

CHANGE OF CLASS OR SCHOOL ASSIGNMENT ON THE BASIS OF BEST INTEREST OR MANIFEST EDUCATIONAL HARDSHIP**General Assignment Authority**

The Superintendent has the general authority to assign students to the schools within the District and shall do such in a manner consistent with the Articles of Agreement, and Board Policies. No student shall attend a school to which they have not been assigned. This policy shall not be construed to limit the Superintendent's discretion to make other in-District assignments consistent with applicable Board policies and administrative rules.

Class Assignment Authority and Change of Class Assignment

The principal of each school in the District and his/her designees shall have the authority to assign students to their classes and schedule. The principal shall have the authority to change a student's class assignment or schedule when he/she deems it in the best interests of the student or school to do such, provided such change is consistent with any applicable Individualized Education Plan or Section 504 Plan. The principal shall have the broad discretion and authority to make or change a student's class assignment for reasons such as, but not limited to, student discipline, a remedial measure to address bullying or conflict between students, student safety concerns, pedagogical reasons, balancing enrollment, addressing staffing concerns, or providing interim supportive measures to students or staff.

The Superintendent shall also have the broad discretion and authority, consistent with state law and Board policies, to change a student's assigned class or schedule, and may, when appropriate, modify or change an assignment made by a principal when she/he deems such to be appropriate. This policy, however, does not limit the Superintendent's discretion to make other in-District class and schedule assignments consistent with applicable Board policies and administrative rules. The decision of the Superintendent as to a student's class assignment or schedule shall be final and shall not be appealable.

Nothing herein shall override the authority of an IEP Team under the IDEA to make a placement, to assign a student to particular classes, or to modify their schedule when deemed necessary to provide a Free Appropriate Education at Public Expense (FAPE). Nothing herein shall override the authority of the Title IX Coordinator to change a student's class assignments or schedule as part of a supportive measure under Title IX.

A. "Best Interest" Reassignment to Another School

In circumstances where the best interests of a student warrant a change of school assignment, the Superintendent or his/her designee is authorized to reassign a student from the public school to which he/she is currently assigned to another public school, either in or out of the District, a public academy in another district, or an approved private school. The Superintendent also has the authority to approve a request from another Superintendent to accept a transfer of a student from another school district to a school within the District. This section sets out the procedures for a "Best Interest" reassignment.

CHANGE OF CLASS OR SCHOOL ASSIGNMENT ON THE BASIS OF BEST INTEREST OR MANIFEST EDUCATIONAL HARDSHIP1. Procedure

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

2. The Superintendent's Finding on Reassignment

In order for a student to be reassigned there must be a finding by the Superintendent that reassignment is in the student's best interests, after taking into consideration the student's academic, physical, personal, or social needs.

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

CHANGE OF CLASS OR SCHOOL ASSIGNMENT ON THE BASIS OF BEST INTEREST OR MANIFEST EDUCATIONAL HARDSHIP

- c. If the Superintendent does not find that it is in the best interest of the student to change the student's school or assignment, the parent/guardian may request a hearing before the School Board to determine if the student is experiencing a manifest educational hardship as provided in Section B of this policy.

3. Tuition Determination

If a student is to be reassigned to a public school in another school district or approved public academy as a result of a best interest determination, the Superintendent shall work with the Superintendent or administrator of the receiving school district/approved school to establish a tuition rate for such student. Pursuant to RSA 193:3, I(g), if the Superintendent has made a finding that it is in the best interest of the student to be reassigned, then the School Board shall approve the tuition payment consistent with the Board's ordinary manifest approval procedures.

If the student is reassigned to an approved private school as a result of a best interest determination, that school may charge tuition to the parent/guardian or may enter into an agreement for payment of tuition with the school district in which the student resides. The Superintendent shall consult with legal counsel regarding tuition obligations in such an instance. Any such Agreement shall be subject to approval by the School Board on behalf of the school district and shall be at the sole discretion of the School Board with due consideration given to the fiscal impact of such approval on the district and shall not be granted if in the opinion of the School Board there are other viable public school options for reassignment.

The Superintendent shall assure that the reassignment approval is placed on the agenda for the next regularly scheduled board meeting.

4. Transportation

Transportation for a student reassigned to a school in another district under Section A (Best Interest) shall be the responsibility of the parent/guardian.

5. Tuition for Students Reassigned by Other Districts

Pursuant to RSA 193:3, I, it is the general policy of the Board that the tuition amount to be charged to another district for any student reassigned by that district to a school within this district under the best interest standard of RSA 193:3, I shall be the lesser of the tuition charged for non-residential students under Board policy JFAB or as computed under the formula set out in RSA 193:4. The Superintendent, however, is authorized to reduce the tuition amount below those thresholds or for other good cause shown (e.g. reciprocal assignments between the two districts).

CHANGE OF CLASS OR SCHOOL ASSIGNMENT ON THE BASIS OF BEST INTEREST OR MANIFEST EDUCATIONAL HARDSHIP6. Final Decision

The decision of the Superintendent shall be final and any appeal shall be limited to the process set forth in Section B.

7. Annual Review

A reassignment on the basis of best interest of the student shall be limited to no longer than the end of the ensuing school year, and shall be subject to review by the Superintendent prior to any subsequent school year to determine that the reassignment remains in the best interest of the student, with the understanding that the Superintendent may, at his/her discretion, waive the review when he/she deems such to be appropriate.

B. Manifest Educational Hardship – Determination by School Board and Appeal to State Board

If, after following the procedure outlined in Section A of this policy, the Superintendent did not find that it was in the best interest of the student to reassign the student as requested by the student's parent/guardian, then the parent/guardian may within thirty (30) days submit a request to the Superintendent for a hearing before the School Board in accord with paragraph 2 herein, to determine if the student is experiencing a manifest educational hardship.

1. “Manifest Educational Hardship” Defined

As provided in RSA 193:3, II (a), “manifest educational hardship” means that a student has a documented hardship in his or her current educational placement; and that such hardship has a detrimental or negative impact on the student's academic achievement or growth, physical safety, or social and emotional well-being. Such hardship must be so severe, pervasive, or persistent that it interferes with or limits the ability of the student to receive an education.

2. Procedure for Determination of Manifest Educational Hardship

- a. Within thirty (30) days after receipt of the Superintendent's written determination described that reassignment is not in a student's best interest as described in paragraph A.2.a. above, the parent/guardian may request a manifest educational hardship hearing by submitting a written application to the Superintendent detailing the specific reasons why they believe that the current assignment constitutes a manifest educational hardship.

CHANGE OF CLASS OR SCHOOL ASSIGNMENT ON THE BASIS OF BEST INTEREST OR MANIFEST EDUCATIONAL HARDSHIP

- b. The Superintendent shall duly notify the school board that the parent/guardian has requested a manifest educational hardship hearing, upon which the school board shall schedule a hearing to be held no more than fifteen (15) days after the request has been received by the Superintendent. The Board shall provide at least two (2) full days notice of the hearing. The Board will conduct the hearing in non-public session, unless the parent/guardian requests the hearing be held in public session, subject to RSA 91-A:3, II(c).
- c. Prior to or at such hearing, the parent/guardian shall provide to the Superintendent a specific request in writing that the student attend another public school or approved private school in the district, or attend a public school, public academy, or approved private school in another school district. The Superintendent shall provide such request to the School Board at the hearing. Although not required, the parent/guardian may include this request as part of the original hearing request.
- d. At such hearing, the parent/guardian may present documents, witnesses, or other relevant evidence supporting their belief that the student is experiencing a manifest educational hardship. The Superintendent may present such information as he/she may deem appropriate to assist the School Board in reaching its decision. The parties (or their appointed designee) shall have the right to examine all evidence and witnesses. The formal rules of evidence shall not apply. The Superintendent will assure the means for the Board to establish an adequate record of the hearing.
- e. The parent/guardian shall have the burden of establishing the presence of a manifest educational hardship by clear and convincing evidence, which means that the evidence is highly and substantially more likely to be true than untrue, and the Board must be convinced that the contention is highly probable.
- f. The Board will render its decision in writing within seven (7) days after the hearing and will forward its written decision to the parent/guardian via means producing proof of delivery (e.g., courier, email, etc.). The decision will conform to the requirements of NH Department of Education Rule Ed 320(c)-(e).

3. Finding of Manifest Educational Hardship

If the School Board finds that the student has a manifest educational hardship, the School Board shall grant the parent's or guardian's request to reassign the student to another public school or approved private school in the district, or to a public school, public academy, or approved private school in another district.

CHANGE OF CLASS OR SCHOOL ASSIGNMENT ON THE BASIS OF BEST INTEREST OR MANIFEST EDUCATIONAL HARDSHIP**4. Finding that Manifest Educational Hardship Was Not Established – Appeals to the New Hampshire State Board of Education**

If the School Board finds that the parent/guardian has not met their burden of proof, the parent/guardian may appeal the local Board decision to the New Hampshire State Board of Education (SBOE), within thirty (30) days of receipt of the Board's written decision in accordance with New Hampshire Department of Education Rule Ed 204.01(g). If a parent/guardian believes that denial of a re-assignment under this policy upon the child's disability, the parent/guardian may appeal to the SBOE or file a complaint with the New Hampshire Human Rights Commission under RSA 354-A:28

5. Tuition for Students Reassigned Upon Finding of Manifest Educational Hardship

If, after a finding of a manifest educational hardship – by either the School Board or the State Board – a student of this district is assigned to a school in another district, or a student from another district is assigned to a school in this district, the district in which the student resides shall pay tuition to the district to which the child is reassigned.

Such tuition shall be computed according to RSA 193:4. The School Board of the district in which the student resides shall approve the tuition payment consistent with its ordinary manifest approval process.

6. Transportation

Transportation for a student reassigned to schools in another district under Section B (manifest educational hardship) shall not be the responsibility of the district unless otherwise ordered by the SBOE.

7. Review

A reassignment on the basis of manifest educational hardship shall be limited to no longer than the end of the ensuing school year and shall be subject to review by the School Board prior to any subsequent school year to determine that the manifest educational hardship still exists, with the understanding that the Board may, at its discretion, waive the review when it deems such to be appropriate.

C. Admission Requirements

Students reassigned under this policy shall meet the admission requirements of the school to which the student is to be reassigned.

CHANGE OF CLASS OR SCHOOL ASSIGNMENT ON THE BASIS OF BEST INTEREST OR MANIFEST EDUCATIONAL HARDSHIP**D. Statutory Reassignment Limit**

The total reassignments or transfer made under this policy in any one school year will not exceed one (1) percent of the average daily membership in residence of a school district, or five (5) percent of the average daily membership in residence of any single school, whichever is greater, unless the School Board votes to exceed this limit.

E. Count of Reassigned Pupils, Tuition Payment and Rate, and Transportation

Pupils reassigned under this policy will be counted in the average daily membership in residence of a given pupil's resident school district. Said pupil's resident district will forward any tuition payment due to the district to which the pupil was assigned.

F. Notice to the Department of Education

The Superintendent of the pupil's resident SAU will notify the Department of Education within thirty (30) days of any reassignment made under this policy.

G. Special Education Placements.

A placement made relative to a student's special education needs and services shall not be deemed a change of school assignment for purposes of this section.

Legal References:

RSA 193:3, III, Change of School Assignment
RSA 193:3, I, II, Manifest Educational Hardship
RSA 193:14-a, Change of School Assignment; Duties of State Board of Education
NH Department of Education Administrative Rule Ed 320.01

1st Reading: January 2, 2007
2nd Review: January 16, 2007
Adoption: February 5, 2007

1st Reading: September 12, 2022
2nd Review: October 3, 2022
3rd Review: October 17, 2022
Revised: October 17, 2022