote or discussion of a standing committee – with the exception of the Student Discipline and Grievance Committees – will constitute a School Board decision unless so authorized by Board action at a public meeting. Additional committees may be created, or existing committees dissolved, by a vote of the Board at the annual Board organizational meeting following the annual Board election.

The following committees currently exist as part of the governance of the Board:

- Budget and Property
- Education
- Policy
- Strategic Planning
- Communication
- Equity
- Selectmen's Advisory Committee

### Committee Organization

Each committee should have at least four members. The Chair of the Board, in consultation with Board members, makes committee appointments annually. These appointments are for a term of one year. All appointments will be made promptly after each Board election. An organizational meeting of each committee will be held annually promptly after each Board election and the announcement of committee appointments by the Board Chair. A Chair for the committee will be selected annually by the appointed members of the committee at the organizational meeting of the committee. Any Board member may attend and participate in any committee meeting at any time. However, the voting members of each committee will be limited to those who have been appointed. All committee meetings shall be posted publicly.

### Committee Administration

The Superintendent or designee shall attend committee meetings whenever possible, as non-voting members. The Chair of the committee is responsible for prioritizing issues, setting meeting agendas, dates, and times. A record must be kept of the proceedings of each committee meeting. That record must be approved by the voting membership of the Committee and kept on file at the Board office. That record must be posted publicly and maintained on file in the Board office. The Chair of each standing committee shall be responsible for reporting on the committee's business at the full Board meeting.

### Committee Responsibility and Jurisdiction

Each committee of the Board will be assigned a jurisdiction. This jurisdiction will be reviewed and confirmed annually by the Board following the organizational meetings of all committees. Each committee Chair may periodically initiate review and adjustment of the committee's jurisdiction when deemed appropriate; any change to a committee jurisdiction must be approved by the School Board. Committee jurisdictions will be posted on the School Board's website. A committee of the Board shall not appoint a committee of that committee without approval of the Board.

### School Board Member Special Duty Assignments

#### Special Duty Assignment Purposes

Individual Board members may be designated to fulfill special assignments on behalf of the whole Board to facilitate the efficient, or confidential, completion of Board responsibilities.

#### Special Duty Assignments

The following special duty assignments will be made to facilitate Board governance:

- Negotiations/Grievance
- Student Discipline
- Food Service / Wellness
- Review of the Manifest
- Representative to the New Hampshire School Board Association (NH SBA) Delegate Assembly

#### Special Duty Assignment Procedures

The Chair of the Board, in consultation with Board members, make special duty appointments annually. These appointments are for a term of one year. All appointments will be made promptly after each Board election. The committees on Negotiation, Employee Grievance, or Student Discipline are not open to participation by Board members who have not been appointed. Nor are meetings of the Negotiations, Employee Grievance, or Student Discipline committee meetings open to the public.

Board members appointed to fulfill a special duty assignment will report to the full Board as requested to do so by the Board Chair.

Board member(s) designated to review the Manifest prior to each Board meeting will bear the responsibility of moving for acceptance of the certified manifest at the Board meeting.

The Board member appointed as the representative of the ConVal School Board to the NHSBA Delegate Assembly will review all proposals with the Board prior to the annual Delegate Assembly and seek Board advice regarding their vote at the Delegate Assembly.

#### Ad-Hoc Committees of the Board

Ad hoc committees of the Board may be appointed by the Chair of the Board. The function of the ad hoc committee will be to study specific issues for a specifically limited period of time, and if appropriate, to make recommendations to the full Board for approval. The dates, times, and location of ad hoc committee meetings will be posted publicly and the meetings will be open to all members of the Board. No vote or discussion of an ad hoc committee will constitute a decision of the Board, unless such authority is granted by the School Board at a public meeting.

#### Ad Hoc Committees with School Board Members

The School Board may form committees with members of the public, students, parents, and/or employees to do specific tasks and make recommendations to the Board. The Board Chair may appoint members of the School Board to such ad hoc committees. Meetings of ad hoc committees must be properly posted and open to the public. Board members not appointed by the Board Chair may attend and participate in ad hoc committee meetings but may not be voting members of the ad hoc committee. The Board will establish the charge of the scope of responsibility for such ad hoc committees. Such ad hoc committees are advisory and have only such authority as specified by the Board. The Board will receive reports or recommendations from an ad hoc committee at the direction of the Board Chair. A record must be kept of the proceedings of each meeting of an ad hoc committee. That record must be approved by the membership of the ad hoc committee and kept on file at the Board offices. The Board retains the right and has the duty to make all final decisions related to such reports or recommendations of an ad hoc committee. The Board reserves the right to limit, create or dissolve an ad hoc committee at any time as it deems appropriate.

First Read: April 6, 2021

Second Read: May 4, 2021

Adopted: May 4, 2021

< BDD - Board-Superintendent Relationship

BDG — School District Attorney (<https://schoolboard.convalsd.net/district-policies/bdg-school-district-attorney/>)

# JKAA – Use Of Restraint, Seclusion, And Physical Contact

The District and all of its employees and contractors have a duty to maintain an orderly, safe environment that is conducive to learning and the District's educational mission. Positive behavioral interventions based on the results of behavioral assessment, shall serve as the foundation for any program used to address the behavioral needs of students. When reasonable to do such, staff shall first seek to address a student's behavioral needs through positive behavioral interventions and supports before resorting to restraint or seclusion.

In circumstances defined by this policy, restraint or seclusion of a student will become necessary for the District to fulfill its duty to maintain a safe and orderly environment. However, restraint or seclusion shall only be used when needed to protect the student or others from a substantial and imminent risk of serious bodily harm.

## Restraint

The use of restraint in schools shall be limited to physical and restraint, and only to the extent permitted by State Law and this policy. "Physical restraint" shall be deemed to have occurred when a manual method is used to restrict a child's freedom of movement or normal access to his or her body. This includes any manual method that immobilizes a student or restricts their freedom of movement of the torso, head, arms, or legs. Mechanical restraints may be used in the transportation of children when case-specific circumstances dictate that such methods are necessary.

A physical restraint shall only be used:

1. To ensure the immediate physical safety of a person or persons when there is a substantial and imminent risk of serious bodily harm to the child or others; and,
2. By trained personnel using extreme caution when all other interventions have failed or been deemed inappropriate.

The determination of whether the use of restraint is justified shall be made with consideration of all relevant circumstances, including whether continued acts of violence by a child to inflict damage to property will create a substantial risk of serious bodily harm to the child or others.

A restraint shall not be imposed for longer than is necessary to protect the child or others from a substantial and imminent risk of serious bodily harm. Children in restraint shall be the subject of continuous direct observation by personnel trained in the safe use of restraint. No period of restraint of a child may exceed 15 minutes without the approval of the principal or a supervisory employee designated by the principal to provide such approval. No period of restraint of a child may exceed 30 minutes unless a face-to-face assessment of the mental, emotional, and physical well-being of the child is conducted by the principal or by a

supervisory employee designated by the principal who is trained to conduct such assessments. The assessment shall also include a determination of whether the restraint is being conducted safely and for a purpose authorized by state law. Such assessments shall be repeated at least every 30 minutes during the period of restraint. Each such assessment shall be documented in writing and such records shall be retained by the facility or school as part of the written notification and record-keeping requirements set forth in state law.

### **Prohibited Forms of Physical Restraint**

All district employees and contractors are prohibited from using or threatening to use:

1. Any physical restraint or containment technique that:
  - a. Obstructs a child's respiratory airway or impairs the child's breathing or respiratory capacity, or restricts the movement required for normal breathing;
  - b. Places pressure or weight on, or causes the compression of, the chest, lungs, sternum, diaphragm, back, or abdomen of a child;
  - c. Obstructs the circulation of blood;
  - d. Involves pushing on or into the child's mouth, nose, eyes, or any part of the face or involves covering the face or body with anything, including soft objects such as pillows, blankets, or wash clothes; or,
  - e. Endangers a child's life significantly or exacerbates a child's medical condition.
2. The intentional infliction of pain, including the use of pain inducement to obtain compliance.
3. The intentional release of noxious, toxic, caustic, or otherwise unpleasant substances near a child for the purpose of controlling or modifying the behavior of or punishing the child.
4. Any technique that unnecessarily subjects the child to ridicule, humiliation, or emotional trauma.

Restraints shall not be used explicitly or implicitly as punishment for a child's behavior.

### **Mechanical Restraint**

The proper use of seat belts or safety belts while transporting students shall not be deemed mechanical or physical restraint. "Mechanical restraint" occurs when a physical device or devices are used to restrict the movement of a child or the movement or normal function of a portion of his or her body. Mechanical restraint shall only be used in the transportation of children when case-circumstances dictate that such methods are necessary to safely transport the child.

Whenever a child is transported to a location outside a school, the principal or their designee shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort the child in a manner which:

- (a) Prevents physical and psychological trauma;
- (b) Respects the privacy of the child; and
- (c) Represents the least restrictive means necessary for the safety of the child.



The use of mechanical restraint shall be documented, and notice of such restraint shall be provided to the parents/guardian of the child. The individual or individuals responsible for implementing a mechanical restraint shall be trained in the proper use of the mechanical restraint.

### **Actions not Deemed Restraint**

In accord with state law, the following actions shall not be considered restraint:

- (1) Brief touching or holding to calm, comfort, encourage, or guide a child, so long as limitation of freedom of movement of the child does not occur.
- (2) The temporary holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a child to stand, if necessary, and then walk to a safe location, so long as the child is in an upright position and moving toward a safe location.
- (3) Physical devices, such as orthopedically prescribed appliances, surgical dressings and bandages, and supportive body bands, or other physical holding when necessary for routine physical examinations and tests or for orthopedic, surgical, and other similar medical treatment purposes, or when used to provide support for the achievement of functional body position or proper balance or to protect a person from falling out of bed, or to permit a child to participate in activities without the risk of physical harm.
- (4) The use of seat belts, safety belts, or similar passenger restraints during the transportation of a child in a motor vehicle.
- (5) The use of force by a person to defend himself or herself or a third person from what the actor reasonably believes to be the imminent use of unlawful force by a child, when the actor uses a degree of such force which he or she reasonably believes to be necessary for such purpose and the actor does not immobilize a child or restrict the freedom of movement of the torso, head, arms, or legs of any child. However, such use of force shall require a report to the parents/guardians of intentional physical contact, as discussed below.

### **Prohibition of Medical Restraint**

Medication restraint is defined in the law as occurring when a child is given medication involuntarily for the purpose of immediate control of the child's behavior. All schools are prohibited from using medication of any kind as a form of restraint.

This prohibition shall not be interpreted to prohibit the administration by a school nurse of a lawfully prescribed medication for purposes other than medication restraint; provided such occurs in accord with the District's policies on the administration of medication in the schools and state law pertaining to the administration of medication by a school nurse.

### **Seclusion**

Seclusion means the involuntary placement of a child alone in a place where no other person is present and from which the particular child is unable to exit, either due to physical manipulation by a person, a lock, or other mechanical device or barrier. The fact that the

place has a window or other device for visual observation does not serve as an exception to this definition.

Seclusion may only be used when a child's behavior poses a substantial and imminent risk of physical harm to the child or other others, and may only continue until that danger has dissipated.

Seclusion shall only be used by trained personnel after other approaches to the control of behavior have been attempted and been unsuccessful, or are reasonably concluded to be unlikely to succeed based on the history of actual attempts to control the behavior of a particular child. Each use of seclusion shall be directly and continuously visually and auditorially monitored by a person trained in the safe use of seclusion.

Seclusion shall not be used as a form of punishment or discipline. Seclusion shall not be used in a manner that unnecessarily subjects the child to the risk of ridicule, humiliation, or emotional or physical harm.

Rooms used for seclusion must meet the minimum requirements set forth in RSA 126-U, including having doors which are either not equipped with locks, or are equipped with devices that automatically disengage the lock in case of an emergency. See more specifically RSA 126-U:5.

Parents or guardians should notify their child's school principal if a court has appointed a guardian ad litem to represent their child's interests.

### **Events not deemed Seclusion**

Seclusion shall not be deemed to include:

The voluntary separation of a child from a stressful environment for the purpose of allowing the child to regain self-control, when such separation is to an area which a child is able to leave; or

Circumstances in which there is no physical barrier between the child and any other person or the child is physically able to leave the place.

### **Internal and External Reporting**

The District shall follow the provisions of RSA 126-U and ED1202.02 with regard to the internal reporting of physical restraint or seclusion as well as the external reporting to parents/guardians. Parents or guardians should notify their child's school principal if a court has appointed a guardian ad litem to represent their child's interests.

### **Oral Reporting**

Unless prohibited by court order, the building level administrator shall, as soon as reasonably possible, verbally notify the parent or guardian whenever seclusion or restraint has been used on a child. In no event shall this oral notice be later than the time of the return of the child to the parent or guardian or the end of the school day. Notification shall be made in a manner calculated to give the parent or guardian actual notice of the incident at the earliest

practicable time. Any incident of seclusion or restraint involving any injury to anyone (student, employee, or other) shall also be immediately reported to the Superintendent or her designee.

### **Internal Written Reporting and Notification Form**

Within five (5) business days of the use of seclusion or restraint, the school employee that used the seclusion or restraint shall submit a written report to the school principal which contains the information required in RSA 126-U:7 and ED1202.02. The District administration shall develop a reporting and notification form to be used for this written report.

### **Written Notification of Parents**

Unless prohibited by court order, the principal or his or her designee shall, within two (2) business days of receipt of the internal written report set forth above, send or transmit by first class mail or electronic transmission to the child's parent or guardian and the guardian ad litem the information contained in the internal written reporting and notification form referenced above. The District administration may develop a parental notification form, or may elect to use a single reporting and notification form for both internal and external reporting, but the form shall meet all the requirements of NH RSA 126-U:7(II), RSA 126-U:11 (notification of restraints exceeding 15 and 30 minutes) and ED1202.02. Each notification prepared under this section shall be retained by the school or facility for review in accordance with rules adopted under RSA 541-A by the state board of education and the department of health and human services.

### **Reporting of Serious Bodily Injury**

If an incident of restraint or seclusion results in serious injury or death the Superintendent shall, in addition to the notice set forth above, also notify the commissioner of the department of education, the attorney general, and the state's federally-designated protection and advocacy agency for individuals with disabilities. Such notice shall include the written notification required for the parents under RSA 126-U:7(II) and ED1202.02.

### **Intentional Physical Contact**

Whenever a school employee or contractor has intentional physical contact with a student which is in response to a student's aggression, misconduct, or disruptive behavior, the school principal or his/her designee shall make reasonable efforts to promptly notify the student's parent/guardian. Such notification shall be made no later than the time of the return of the student to the parent/guardian or the end of the business day, whichever is earlier.

Notification shall be made in a manner calculated to give the parent/guardian actual notice of the incident at the earliest practicable time. The administration of the District shall develop a form for providing the required written notice to parents, and the content of the notice shall comply with RSA 126-U:7(V) and District policy/procedures.

### **Other Physical Contact**



The following physical contact need not be reported as intentional physical contact:

- (a) When a child is escorted from an area by way of holding of the hand, wrist, arm, shoulder, or back to induce the child to walk to a safe location. However, if the child is actively combative, assaultive, or self-injurious while being escorted, the event shall be reported as intentional physical contact;
- (b) When actions are taken such as separating children from each other, inducing a child to stand, or otherwise physically preparing a child to be escorted.
- (c) When the contact with the child is incidental or minor, such as for the purpose of gaining a misbehaving child's attention. However, blocking of a blow, forcible release from a grasp, or other significant and intentional physical contact with a disruptive or assaultive child shall be subject to reporting as intentional physical contact.

An incident reported as physical restraint or seclusion need not be reported as intentional physical contact.

### **Procedures and Forms**

The Superintendent and/or his/her designee shall develop written procedures and forms regarding implementation of this policy. The procedures shall be consistent with this policy and all applicable laws and regulations.

### **IEP Team Review of Record**

Upon information that restraint or seclusion has been used for the first time upon a child with a disability as defined in RSA 186-C:2, I or a child who is receiving services under Section 504 of the Rehabilitation Act of 1973, the school shall review the individual educational program and/or Section 504 plan and make such adjustments as are indicated to eliminate or reduce the future use of restraint or seclusion.

A parent or guardian of a child with a disability may request such a review at any time following an instance of restraint or seclusion and such request shall be granted if there have been multiple instances of restraint or seclusion since the last review.

### **Internal Duty to Report and Complaints**

Notice is given in accord with State Department of Education regulations, and RSA 126-U, that the District's employees have a duty to report to the school administration any violation of RSA 126-U ("Limiting the Use of Child Restraint in Schools and Treatment Facilities") when that employee has reason to believe that the action of another constitutes a violation of RSA 126-U and rises to the level of misconduct or suspected misconduct pursuant to ED 510. The District expressly prohibits any form of harassment or retaliation for the making of such a report in good faith. Any person may make a complaint of a violation of RSA 126-U to the school principal. Schools shall document receipt of any such complaint, including any complaint they determine does not meet the criteria for a violation of RSA 126-U. The documentation shall include the evidence the principal relied upon, and it shall be forwarded

to, and maintained by the District's administration. The District's administration, may, at its election, review the building level disposition of the complaint to ensure compliance with RSA 126-U, the state regulations, and this policy.

**Legal References:**

*RSA 627:6, II Physical Force By Persons With Special Responsibilities Ed 1113.04-1113.05*

*RSA 126-U Limiting the Use of Child Restraint Practices in Schools and Treatment Facilities*  
*Revised 10-4-10*

*ED1200 Restraint and Seclusion for Children*

**Catetory: Priority/Required by Law**

*1st Read: November 6, 2018*

*2nd Read: November 27, 2018*

*Adopted: November 27, 2018*

< JKA - Corporal Punishment

JKAA-F1 - Physical Restraint Incident Report (<https://schoolboard.convalsd.net/district-policies/jkaa-f1-physical-restraint-incident-report/>)

**Policy JKAA: Use of Restraints and Seclusion**

**Status:** ADOPTED

**Original Adopted Date:** 09/01/2010 | **Last Revised Date:** 09/18/2023 | **Last Reviewed Date:** 09/18/2023

**Category:** Priority/Required by Law

ADOPTION/REVISION NOTES -

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

- a. **Adoption note:** Most of this sample reflects specific requirements of RSA 126-U or Ed Chapter 1200. The sample includes many procedures which, while not specifically described in the statute or regulations, are implicitly necessary. NHSBA has endeavored to indicate those areas where the rules are not specific, or otherwise where districts may have options. Before modifying parts of the policy especially those which are not indicated with footnotes etc., a board/policy committee should consult with the district's private counsel or contact NHSBA's Director of 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.
- c. **General -** 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.
- d. **General -** [\*\*] indicates a reference to another NHSBA sample policy. A district should check its own current policies and codes to assure internal consistency.
- e. **General -** Withdrawn & earlier versions of revised policies should be maintained separately as part of the permanent records of the District.

**NHSBA history:** Revised: Sept. Sept. 2014, May 2012; New policy: Sept. 2010

**NHSBA Revision Notes: September 2023,** Substantial revisions and reformatting throughout. The impetus for revision was the 2023 passage of SB179 and HB491, both amending provisions of RSA 126-U. SB179 refined the definition of seclusion, and added a requirement for use of "co-regulators". SB179 further requires the Dept. of Education and Dept. of Health and Human Services to develop a form for reporting the information required in RSA 126-U:7, II. As of preliminary release of this revision (9/8/2023), the form had not been released. HB491 added a specific definition and prohibition of the use of "prone restraint" (previously would have been prohibited as a form of dangerous restraint technique). Sections also added to sample policy relative to mandated reporting for violations of RSA 126-U, and review of IEPs, 504 plans, behavior intervention plans, or other such individualized plans following use of restraint or seclusion. **September 2014:** Numerous changes to this policy were necessitated by legislative changes to RSA 126-U.

- A. **Policy Statement.** This policy is designed to help ensure the safety and dignity of all students by limiting and regulating the use of restraint and seclusion only as crisis or emergency responses. Restraint and seclusion of students is prohibited in the District except as described below.



B. **Definitions.** For the purposes of this policy,

1. **"Restraint"** means bodily physical restriction, mechanical devices, or any device that immobilizes a person or restricts the freedom of movement of the torso, head, arms, or legs. It includes mechanical restraint, physical restraint, and medication restraint used to control behavior in an emergency or any involuntary medication. It is limited to actions taken by persons who are school or facility staff members, contractors, or otherwise under the control or direction of a school or facility.
  - a. **"Medication restraint"** occurs when a child is given medication involuntarily for the purpose of immediate control of the child's behavior.
  - b. **"Mechanical restraint"** occurs when a physical device or devices are used to restrict the movement of a child or the movement or normal function of a portion of his or her body.
  - c. **"Physical restraint"** occurs when a manual method is used to restrict a child's freedom of movement or normal access to his or her body.
  - d. **"Prone restraint"** is a prohibited physical restraint technique which occurs when a child is intentionally placed face-down on the floor or another surface, and the child's physical movement is limited to keep the child in a prone position. For the purpose of this definition, physical restraint that involves the temporary controlling of an individual in a prone position while transitioning to an alternative, safer form of restraint is not considered to be a prohibited form of physical restraint.
  - e. **Exceptions to definition of restraint.** The term "restraint" DOES NOT, however, include:
    - i. Brief touching or holding to calm, comfort, encourage, or guide a child, so long as limitation of freedom of movement of the child does not occur.
    - ii. The temporary holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a child to stand, if necessary, and then walk to a safe location, so long as the child is in an upright position and moving toward a safe location.
    - iii. Physical devices, such as orthopedically prescribed appliances, surgical dressings and bandages, and supportive body bands, or other physical holding when necessary for routine physical examinations and tests or for orthopedic, surgical, and other similar medical treatment purposes, or when used to provide support for the achievement of functional body position or proper balance or to protect a person from falling out of bed, or to permit a child to participate in activities without the risk of physical harm.
    - iv. The use of seat belts, safety belts, or similar passenger restraints during the transportation of a child in a motor vehicle.
    - v. The use of force by a person to defend himself or herself or a third person from what the actor reasonably believes to be the imminent use of unlawful force by a child, when the actor uses a degree of such force which he or she reasonably believes to be necessary for such purpose and the actor does not immobilize a child or restrict the freedom of movement of the torso, head, arms, or legs of any child.
2. **"Dangerous Restraint Technique"** are prohibited forms of restraint and/or behavior techniques that include:

- a. Prone restraint, or any other physical restraint or containment technique that:
    - i. Obstructs a child's respiratory airway or impairs the child's breathing or respiratory capacity or restricts the movement required for normal breathing;
    - ii. Places pressure or weight on, or causes the compression of, the chest, lungs, sternum, diaphragm, back, or abdomen of a child;
    - iii. Obstructs the circulation of blood;
    - iv. Involves pushing on or into the child's mouth, nose, eyes, or any part of the face or involves covering the face or body with anything, including soft objects such as pillows, blankets, or washcloths; or
    - v. Endangers a child's life or significantly exacerbates a child's medical condition.
  - b. The intentional infliction of pain, including the use of pain inducement to obtain compliance.
  - c. The intentional release of noxious, toxic, caustic, or otherwise unpleasant substances near a child for the purpose of controlling or modifying the behavior of or punishing the child.
  - d. Any technique that unnecessarily subjects the child to ridicule, humiliation, or emotional trauma.
  - e. Other forms of physical and medical restraint shall be administered in such a way so as to prevent or minimize physical harm. During the administration of restraint, the physical status of the child, including skin temperature, color, and respiration, shall be continuously monitored. The child shall be released from restraint immediately if they demonstrate signs of one or more of the following: difficulty breathing; choking; vomiting; bleeding; fainting; unconsciousness; discoloration; swelling at points of restraint; cold extremities, or similar manifestations.
3. **"Seclusion"** means: the involuntary confinement of a child alone in any room or area from which the child is unable to exit, either due to physical manipulation by a person, a lock, or other mechanical device or barrier, or from which the child reasonably believes they are not free to leave; or, the involuntary confinement of a child to a room or area, separate from their peers, with one or more adults who are using their physical presence to prevent egress.

The term "seclusion" DOES NOT, however, include: the voluntary separation of a child from a stressful environment for the purpose of allowing the child to regain self-control, when such separation is to an area which a child is able to leave; circumstances in which there is no physical barrier, and the child is physically able to leave; or involuntary confinement of a child to a room or area with an adult who is actively engaging in a therapeutic intervention. A circumstance may be considered seclusion even if a window or other device for visual observation is present, if the other elements of this definition are satisfied.

- C. **Training Required.** Under RSA 126-U:5, II, the restraint may only be used/implemented by trained school staff, while 126-U:5-a, II applies the same limitation to the use of seclusion. The Superintendent shall ensure that:

1. each school building has staff who have been appropriately trained in the proper and safe implementation of seclusion or restraint techniques;



2. each school building has staff who have been appropriately trained and are authorized to assess the mental, emotional, and physical well-being of a student relative to a period of restraint that exceeds 30 minutes in conditions described in \_\_\_, below; and
  3. ~~☞ Delete endnote~~ all employees, designated volunteers and other persons who are required to have criminal history background checks under Board policy GBCD receive *general training* in the requirements and prohibitions of this policy, as well as basic de-escalation procedures. *Personnel who have only received such general training are not authorized to use restraint or seclusion upon any student.*
- D. **Procedures for Managing the Behavior of Students.** General procedures for managing student behavior are found in Board policies, District ~~and each school's~~ Code(s) of Conduct, and student handbooks. Behavior of individual students may be addressed in applicable individualized educational plans, 504 plans, behavior intervention plans, or other such individualized documents. The Superintendent is authorized to establish additional procedures for managing student behavior and to implement this Policy as needed. Such procedures shall be consistent with all Board policies and all applicable laws or regulations. The Superintendent is further authorized to establish any other procedures necessary to implement this policy and/or any other legal requirements.
- E. **Provisions Governing the Circumstances in Which – and Conditions by Which Forms of Restraint May and May Not Be Used.**

1. **Authorized Use of Restraint.**

a. General.

- i. Restraint may only be used by trained personnel using extreme caution when *all other interventions have failed or have been deemed inappropriate.*
  - ii. The determination of whether the use of restraint is justified in a specific instance must be made with consideration of all relevant circumstances, including whether continued acts of violence by a child to inflict damage to property will create a substantial risk of serious bodily harm to the child or others.
  - iii. Restraint may only be used to ensure the immediate physical safety of any person when there is a substantial and imminent risk of serious bodily harm to the student or others.
  - iv. Restraint shall never be used either explicitly or implicitly as punishment for the behavior of a child.
  - v. Restraint will not be imposed for longer than is necessary to protect the student or others from the substantial and imminent risk of serious bodily harm.
  - vi. Restraint will be *discontinued immediately* if a child demonstrates signs of one or more of the following: difficulty breathing; choking; vomiting; bleeding; fainting; unconsciousness; discoloration; swelling at points of restraint; cold extremities, or similar manifestations.
- b. **Restraint Periods Exceeding 15 Minutes.** Pursuant to RSA 126-U:11, no period of restraint of a student may exceed 15 minutes without the approval

of a supervisory employee designated by the Superintendent or Principal to provide such approval.

*However, no period of restraint of a student may exceed 30 minutes unless an assessment of the mental, emotional, and physical well-being of the student is conducted by an employee trained and authorized to make such assessments.*

Such assessments shall be repeated at least every 30 minutes during the period of restraint. Each such assessment shall be documented in writing and such records shall be retained by as part of the Written Notification required in **Section G.1.c**, below.

2. **Prohibition of Certain Forms of Restraint.** The use of any dangerous restraint technique as defined in Section A, above, is prohibited. Additionally, medical and mechanical restraints are prohibited except that limited mechanical restraint may be used in transportation as described in and subject to the conditions set forth in **paragraph 3, of this Section**.
3. **Limited Use of Mechanical Restraints During Transportation.** Pursuant to RSA 126-U6, the use of Mechanical Restraints is generally prohibited. However, RSA 126-U:12 allows the use of mechanical restraint during transportation when case-specific circumstances dictate that such methods are necessary.

Whenever a student is transported to a location outside the school, the Superintendent or designee will ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort the student in a manner which:

- a. Prevents physical and psychological trauma;
- b. Respects the privacy of the child; and
- c. Represents the least restrictive means necessary for the safety of the child.

Whenever a student is transported using mechanical restraints, the Superintendent or designee will document in writing the reasons for the use of the mechanical restraints as described in **Section G.3** below.

4. **Reporting and Notification.** Any occurrence or incident or occurrence in which restraint is used shall be followed by reports and notification as described in **Section G**, below.

**F. Use of Seclusion.**

1. **Circumstances in Which - and Conditions by Which - Seclusion May and May Not Be Used.**
  - a. Seclusion may only be used by personnel trained in the proper use of seclusion as provided in **Section C**, above.
  - b. Seclusion may only be used when a student's behavior poses a substantial and imminent risk of physical harm to the student or others and may only continue until that danger has dissipated.
  - c. Seclusion shall only be used after other approaches to the control of behavior have been attempted and been unsuccessful or are reasonably concluded to



be unlikely to succeed based on the history of actual attempts to control the behavior of a particular child.

- d. Seclusion will not be used explicitly or implicitly as a form of punishment or discipline for the behavior of a student.
- e. Seclusion shall not be used in a manner that unnecessarily subjects the child to the risk of ridicule, humiliation, or emotional or physical harm.

**2. Conditions of Seclusion.** When seclusion is permitted under this policy,

- a. it may only be imposed in rooms which:
  - i. Are of a size which is appropriate for the chronological and developmental age, size, and behavior of the children placed in them.
  - ii. Have a ceiling height that is comparable to the ceiling height of the other rooms in the building in which they are located.
  - iii. Are equipped with heating, cooling, ventilation, and lighting systems that are comparable to the systems that are in use in the other rooms of the building in which they are located.
  - iv. Are free of any object that poses a danger to the children being placed in the rooms.
  - v. Have doors which are either not equipped with locks or are equipped with devices that automatically disengage the lock in case of an emergency. For the purposes of this subparagraph, an "emergency" includes, but is not limited to:
    - A. The need to provide direct and immediate medical attention to a child;
    - B. Fire;
    - C. The need to remove a child to a safe location during a building lockdown; or
    - D. Other critical situations that may require immediate removal of a child from seclusion to a safe location.
- b. Each use of seclusion shall be directly and continuously visually and auditorily monitored by a person trained in the safe use of seclusion (e.g., in person, window with accommodation for sound, video with audio feed).

- 2. Required Use of Co-Regulators.** When seclusion is used, the Principal, or when he or she is not immediately available, her/his designee or the then supervising employee, shall designate a co-regulator to monitor the child and develop a plan to help the child manage their state of regulation and their return to a less restrictive setting. The co-regulator shall check the child at regular intervals not to exceed 30 minutes between any one interval. The co-regulator shall be selected and designated in the following order of preference:

- a. A trusted adult selected by the child.
  - b. A clinician or counselor trained in trauma informed practices.
  - c. A staff member known to have a positive relationship with the child.
  - d. A staff member who was **NOT** involved in the incident that led to seclusion.
3. **Reporting and notification.** Any occurrence or incident in which seclusion is used shall be documented and followed with reports and notification as described in **Section G, below**. Multiple incidents of seclusion/restraint may be present within a single occurrence, and should be individually described within the reports and notifications.

**G. Reporting, Notification and Record Keeping Requirements.**

1. **Restraint and Seclusion.** Whenever restraint or seclusion has been used on a child, the following shall apply:
  - a. Immediate verbal report to Principal, designee or then current supervising employee: Immediately after the occurrence of seclusion or restraint and any threat to safety is no longer imminent, the employee who uses seclusion or restraint shall provide verbal notice to the Principal, principal's designee or other supervising employee on duty.
  - b. Initial Notification to Parent/Guardian: Upon receipt of a report of the use of seclusion or restraint, and unless prohibited by court order, the Principal, principal's designee or other supervising employee who received the immediate verbal report described in **Paragraph G.1.a**, s/he shall make reasonable efforts to contact the child's parent or guardian as soon as is practicable, but in *no later than the time of the return of the child to the parent/guardian or the end of the business day, whichever is earlier*. The form of notice shall be in the manner calculated to give the parent/guardian actual notice of the incident at the earliest possible time.
  - c. Written Notification to Superintendent: Within five business days of the use of seclusion or restraint, the employee who used seclusion or restraint on a child, will, with the assistance of the Principal or other employee who received the immediate verbal report (or if the employee is not available, the Principal or other recipient of the immediate report) will submit written notification on the form provided by the New Hampshire Departments of Education and Health and Human Services (the "DOE/DHHS form") to the Superintendent. In the absence of the availability of the DOE/DHHS form, the submission shall nonetheless be in writing and include all of the information required under RSA 126-U:7, II. The DOE/DHHS form or other writing used will be referred to as the Written Notification.

**[Delete endnote]**

If the use of restraint on a child exceeded 30 minutes, the Written Notification shall also include information pertaining to the assessments described in **Section E.1.b, above**.

- d. Written Information to Parent/Guardian: Unless prohibited by court order, within 2 business days of receipt of the Written Notification, the Superintendent/designee shall send by USPS first class mail, or transmit by electronic means, to the child's parent/guardian all of the information included in the Written Notification or the Written Notification itself.
- e. Final Investigation and Report: **[Delete endnote]** The Superintendent or Superintendent's designee shall review and investigate each incident of



seclusion or restraint for a determination as to whether the use complied with this policy, RSA 126-U and Ed 1201-1203. After the completion of a reasonable review/investigation, the Superintendent or her/his designee, shall follow the Written Notification with a Final Report of the incident. The Final Report should include findings and conclusions, the documentary and other physical evidence (or summary of oral evidence), and a description of actions taken in response to those findings and conclusions.

2. **Additional Reporting Required for Injury or Death of a Child Subject to Restraint or Seclusion.** In cases involving serious injury or death to a child subject to restraint or seclusion in a school, the Principal/Superintendent designee shall, in addition to the reports and notifications described above, and in accordance with the provisions of RSA 126-U:7, notify the Commissioner of the Department of Education, the New Hampshire Attorney General, general, and the New Hampshire Disability Rights Center using the contact information provided by the Department of Education. ~~[(iv)] Delete endnote~~ Such notice shall include the Official/Written Notification required in **Section G.c.**, above.
3. **Additional Documentation Regarding Use of Mechanical Restraint.** Whenever a child is transported using mechanical restraints, the person(s) completing the Official Report Form/written notification described in **G.1.c.**, above, shall include the reasons for the use of mechanical restraints. Such documentation shall be treated and retained as a notification of restraint under RSA 126-U:7. ~~[(iv)] Delete endnote~~
4. **Documentation for Other Intentional Physical Contact Between Employee and Student.** The following shall apply whenever there is an instance where a school employee ~~[(iv)] Delete endnote~~ or designated volunteer has intentional physical contact with a student in response to a student's aggressive misconduct or disruptive behavior.
  - a. **Notice to parents:** the Principal, designee or other supervising employee will make reasonable efforts to promptly notify the student's parent or guardian. *Such notification shall be made no later the time of the return of the child to the parent/guardian or the end of the business day, whichever is earlier.* The form of notice shall be in the manner calculated to give the parent/guardian actual notice of the incident at the earliest possible time.
  - b. **Physical Contact Written Description:** Unless the incident is subject to the notice and reporting requirements of **Section G.1** above, the Principal shall prepare a written description of the incident ("Physical Contact Written Description") of the incident within five (5) business days of the occurrence/incident. The Physical Contact Written Description will include:
    - i. The date and time of the incident.
    - ii. A brief description of the actions of the child before, during, and after the occurrence.
    - iii. The names of the persons involved in the occurrence.
    - iv. A brief description of the actions of the facility or school employees involved before, during, and after the occurrence.
    - v. A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during, or after the incident.



2. **Circumstances when Reporting/Notification is not Required.** The notification, reporting and record keeping requirements included in this **Section G** are not required in the following circumstances:

- a. When a child is escorted from an area by way of holding of the hand, wrist, arm, shoulder, or back to induce the child to walk to a safe location. If, however, the child is actively combative, assaultive, or causes self-injury while being escorted, then the notification requirements described above are applicable.
- b. When actions are taken such as separating children from each other, inducing a child to stand, or otherwise physically preparing a child to be escorted.
- c. When the contact with the child is incidental or minor, such as for the purpose of gaining a misbehaving child's attention. However, blocking of a blow, forcible release from a grasp, or other significant and intentional physical contact with a disruptive or assaultive child shall be subject to the notification and reporting requirements described above.

2. **Retention of Records.** All reports, notifications and other records created pursuant to this Section, or Sections **H, I or J**, shall be retained [the term of the student's enrollment plus three years, unless:

- a. the student is or was a student with an individualized educational program, in which case, the records shall be retained and destroyed in accordance with paragraph B.1 of Board policy **{\*\*} EHB**; or
- b. a longer period is required pursuant to instruction by the Department of Education or the Department of Health and Human Services. **[will Delete endnote]**

- G. **Mandatory Reporting of Violations by Others.** Any school employee who has reason to believe that the action of another may constitute a violation of this policy, or the provisions of RSA 126-U, must report the suspected violation to the Principal or Superintendent in accordance with the reporting procedures of Board policy **{\*\*} GBEAB**. The conduct giving rise to the suspected violation may well likely require reporting under Board policies **{\*\*} JLF – Reporting Child Abuse or Neglect**.

- H. **Complaints of Violation of RSA 126-U.** **[will Delete Endnote]** Any individual may file a complaint with the Superintendent's office alleging a violation of this policy or RSA 126-U. The complainant should be encouraged to file the complaint in writing with the information listed in paragraph 1 below, but if declined, the Superintendent/designee should promptly prepare a written summary of the complaint with such information as could be obtained from the complainant. The complaint should be made as soon as possible after the incident. (Note that under Ed 1203.02, complaints to the New Hampshire Department of Education made more than twelve months after an incident will be dismissed by the Department.)

1. **Complaint Contents.** The written complaint or complaint summary should include:

- a. The complainant's name, unless the complaint refuses;
- b. The date or approximate date of the alleged incident;
- c. The location of the alleged incident;
- d. The name of the child or children subject to the alleged restraint or seclusion, if known;
- e. The name of the school personnel alleged to have restrained or secluded the child, if known;



- f. A description of the alleged restraint or seclusion; and
  - g. The date of complaint.
2. **Investigation and Resolution of Complaint.** The complaint or grievance will be investigated by the Superintendent, or another person designated by the Superintendent. The Complainant should be contacted no later than 5 business days (excluding school year vacations) following the date of the complaint.

In most cases, investigation of the complaint should be completed within 20 days following receipt of the complaint. If the Superintendent is not personally conducting the investigation, however, the extension of time must first be approved by the Superintendent. When extra time is required, the reasons for the extension should be included in the final investigative report.

A written investigative report of the findings and conclusions (whether the complaint is founded or unfounded) should be completed within five days of completion of the investigation. In addition to findings and conclusions, the investigative report must include the documentation of the evidence (or summary of oral evidence) relied upon.

The Superintendent will contact the complainant within 5 days after the report is completed to discuss the completion of the investigation. The amount of information provided is dependent on the nature of the complainant and the legal privacy of the concerned parties. If the complainant is the parent or guardian of the child concerned, the Superintendent may allow the parent/guardian access to the written report in the same manner as any other student record.

The Superintendent shall take such actions as are appropriate in light of the investigative report, including, without limitation, any mandatory or discretionary reports to outside agencies, employee discipline, ordering further investigation, training, etc..

Any further review of the original complaint or investigative report will be in accordance with other established processes, e.g., grievance processes within applicable collective bargaining agreements, Board policies relating to complaints such as found in **[\*\*]** KEB and **[\*\*]** GBK.

The written complaint/complaint summary, the investigative report, evidence and other documents concerning the complaint shall be retained in accordance with Ed 1202.02(e).

- I. **Review of IEP or 504 Plan Following the Use of Restraint or Seclusion.** Pursuant to RSA 126-U:14, upon information that restraint or seclusion has been used for the first time upon a child with a disability as defined in RSA 186-C:2, I or a child who is receiving services under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. section 701, and its implementing regulations, the school shall review the individual educational program and/or Section 504 plan and make such adjustments as are indicated to eliminate or reduce the future use of restraint or seclusion.

If there have been multiple instances of restraint or seclusion of a child with a disability since the last IEP/504 plan review, an additional review shall occur at the request of the parent or guardian of the child.

- J. **Prohibition Against Retaliation or Harassment.** No person shall subject any individual to harassment or retaliation for filing, in good faith, a report under this policy, RSA 126-U, or Department of Education Rules Ed 1200. **Dissemination of Policy.** A copy of this policy shall be provided to the parent, guardian, or legal representative of each full or part-time student



upon enrollment, and annually thereafter printed in each student handbook. Additionally, the policy will be included on each school's website and/or the online School Board Policy Manual available to the general public.

- K. **Dissemination of Policy.** A copy of this policy shall be provided to the parent, guardian, or legal representative of each full or part-time student upon enrollment, and annually thereafter printed in each student handbook. Additionally, the policy will be included on each school's website and/or the online School Board Policy Manual available to the general public.

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**District Policy History:**

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

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

**District revision history:**

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**ENDNOTES**

<sup>[i]</sup> **[Delete endnote]** Although RSA 126-U does not specifically require such training, failing to provide greatly increases the likelihood that untrained staff will react to a situation with the unauthorized and prohibited use of restraint or seclusion.

<sup>[ii]</sup> **[Delete endnote]** As of August 10, the form to be developed by DOE and DHHS was not available. Pending the release of that form, districts should use the same submission formats used in the past, which, in turn, were required under RSA 126-U:7, II, to include the same information now required to be included in the DOE/DHHS Official Report Form.

<sup>[iii]</sup> **[Delete endnote]** Although neither the statute nor the rules discuss a procedure for finalizing a report relative to an instance of restraint or seclusion, both reference the fact of one. See 126-U:7, II (m), Ed 1202.02 (b)(13) and Ed 1202.03 (c)(13).

<sup>[iv]</sup> **[Delete endnote]** The New Hampshire Disability Rights Center is New Hampshire's federally-designated protection and advocacy agency for individuals with disabilities

<sup>[v]</sup> **[Delete endnote]** This sentence is verbatim from RSA 126-U:12, III except for the inclusion of "and retained". Although somewhat ambiguous, NHSBA recommends that the documentation of reasons for use of the mechanical restraint should be included with/supplemental to the report and records required under 126-U:7.

<sup>[vi]</sup> **[Delete endnote]** The statute (126-U:7, V) does not include designated volunteers, but the exact same principles apply, as would the subsequent investigation by DOE in the event a parent takes exception to the contact.

<sup>[vii]</sup> **[Delete endnote]** Multiple provisions of RSA 126-U include statements to the effect of retaining records in accordance with Dept of Ed rules. However, those rules do not include a finite date. Rather, they indicate that they must be retained and available for both the mandatory three year DOE review, or otherwise when DOE investigates complaints of violations of 126-U or Ed 1200 rules.

<sup>[viii]</sup> **[Delete endnote]** Neither 126-U nor DOE rules Chapter 1200 include specific provisions relating to a district level complaint process. However, Ed 1202.02 provides that "[s]chools shall document complaints that they determine do not meet the criteria for a violation of 126-U", and then further



requires the District to maintain those records for possible DOE/DHHS review. Additionally, the statute and rules both provide for a complaint process at the DOE level, with the DOE rules allowing “any individual” to file such a complaint – **even anonymously – with no written complaint required**. NHSBA, therefore, believes as a matter of board policy, having a specific process outline for reviewing and documenting such complaints at the district level is warranted.

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### **NH Statutes**

RSA 126-U

### **Description**

[Limiting the Use of Child Restraint Practices](#)

RSA 169-C:29-39

[Reporting Law](#)

RSA 186-C

[Special Education](#)

### **NH Dept of Ed Regulation**

N.H. Code of Admin. Rules Chapter 1200

### **Description**

[Restraint and Seclusion for Children](#)

### **Federal Statutes**

Section 504, 29 U.S.C. 701, et. seq.

### **Description**

[Section 504 of The Rehabilitation Act of 1973](#)

### **Cross References**

### **Code**

EBB

### **Description**

[School Safety](#)

EHB

[Data/Records Retention](#)

EHB-R(1)

[Data/Records Retention - Local Records Retention Schedule](#)

GBEAB

[Mandatory Code of Conduct Reporting - All Employees](#)

JLF

[Reporting Child Abuse or Neglect](#)

JRA

[Student Records and Access \(FERPA\)](#)

JRA-R(1)

[Student Records and Access \(FERPA\)](#)