

**Merrimack School District/SAU 26
School Board Meeting
Preliminary Agenda
October 17, 2022
Merrimack Town Hall – Matthew Thornton Room**

6:00 p.m. NON-PUBLIC SESSION RSA 91-A:3, II (a) (b) (c) – Merrimack TV Training Classroom

- Staff Welfare

PUBLIC MEETING

7:00 p.m. 1. CALL TO ORDER and PLEDGE OF ALLEGIANCE Laurie Rothhaus

7:05 p.m. 2. PUBLIC PARTICIPATION Lori Peters

3. RECOGNITIONS Lori Peters

7:15 p.m. 4. INFORMATIONAL UPDATES Lori Peters

- a. Superintendent Update
- b. Assistant Superintendent for Curriculum Update
- c. Assistant Superintendent for Business Update
- d. School Board Update
- e. Student Representative Update

7:25 p.m. 5. OLD BUSINESS Lori Peters
a. School Safety Update Everett Olsen
b. Teacher Performance Evaluation Amanda Doyle

7:40 p.m. 6. NEW BUSINESS Lori Peters
a. Investing in Social Emotional Learning and Wellbeing Fern Seiden
b. Discuss Extended Learning Opportunities/Work Skills,
Ed 702.06 High School Credit Laurie Rothhaus
c. Security Action for Education (SAFE) Grant Application Matt Shevenell
d. Other

8:20 p.m. 7. POLICIES Lori Peters
a. 2nd Review of Use of Physical Restraint/Seclusion (JKAA)
b. 2nd Review of Public Participation at Board Meetings (BEDH)
c. 2nd Review of Student Records and Access (JRA)
d. 3rd Review Change of Class or School Assignment on the Basis of
Best Interest or Manifest Educational Hardship (JCA)

8:30 p.m. 8. APPROVAL OF MINUTES Lori Peters
a. October 3, 2022 Non-Public Minutes

8:35 p.m. 9. CONSENT AGENDA Amanda Doyle
a. Job Descriptions

8:40 p.m. 10. OTHER Lori Peters
a. Committee Reports
b. Correspondence
c. Comments

8:50 p.m. 11. PUBLIC COMMENTS ON AGENDA ITEMS Lori Peters

9:00 p.m. 12. ADJOURN

MERRIMACK SCHOOL DISTRICT
School Administrative Unit #26
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Tel. (603) 424-6200 Fax (603) 424-6229

AMANDA S. DOYLE
Assistant Superintendent for Curriculum

EVERETT V. OLSEN, Jr.
Interim Chief Educational Officer

MATTHEW D. SHEVENELL
Assistant Superintendent for Business

To: Laurie Rothhaus
Lori Peters
Jenna Hardy
Naomi Halter
Ken Martin
Kaitlyn Vadney

From: Everett V. Olsen, Jr.

Date: October 13, 2022

Subject: School Safety

I am pleased to provide you with an update on the activities that we have undertaken over the past year to address school safety. Once students and staff returned to in-person learning, post COVID pandemic, we began a concerted effort to once again, focus on the safety of our students and staff. Our school safety actions have included:

- Establishing a District Crisis Team
- Updating and publishing a new Crisis Management Plan
- Re-introducing safety training to our staff and students (age appropriate)
- Drafting safety drill schedules for all schools
- Conducting school security audits
- Applying for and receiving a grant for security upgrade

I will briefly explain the work associated with these actions.

Establishing a District Crisis Team

Our team met regularly throughout the 2021-2022 school year and remains active with meetings. Team members include:

MHS Principal Steve Claire
SRO Ryan Milligan
HR Director Melissa Fazlic
Director of Student Wellness Fern Seiden
Assistant Superintendent Matt Shevenell
MMS Principal Adam Carragher

JMUES Principal Nicole Rheault
RFS Principal Bonnie Painchaud
MES Assistant Principal Alisha Hansen-Proulx
Detective William Vandersyde
Former TFS Assistant Principal Michaela Champlin
Interim Chief Educational Officer Everett Olsen

The Team's work has focused on updating the school district's crisis plan flipchart and planning for staff and student school safety training. Additionally, the team updated the "Parent's Guide to Emergency Management" which provides information relative to off-site evacuation of students and staff and the child/parent reunification process.

Updating and Publishing a new Crisis Management Plan (Procedures)

Our updated crisis management plan has been distributed to all staff. This document contains emergency procedures to follow for the following emergencies.

- Medical Emergencies/Injury/Heat Stroke
- Assault/Fighting
- Missing Student
- Power Failure
- Bomb Threat/Suspicious Package/Scan
- Reverse Evacuation
- Clear Hallways
- Secure Campus/Shelter In Place
- Lockdown Response (Avoid, Deny, Defend)
- Evacuation and On-Site/Off-Site
- Gas Leak/Chemical/Hazardous Material Spill
- Fire
- Explosion
- Natural Disaster/Weather
- Bus Accident

Safety Training

Staff and students will receive safety training during the school year. The training will be based on the CRASE program (Civilian Response to Active Shooter Events).

Safety Drills

Every school bus has developed a safety drill schedule. The schedules are in compliance with RSA 189:64 and NFPA 101 (National Fire Protection Association) and include six fire evacuation drills and four all hazard drills during the school year.

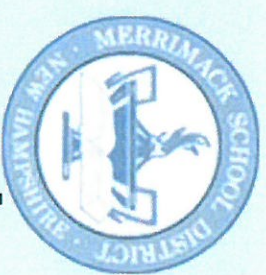
School Security Audits

I have been in communication with Neal Martin who is our Regional School Readiness Liaison with New Hampshire Homeland Security and Emergency Management. Neal participated in a meeting earlier this month with our District Crisis Team to discuss school safety audits. Neal will begin a series of comprehensive school safety audits on November 3, 2022. It will take approximately two months for the audits to be completed (all schools).

Grant for School Safety Upgrade

Assistant Superintendent Matt Shevenell applied for and received a \$120,000 grant from the Security Actions for Educators (SAFE) grant program. These funds will be used for a specific security upgrade in all schools. Please note that I will not be disclosing the nature of this upgrade.

We have been very active in addressing school safety and I will be glad to discuss this with you on Monday evening.



Investing in Social Emotional Learning and Wellbeing

Presentation to the Merrimack School Board
Fern Seiden, Director of Student Wellness
October 17, 2021

MSD School Board Goal Setting Plan



Goal Category #1: Create an engaged, inclusive, and collaborative district culture built on mutual trust and respect.

Strategic Objective #3

WHAT: Invest in the social and emotional development and well-being of our staff, students, and their families.

WHEN: Initial plan by 2nd October meeting 2022 · Update at July 2023 meeting · Annual plan by September and update in July annually

WHO: Administration in partnership with the Director of Student Wellness

Four Areas of Focus



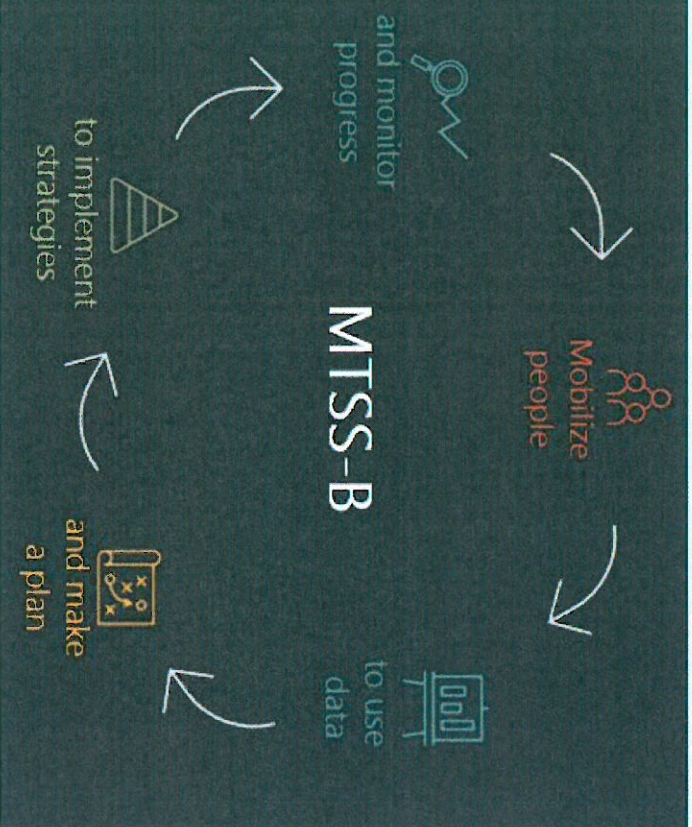
System of Care Framework

**Professional Development and
Committee Work**

**Student Social Emotional
Learning and Wellness**

**Community and Family
Engagement**

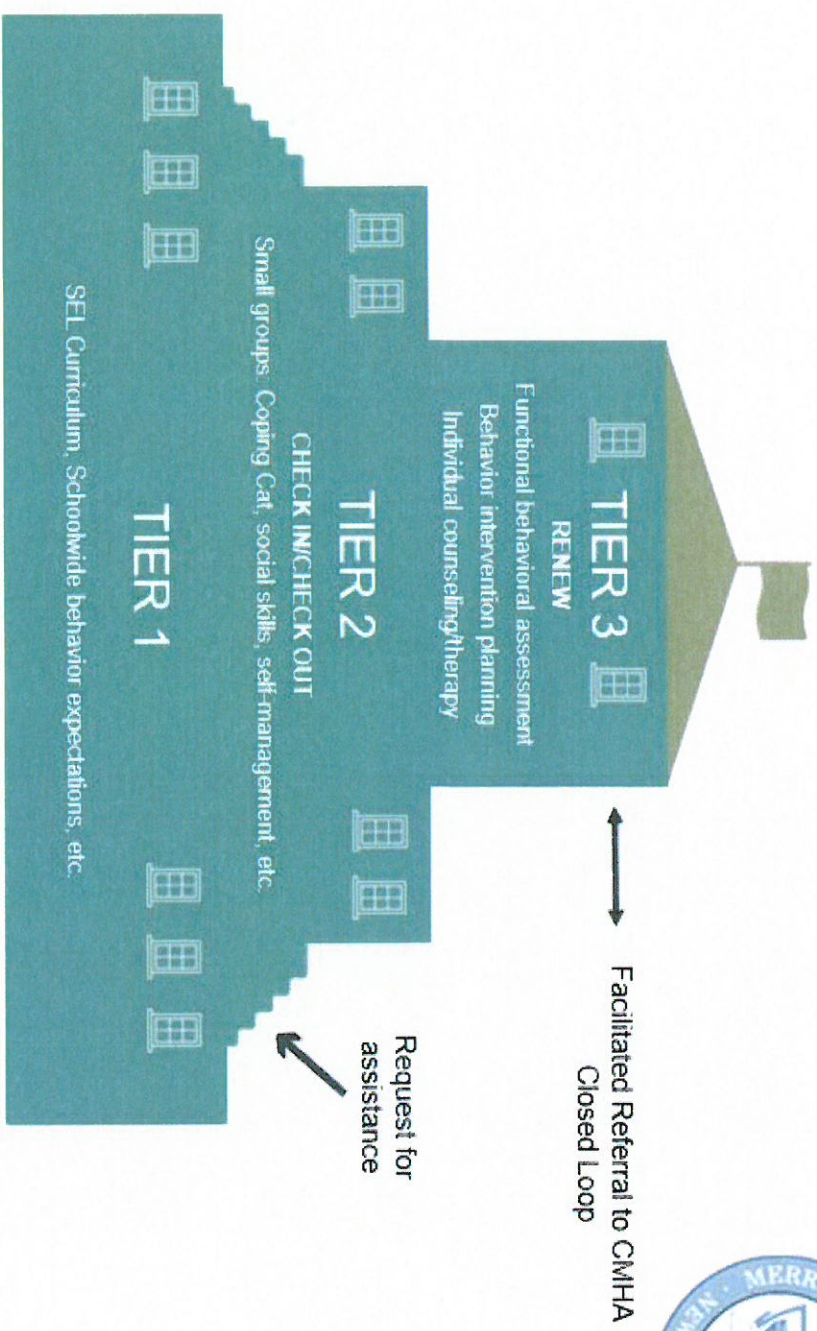
System of Care Framework



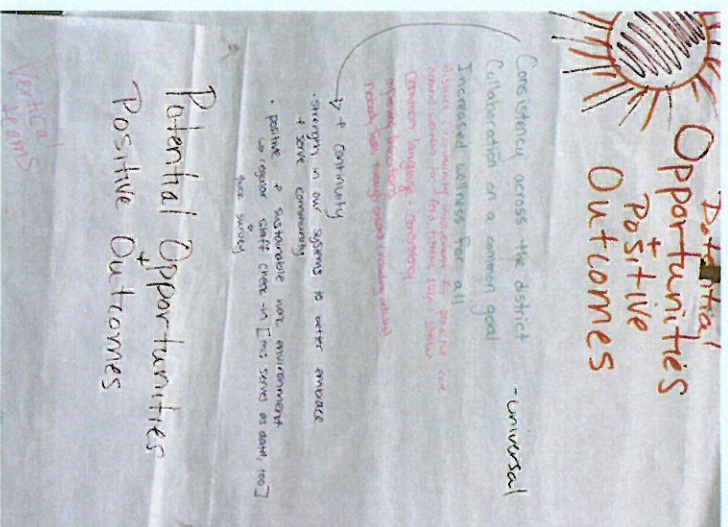
- Develop Leadership and School System of Care Multi-Tiered System of Support Teams
- Install data informed decision making processes
- Create systems to improve pathways for accessing student supports
- Align with System of Care for Children's Mental Health Law ([RSA 135F](#))
- Consult with MTSS-B Consultant from the Department of Education Office of Student Wellness



Building Sustainable Structures



Professional Development and Committee Work



Provide District Wide PD

- Executive Functioning
- Responsive Classroom
- Suicide Prevention
- Mandated Reporting
- CPI
- Fidelity to SEL Programming and Integration

Create District SELWellness PLT

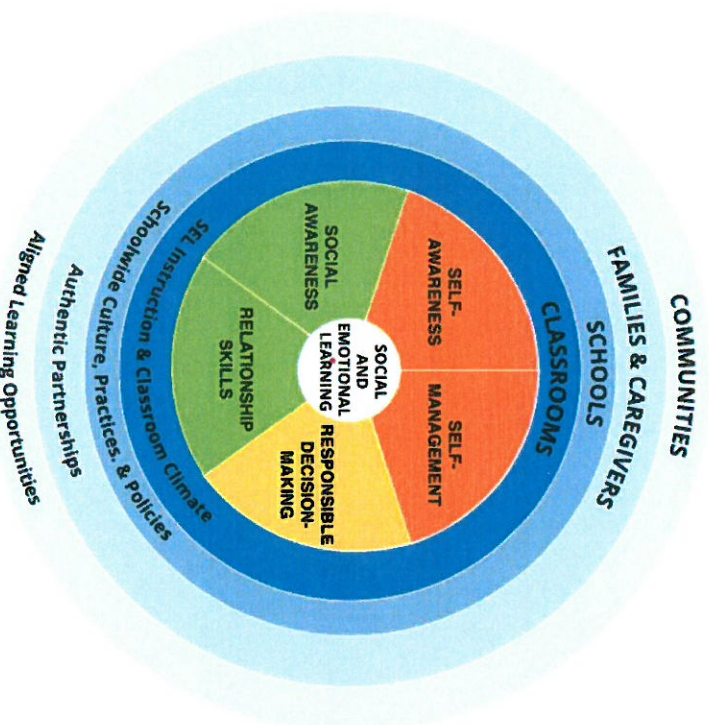
K-12 Alignment

- Drive goals related to needs of Student Support Team
- Targeted PD based on identified needs - ie. SEL Mindset, Collaborative Problem Solving

Formation of Committees for System Improvement

- Bullying Prevention
- Middle School SEL Advisory Program
- NEASC SEL Focus at High School

Student Social Emotional Wellness



- Improve SEL program fidelity through school based Tier 1 Teams and training
- Implement support for self-regulation through United Way Grant for Grades K and 1
- Align SEL Competencies with Vision of a Graduate and Learner
- Provide Service Learning Project and afterschool PD opportunities for SEL Integration
- Implement Restorative Practices to improve outcomes for student (attendance and discipline referrals)
- Create website to share SEL resources with educators

Community and Family Engagement



- Respond to community needs based on data collected through survey
- Maintain System of Care Family and Advisory Work Group
- Provide Resources and Programming
- Sustain and Expand Community Partnerships
- Improve communication through website resources

Questions ?

10/11/2022

Policy Progress Chart

Policy	1 st Reading	2 nd Review	3 rd Review	Adoption	Old Policy to Withdraw
Use of Physical Restraint/Seclusion (JKAA)	10/03/22	10/17/22			Updated from 2015
Public Participation at Board Meetings (BEDH)	10/03/22	10/17/22			Updated from 2007
Student Records and Access (JRA)	09/12/22	10/17/22			3120 and 3150
Change of Class or School Assignment Best Interest and Manifest Hardship (JCA)	09/12/22	10/03/22	10/17/22		Updated from 2007
Next in Line To go Before the Board					
Pupil Safety and Bullying (JICK) sandy add AMT second edits	11/7/22				Updated from 2011
					Notes
Student Use of Information Technology (JICL)	TBD				EEAA
(Introduce with EEAA)					
Video Surveillance on School Property (EEAA)	TBD				JICL
(Introduce with JICL)					
Wellness Policy (JLCF)					
Suicide Prevention and Response (JLDBB)					
School Choice: Access to Public School Programs by Nonpublic, Charter Schools or Home Educated Pupils (RSA 193:1-c					Melissa 8/31/22

USE OF PHYSICAL RESTRAINT/SECLUSION**Introduction**

The Merrimack School District authorizes staff members to use physical restraints and seclusion in limited situations. In addition, it is expected that school staff will implement positive and constructive methods to de-escalate potentially dangerous situations, prior to any use of physical restraint or seclusion.

A. Prevention Strategies

To the extent possible, the Merrimack School District will collaborate with the parent/guardian to identify appropriate and effective techniques for supporting positive student behavior. This shall include all strategies identified in any formal plan such as an Individual Education Plan (IEP), 504 Accommodation Plan or other Behavior Intervention Plan. Additionally, the parent/guardian will be asked to share relevant information with school personnel. The parent and/or the district may request and/or conduct assessments for students who may cause potentially dangerous situations.

Ultimately, it is the responsibility of the District to provide for the safety of all students. The general welfare and safety of both the student and others must be considered at all times. In dangerous situations where the student can cause serious, probable and imminent bodily harm to himself/herself or others, restraint or seclusion may be used. The Merrimack School District will provide the parent/guardian with a copy of the Policy and Procedures for the Use of Physical Restraint and Seclusion.

B. Definitions (RSA 126-U:1) amended 09/30/2014)

1. "Child" means a person who has not reached the age of 18 years and who is not under adult criminal prosecution or sentence of actual incarceration resulting therefrom, either due to having reached the age of 17 years or due to the completion of proceedings for transfer to the adult criminal justice system under RSA 169-B:24, RSA 169-B:25, or RSA 169-B:26. "Child" also includes a person in actual attendance at a school who is less than 22 years of age and who has not received a high school diploma.
2. "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 district staff members, contractors, or otherwise under the control or direction of the Merrimack School District.
 - 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.

USE OF PHYSICAL RESTRAINT/SECLUSION
(continued)

3. "Restraint" shall not include the following:
- a. 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.
 - b. The temporary holding of the hand, wrist, arm, shoulder, or back for the purposes of encouraging 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.
 - c. 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.
 - d. The use of seat belts, safety belts, or similar passenger restraints during the transportation of a child in a motor vehicle.
 - e. 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.
4. "Serious Injury" means any harm to the body which requires hospitalization or results in the fracture of any bone, non-superficial lacerations, injury to any internal organ, second- or third-degree burns, or any severe, permanent, or protracted loss of or impairment to the health or function of any part of the body.
5. "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 term does not include the voluntary separation of a child from a stressful environment for the purpose of allowing the child to regain self-control, when such a separation is to an area which a child is able to leave. Seclusion does not include 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. 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.

USE OF PHYSICAL RESTRAINT/SECLUSION
(continued)

6. "Intentional Physical Contact" means contact by a school employee with a child, in response to a child's aggression, misconduct, or disruptive behavior, and includes, but is not limited to blocking of a blow, forcible release from a grasp, or other significant and intentional physical contact with a child demonstrating disruptive or assaultive behaviors.
- a. Intentional physical contact does not include escorting a child 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, unless the child is actively combative, assaultive, or self-injurious while being escorted.
 - b. Intentional physical contact does not include actions such as separating children from each other, directing a child to stand, or otherwise physically preparing a child to be escorted.
 - c. Intentional physical contact does not include incidental or minor contact, such as for the purpose of gaining a ~~non-compliant misbehaving~~ child's attention.
 - d. Intentional physical contact does not include the use of seat belts, safety belts, or similar passenger restraints during the transportation of a child in a motor vehicle.
 - e. ~~Intentional physical contact does not include the use of force by a person to defend himself or herself or a third person from what the staff member reasonably believes to be the imminent use of unlawful force by a child, when the staff member 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.~~ Intentional physical contact does not include an incident of restraint or seclusion.

C. Physical Restraint May Only Be Used In Emergency Situations Only When The Following Conditions Exist (RSA 126-U:5):

- 1. Physical restraint shall only be used to ensure the immediate physical safety of persons when there is a substantial and imminent risk of serious bodily harm to the child or others. The determination of whether the use of restraint is justified under this section may 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. Physical restraint will be used only by trained personnel using extreme caution when all other interventions have failed or have been deemed inappropriate.
- 2. Restraint shall never be used explicitly or implicitly as punishment for the behavior of a child.

USE OF PHYSICAL RESTRAINT/SECLUSION
(continued)

3. The use of restraint is limited to physical restraint and mechanical restraint (when necessary for the safe transport of pupils as described in Section ~~L~~ K of this policy).
4. ~~Restraint shall only be used when all other positive interventions have failed, or the level of immediate risk prohibits exhausting other means.~~ Staff authorized to utilize restraint will be trained in the Nonviolent Crisis Intervention Program (CPI) and/or its equivalent as determined by the Superintendent of Schools or his/her designee. A team approach should be used, when possible, in situations that involve restraint. Untrained staff ~~is~~ **are** prohibited from utilizing restraint and ~~is~~ **are** limited to physically intervening by using the minimal amount of physical contact with the student to protect the student and ensure the safety of others until trained staff is available.

D. Authorization and Monitoring of Extended Restraint (RSA 126-U:11)

1. A child in restraint shall be continuously and directly observed by school personnel trained in the safe use of restraint.
2. Restraint shall not be imposed for longer than is necessary to protect the child or others from the substantial and imminent risk of serious bodily harm.
3. No period of restraint of a child may exceed 15 minutes without the approval of ~~the Principal or~~ **the Principal or** supervisory employee designated by the Principal to provide such approval.
4. 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~~ **the Principal or** 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 RSA 126-U. Such assessments will be repeated at least every 30 minutes during the period of restraint. Each such assessment will be documented in writing and such records will be retained by the facility or school as part of the written notification required in RSA 126-U:7, III and Section ~~J~~ **I** of this Policy.

E. Prohibition of Dangerous Restraint Techniques (RSA 126-U:4)

Use ~~or threatened use~~ of the following restraint and behavior control techniques is prohibited:

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;

USE OF PHYSICAL RESTRAINT/SECLUSION
(continued)

- 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 washcloths; or
 - e. endangers a child's life or significantly 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.

F. Risks of Restraint

- ~~1. All physical restraints involve some risk. This may include injury, including in rare instances, death to the person being restrained and/or to staff. Restraint related position asphyxiation or other physical injuries can occur. For this reason, it is essential that staff is trained in appropriate techniques that minimize the possibilities of risk.~~
- ~~2. There is also the risk of psychological impact in using restraints. An individual's past experience with abuse or the fear involved with being restrained may cause unanticipated responses. Staff should be aware that for some students the use of physical restraint might have the unintended consequence of acting as a positive reinforcer for their behavior.~~
- ~~3. In addition, employees of the Merrimack School District should be conscious of individual perceptions, experiences and cultural orientation and recognize that for some students any touching may be unwelcome and misinterpreted despite good intentions. In these situations, touching the student may evoke an extreme and intense response and make the use of restraint more dangerous for both student and staff. (RSA126-U:10 & RSA126-U:12)~~

F. Limitation on the Use of Seclusion (RSA 126-U:5-a)

1. Seclusion may not be used as a form of punishment or discipline. It may only be used when a child's behavior poses a substantial and imminent risk of physical harm to ~~a the~~ child or to others, and may only continue until that danger has dissipated.
2. Seclusion shall only be used ~~as a last resort~~ by trained personnel after other ~~attempts~~ ~~approaches~~ to control the 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.

**USE OF PHYSICAL RESTRAINT/SECLUSION
(continued)**

3. Seclusion will not be used in a manner that unnecessarily subjects the child to the risk of ridicule, humiliation, or emotional or physical harm.

G. Conditions of Seclusion (RSA 126-U: 5-b)

1. **When permitted**, seclusion may only be imposed in rooms which:
 - a. Are of a size which is appropriate for the chronological and developmental age, size, and behavior of the children placed in them.
 - b. Have a ceiling height that is comparable to the ceiling height of the other rooms in the building in which they are located.
 - c. 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.
 - d. Are free of any object that poses a danger to the children being placed in **the** rooms.
 - e. 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 purpose of this subparagraph, an “emergency” includes, but is not limited to:
 - I. The need to provide direct and immediate medical attention to a child;
 - II. Fire;
 - III. The need to remove the child to a safe location during a building lockdown; or
 - IV. Other critical situations that may require immediate removal of a child from a seclusion to a safe location.
 - f. Are equipped with unbreakable observation windows or equivalent devices to allow safe, direct, and uninterrupted observation of every part of the room.
2. Each use of seclusion will be directly and continuously visually and auditorily monitored by a person trained in the safe use of seclusion.

H. Training

The Superintendent, Director of Special Services and Principals in the Merrimack School District will confer on an annual basis to designate specific personnel to be trained in the use of physical restraint procedures and seclusion **procedures**. Staff will be trained in the Nonviolent Crisis Intervention Program (CPI) and/or its equivalent as determined by the Superintendent of Schools or his/her designee.

USE OF PHYSICAL RESTRAINT/SECLUSION
(continued)

I. Reporting Requirements and Parental Notification (RSA 126-U:7)

Appropriate personnel will use the following protocol after each **incident use of restraint or seclusion**:

1. The staff member involved should verbally notify the Principal or his/her designee as soon as possible.
2. Unless prohibited by a court order, the Principal or his/her designee will **verbally notify the parent/guardian and guardian ad litem ~~no~~ as soon as practicable, and in no event later than the time of the return of the child to the parent or guardian or the end of the business day, whichever is earlier.** Notification will be made in a manner calculated to give the parent/guardian actual notice of the incident at the earliest practicable time.
3. The staff member(s) **involved with the who used the** physical restraint or seclusion will have the opportunity to meet with his/her supervisors after the incident. The purpose of the meeting is to have the staff process the incident, assess precipitating factors that led to the physical restraint or seclusion and look at what could have been done to prevent the restraint or seclusion. The supervisor will provide support to the staff member and determine when the staff member(s) shall return to his/her duties.
4. The Superintendent is authorized to develop a reporting form or other documents necessary to satisfy these reporting requirements. A Merrimack School District employee who uses physical restraint or seclusion, or if the employee is unavailable, an administrator/supervisor of such employee, shall within **5 business** days after the occurrence, submit a written Merrimack School District Restraint or Seclusion report containing the following information to the Principal or his/her designee, and the Superintendent:
 - (a) The date, time, and duration of the use of restraint or seclusion.
 - (b) A description of the actions of the child before, during, and after the occurrence.
 - (c) A description of any other relevant events preceding the use of physical restraint or seclusion, including the justification for initiating the use of physical restraint or seclusion.
 - (d) The names of the persons involved in the occurrence.
 - (e) A description of the actions of the faculty or school employees involved before, during, and after the occurrence.
 - (f) A description of any interventions used prior to the use of the physical restraint or seclusion.
 - (g) A description of the seclusion or physical restraint used, including any technique/hold used and the reason the technique/hold was necessary.
 - (h) A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during, or after the use of physical restraint or seclusion.

USE OF PHYSICAL RESTRAINT/SECLUSION
(continued)

- (i) A description of any property damage associated with the occurrence.
 - (j) A description of actions taken to address the emotional needs of the child during and following the physical restraint or seclusion incident.
 - (k) A description of future actions to be taken to address the child's problem behaviors.
 - (l) The name(s) and position of the employee completing the report.
 - (m) The anticipated date of the final report.
5. Unless prohibited by court order, the **Superintendent Principal** or designee will, **within 2 business** days of receipt of the notification required in the above paragraph, send by first class mail to the child's parent/guardian and the guardian ad litem the information contained in the notification/report. Each notification/report prepared under this section will be retained by the school 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. A copy of reports and communications will be placed in the student's file.
6. School Review Following the Use of Restraint or Seclusion. 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. 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.
7. Whenever a school employee has intentional physical contact with a child which is in response to a child's aggression, misconduct, or disruptive behavior, a representative of the school will make reasonable efforts to promptly notify the parent/guardian. Such notification will be made no later than the time of the return of the child to the parent or guardian or the end of the business day, whichever is earlier. **Notification shall be made in a manner calculated to give the parent or guardian actual notice of the incident at the earliest practicable time.**
- a. Notification of intentional physical contact is not required:
 - I. 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 intentional physical contact notice requirements shall apply.
 - II. When actions are taken such as separating children from each other, including a child to stand, or otherwise physically preparing a child to be escorted.

USE OF PHYSICAL RESTRAINT/SECLUSION
(continued)

- III. When the contact with the child is incidental or minor, such as for the purposes of gaining a misbehaving child's attention. However, blocking a blow, forcible release from a grasp, or other significant and intentional physical contact with a disruptive or assaultive child will be subject to the intentional physical contact notice requirements.
- IV. When an incident constitutes restraint or seclusion and is subject to the notification requirements set forth above.
- b. When notification is required, the school shall, within 5 business days of the occurrence, prepare a written description of the incident. The written description shall include at least the following information:
 - 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.

J. Serious Injury or Death during Incidents of Restraint or Seclusion (RSA 126-U:10, II)

- 1. In cases involving serious injury or death to a child subject to restraint or seclusion in a school, the Superintendent or designee will, in addition to the provisions of RSA 126-U:7 (described in *Section JK* of this policy), notify the commissioner of the department of education, the attorney general, and the Disabilities Rights Center, the state's federally-designated protection and advocacy agency for individuals with disabilities. Such notice to these entities will include the written notification required in RSA 126-U:7,II within five business days.

K. Transportation (RSA 126-U:12)

- 1. The school district will not use mechanical restraints during the transportation of children unless case specific circumstances dictate that such methods are necessary.
- 2. Whenever a child is transported to a location outside the school, the Superintendent Principal or designee will 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.

USE OF PHYSICAL RESTRAINT/SECLUSION
(continued)

3. Whenever a child is transported using mechanical restraints, the Superintendent or designee will document in writing the reasons for the use of the mechanical restraints; such documentation shall be treated as a notification of restraint under Section J of this policy.

L. Special Education Students (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. 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.

M. School Resource Officers and Emergency Responders

The School Resource officer is considered a contractor of the school district and the Physical Restraint, Intentional Physical Contact and Seclusion provisions apply. Documentation and notification requirements of this policy shall be consistent with the district policy and procedure. However, nothing in this policy, prohibits the School Resource Officer (SRO), or other emergency responders, from utilizing restraint, including mechanical restraint, when deemed necessary by the officer to complete the necessary functions of the duties assigned to them by their Employment Agency. Moreover, nothing in this policy prohibits the SRO from using restraint when it is consistent with the law.

N. Annual Review Process

1. The Merrimack School Board will annually review its written policy and procedures regarding the use of restraint and seclusion.
2. The Superintendent of Schools or his/her designee is authorized to establish procedures and create forms for managing the behavior of children. Such procedures and shall be consistent with this policy and all applicable laws. The Superintendent is further authorized to establish any other procedures and forms necessary to implement this policy and/or any other legal requirements.
 - a. The Superintendent of Schools or his/her designee shall ensure that all relevant personnel are aware of the District Use of Physical Restraint/ Seclusion Policy and Procedures.
 - b. Principals will annually identify staff members who serve as school-wide resources to serve on a committee to assist in ensuring proper administration of physical restraint and/or seclusion. The database is maintained by CPI trainers in each building.

- c. Committee shall review at a minimum, the following components related to the use of restraint. These include an analysis of the following components:
 - I. Incident reports;
 - II. Procedures used during physical restraint, including the proper administration of specific district approved physical restraint techniques;
 - III. Preventative measures or alternatives tried, techniques or accommodations used to avoid or eliminate the need of the future use of physical restraint;
 - IV. Documentation and follow up of interventions made to eliminate the need for future use of physical restraint;
 - V. Injuries incurred during a physical restraint;
 - VI. Notification procedures;
 - VII. Staff training needs;
 - VIII. Specific patterns related to staff or student incidents; and
 - IX. Environmental considerations, including physical space, student seating arrangements, and noise levels.
3. Upon review of the data, the committee shall identify any issues and/or practices that require further attention and provide written recommendations to the Superintendent of Schools.
4. Further, the Committee can recommend review of the training program to ensure the most current knowledge and techniques are reflected in the district's policy of physical restraint and seclusion.

O. Duty To Report Violation (Ed 1202.01(e))

When a school employee has reason to believe that the action of another constituted a violation of the restraint and seclusion law and misconduct, or suspected misconduct, pursuant to ED 510, the employee must report this incident to the Principal or Superintendent's designee within 24 hours of the suspected misconduct.

The Superintendent of Schools shall develop a procedure and ensure that all employees are aware of, and understand, their duty to report suspected violations of the restraint and seclusion law. In situations where it is determined that no violations occurred, documentation, including the evidence used to make the determination, must remain on file at [REDACTED].

No school nor any employee, contractor, consultant nor volunteer thereof, shall subject any individual to harassment or retaliation for filing, in good faith, a report under RSA 126-U, Ed 1200, and/or this policy.

Legal References:

- RSA 126-U, Limiting the Use of Child Restraint Practices
- Title LXII Criminal Code, Chapter 627:6
- NH Department of Education Administrative Rule, Ed 1200 Restraint and Seclusion for Children
- NH Department of Education Administrative Rule, Ed 510 Code of Conduct

1st Reading: June 1, 2015
2nd Review: June 15, 2015
3rd Review: July 13, 2015
Adoption: August 17, 2015

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

DRAFT

PUBLIC PARTICIPATION AT BOARD MEETINGS

The primary purpose of School Board meetings is to conduct the business of the board as it relates to school policies, programs and operations. The Board encourages residents to attend Board meetings so that they may become acquainted with the operation and programs of the schools. All official meetings of the Board shall be open to the press and public. However, the Board reserves the right to meet and to adjourn or recess a meeting at any time. The Board also reserves the right to enter non-public session at any time, in accordance with the provisions RSA 91-A:3.

In order to assure that persons who wish to appear before the Board may be heard and, at the same time, assure that the Board may conduct its business and meetings properly and efficiently, the Board adopts as policy the following procedures and rules pertaining to public participation at Board meetings.

Rules of Order

1. The Board will provide a maximum of 30 minutes to hear public comments at the beginning of each regular Board meeting. This period may be extended by a majority vote of the Board. Additionally, the Board may include additional public comment period for specific agenda items with a time limit for public comment specified on the pertinent agenda.
2. Individual speakers will be allotted three minutes per person. Speakers may not relinquish allotted time to another speaker. For specific meetings and/or specific agenda items, the Board may at the outset of the public comment period increase the individual time limit for all speakers.
3. The Chair will recognize speakers on a first come basis.
4. In order to comply with the minute requirements of RSA 91-A:2,II speakers shall **clearly** identify themselves **by name and address** for the record.

Optional Provisions -select one of the italicized paragraphs below

5. *Members of the public shall limit comments only to those items appearing on the current agenda. The Board will not entertain comments on items that do not appear on the agenda. The only exception shall be comments which address matters discussed by the Board at its last public meeting which were not on that meeting's agenda but were discussed by the Board under "New Business". Requests to address the Board on specific matters (i.e. a request to have a matter placed on an agenda) should be presented to the Superintendent no less than fourteen days prior to the next Board meeting, and must set forth the specifics of the subject to be addressed. The determination whether to place the matter on the agenda will be made consistent with Board Policy **BEDB**.*

OR

*Except as otherwise provided in this policy, members of the public may after comments on agenda items or upon any other matter of public concern directly relating to the District's school policies, programs and operations. In the interest of preserving individual privacy and due process rights, the Board requests that comments (including complaints) regarding individual employees (other than the Superintendent) or individual students be directed to the Superintendent in accord with the complaint/grievance resolution processes set forth in School Board Policies **KE and/or KEB**. Complaints regarding the Superintendent, may be made either during public comment, or directed to the School Board Chair as described in Board Policy **KEB**.*

6. Any comments which do not adhere to the above, or which disrupt the official business of the Board may be ruled out of order by the Chair. Repeated disruption may result in the individual being asked to leave the meeting. Obscene speech, comments threatening bodily harm, or other unprotected speech will not be tolerated.
7. The Board Chair may terminate the speaker's privilege of address if the speaker does not follow the above rules of order. Repeated violations or disruptions may result in the intervention of law enforcement, with the potential for criminal charges.

Persons appearing before the Board are reminded that members of the Board are without authority to act independently as individuals in official matters. Thus, in most instances, any board response will be deferred pending consideration by the full Board.

With the aim of maintaining focus on the issues in discussion, it is desired that all speakers strive to adhere to ordinary norms of decorum and civility.

Legal References:

RSA 91-A:2, Meetings Open to Public
RSA 91-A:3, Non-Public Sessions
U.S. Const., 1st Amendment

District Policy History:

1st Reading: October 1, 2007
2nd Review: October 15, 2007
3rd Review: November 5, 2007
Adoption: November 19, 2007

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

STUDENT RECORDS AND ACCESS

General Statement. It is the policy of the School Board that all school ~~district personnel~~ **officials (as defined below)** will follow the procedures outlined herein as they pertain to the maintenance of student records. Furthermore, it is the policy of the School Board that all school ~~district personnel~~ **officials** will follow the provisions of the Family Educational Rights Privacy Act (FERPA) and its corresponding regulations. **The Superintendent and/or his designee is authorized to make procedures to implement this policy.**

Education Record. For the purposes of this policy and in accordance with FERPA, the term “educational record” **is defined means** as all records, files, documents, and other materials containing information directly related to a student and **are** maintained by the school district, or by such other agents as may be acting for the school district. Such records include, but are not limited to, handwriting, videotape, audiotape, electronic or computer files, film, print, microfilm and/or microfiche. **Educational records do not include the records listed in 34 C.F.R. §99.3 and 20 U.S.C. 1232g(a)(4).**

Eligible Student. For the purposes of this policy and in accordance with FERPA, the term “eligible student” means a student who has reached 18 years of age or is attending an institution of postsecondary education.

Directory Information. For the purposes of this policy, and in accordance with the provisions of FERPA and New Hampshire RSA 189:1-e, the term “directory information” means:

- Students’ name, address, **e-mail**, telephone number, **and** date and place of birth **dates of enrollment;**
- **Parents’/guardians’ name and address**
- **Major field of study**
- Students’ grade level, enrollment status and dates of attendance
- Students’ photograph
- Students’ participation in recognized school activities and sports
- **Weight and height of members of athletic teams**
- Students’ **diplomas certificates degrees**, awards and honors received
- **The most recent previous educational agency or institution attended by students.**

The District may release or disclose student directory information without prior consent of the student’s parents/**guardians** or eligible students. Within the first three weeks of each school year, the District will provide notice to parents/**guardians** or eligible students that the District may publish directory information without their prior consent, **along with the categories of information which it has designated as directory information.** Parents/**guardians** or eligible students will be given until ~~[date to be determined by the Superintendent]~~ **September 30** to notify the District in writing of any or all directory information items that they refuse to permit the District to release or disclose. Notice from a parent/**guardian** or eligible student that any or all directory information shall not be released will only be valid for that school year and must be re-issued each school year.

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(continued)

Personally Identifiable Information. “Personally identifiable information” is defined as ~~data or information which makes the subject of a record known, including~~ a student’s name; ~~a student’s or student’s their~~ family’s address; the name of the student’s parent/~~guardian~~ or other family members; a personal identifier such as a student’s Social Security number, ~~student number, or biometric record; other indirect identifiers, such as~~ the student’s date of birth, place of birth, or mother’s maiden name; ~~or~~ other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with a reasonable certainty; or information requested by a person who the District reasonably believes knows the identity of the student to whom the education record relates.

Annual Notification/Rights of Parents/Guardians and Eligible Students. Within the first ~~three~~ weeks of each school year (~~Superintendent to determine; NHSBA recommends three or four~~), the District will publish notice to parents/~~guardian~~ and eligible students of their rights under State and Federal law and this policy. The District will send home with each student a notice listing these rights ~~as part of the Parent-Student Handbook~~. The notice will include:

1. The rights of parents/~~guardians~~ or eligible students to inspect the review the student’s education records, ~~and the process for doing such;~~
2. The intent of the District to limit the disclosure of information in a student’s record, except: (a) by the prior written consent of the parent/~~guardian~~ or eligible student; (b) as directory information; or (c) under certain, limited circumstance, as permitted by law;
3. The right of a student’s parents/~~guardians~~ or an eligible student to seek to correct parts of the student’s educational records which he/she believes to be inaccurate, misleading, or in violation of student rights, ~~and the process for doing such, which, this~~ includes a ~~right to a~~ hearing to present evidence that the records should be changed if the District decides not to alter them according to the parent’s/~~guardian’s~~ or eligible student’s request;
4. The right of any person to file a complaint with the United States Department of Education if the District violates FERPA; ~~and~~
5. ~~The procedure that a student’s parents/guardians or an eligible student should follow to obtain copies of this policy.~~ A specification of the criteria of who constitutes a school official and what constitutes a legitimate educational interest. As described more fully below, the District does not require prior consent to disclose educational records to another school official who has a legitimate educational interest in that information.

Procedure to Inspect Education Records. Parents/~~guardians or eligible students~~ may inspect and review education records ~~which they are entitled to~~ of their children, consistent with the provisions of FERPA. Eligible students may inspect and review their own records. In some circumstances, it may be more convenient for the record custodian to provide copies of records.

STUDENT RECORDS AND ACCESS

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In accord with RSA 91-A:5, student records are exempt from disclosure under the Right-to-Know Law and access to student records will be governed by FERPA and state law.

Since a student's records may be maintained in several locations, the school principal may offer to collect copies of records or the records themselves from locations other than a student's school, so that they may be inspected at one site. If parents/**guardians** and eligible students wish to inspect records where they are maintained, school principals will determine if a review at that site is reasonable.

Parents/**guardians** or eligible students should submit to the school principal a written request that identifies as precisely as possible the record or records that he/she wishes to inspect. The principal will contact the parents/**guardians** or the eligible student to discuss how access is best arranged for their inspection or review of the records (copies, records brought to a single site, etc.).

The principal will make the needed arrangements as soon as possible and notify the parent/**guardian** or eligible student of the time and place where the records may be inspected. This procedure must be completed within ~~30~~ 14 days or earlier after the principal's receipt of the request for access.

~~If for any valid reason such as working hours, distance between record location sites or health, a parent/guardian or eligible student cannot personally inspect and review a student's education records, the principal may arrange for the parent/guardian or eligible student to obtain copies of the records.~~

When records contain information about students other than a parent's/**guardian's** child or the eligible student, the parent/**guardian** or eligible students may not inspect and review the records of the other students. If such records do contain the names of other students, the principal will seek consultation with the Superintendent and/or the District's attorney to determine how best to proceed.

Fees for Copying Records. There shall be a no charge to search for or retrieve education records of a student. The School District shall provide copies of education records to parents/eligible students upon request, subject to reasonable limitations. The cost of producing copies of the record to parents/eligible student will be (10 to 25) cents per page copied, plus postage. Parents/eligible students who are unable to pay such fees will not be denied access to education records.

Procedures To Seek ~~To~~ Correction of Education Records. Parents/**guardians** of students or eligible students have a right to seek to change any part of the student's records which they believe is inaccurate, misleading or in violation of student rights. To establish an orderly process to review and correct the education records, ~~for a requester~~ the following ~~processes~~ procedures are established.

STUDENT RECORDS AND ACCESS

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1. First-level decision. When a parent/**guardian** or eligible student finds an item in the student's education records that he/she believes is inaccurate, misleading, or **otherwise** in violation of a student's **privacy** rights, he/she should submit a written request asking the building principal to correct it. If the records are incorrect because of clear error and it is a simple matter to make the change, the principal should make the correction. If the records are changed to the parent's/**guardian's** or eligible student's satisfaction, both parties shall sign a document/form stating the date and records were changed and that the parent/**guardian** or eligible student is satisfied with the correction.

If the principal believes that the record should not be changed, he/she shall:

1. ~~Provide the requester a copy of the questioned records at no cost; Notify the parent/eligible student of that decision.~~
 2. ~~Ask~~ Notify the parent/**guardian** or eligible student **of their right to appeal this decision** ~~initiate a written request for the change, which will be forwarded to the Superintendent (second-level decision); and~~
 3. ~~Forward the written request to the Superintendent; and~~ Inform the parent or eligible student of their right to place a statement in the record commenting on the contested information in the record and/or stating why he or she disagrees with the decision of the principal.
 4. ~~Inform the parents/guardians or eligible student that the matter has been forwarded to the Superintendent for subsequent processing.~~
2. Second-level decision. If the parent/**guardian** or eligible student wishes to challenge the principal's decision to not change the student record, he/she may appeal the matter to the Superintendent. The parent/**guardian** or eligible student shall submit a written request to the principal asking that the matter be appealed to the Superintendent. The principal will forward to the Superintendent the request **and inform the parents/eligible student that the matter has been forwarded to the Superintendent for subsequent processing.**

The Superintendent shall, within ten business days after receiving notification of the request:

1. Review the request;
2. Discuss the request with other school officials;
3. Make a decision to comply or decline to comply with the request;

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(continued)

4. Schedule a meeting with the parents/**guardians** or eligible student if the Superintendent believes such a meeting would be necessary; and
5. Contact the parents/**guardians** or eligible student of his/her decision concerning the request for amendment

If the Superintendent determines the records should be amended, he/she will make the change and notify the parents/**guardians** or eligible student in writing that the change has been made. The letter stating the change has been made will include an invitation for the parent/**guardian** or eligible student to inspect and review the records to verify that the records have been amended and the correction is satisfactory. If the records are changed to the parent's/**guardian's** or eligible student's satisfaction, both parties shall sign a document/form stating the date the records were changed and that the parent/**guardian** or eligible student is satisfied with the correction.

If the Superintendent determines the records will not be amended, he/she will notify the parents/**guardians** or eligible student in writing of his/her decision. Such letter will also notify the parents/**guardians** or eligible student of their rights (1) to an appeal hearing before the school board and (2) to place a statement in the record commenting on the contested information in the record and/or stating why he or she disagrees with the decision of the Superintendent.

3. Third-level decision. If the parents/**guardians** or eligible student are not satisfied with the Superintendent's decision, they may submit a written request for a hearing before the School Board. The parents/**guardians** or eligible student shall submit the request for a hearing with the Superintendent within ten (10) business days of the Superintendent's written decision in level-two. The Superintendent will inform the school board of the request for a hearing and will work with the school board to schedule a hearing within 45 days of receipt of the request. Once the meeting is scheduled, the Superintendent will inform the parents/**guardians** in writing of the date, time, and place of the hearing.

The hearing will be held in non-public session consistent with the provisions of RSA 91-A:3 unless the parent/**guardian** or eligible student requests that the hearing be held in public session. The school board will give the parent/**guardian** or eligible student a full and fair opportunity to present evidence relevant to the issues raised under their request/complaint. Parents/**guardians** or eligible students may be assisted or represented, **at their own cost**, by one or more individuals of their own choice, including an attorney.

The school board will issue its final decision in writing within 30 days of the hearing and will notify the parents/**guardians** or eligible student thereof via certified mail, return receipt requested. The school board will base its decision solely on the evidence presented at the hearing. The school board's written decision will include a summary of the evidence and the

STUDENT RECORDS AND ACCESS

(continued)

reasons for its decision which will include a determination of whether the educational records are inaccurate, misleading, or otherwise in violation of the privacy rights of the student.

If the school board determines that the student record should be changed or amended, it will direct the Superintendent to do so as soon as possible. The Superintendent will then ~~contact~~ inform the parents/guardians or eligible student in writing of the amendment, and he/she will arrange for a meeting so they can review and inspect the records to verify that they have been changed or amended. At this meeting, both parties shall sign a document/form stating the date the records were changed and that the parent/guardian or eligible student is satisfied with the correction.

If, as a result of the hearing, the school board determines that the student record should not be changed or amended, it shall issue a written decision informing the parent or eligible student of the same, and inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the agency or institution, or both.

If the parent or eligible student seeks to place such a statement in the record, the District will maintain the statement with the contested part of the record for as long as the record is maintained and disclose the statement whenever it discloses the portion of the record to which the statement relates.

The school board's decision will be final.

Disclosure of Student Records and Student Information. The District will not disclose student education records and information to third parties without prior written consent that complies with 34 C.F.R. §99.30 unless such disclosure without consent is authorized by law.

In addition to directory information, the District may disclose student records and student information without consent to the following parties or under the following conditions. This policy should be interpreted consistent with the FERPA regulations and any relevant state law.

1. to other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. "Legitimate education interest" refers to school officials or employees who need to know information in a student's education record in order to perform the employee's employment responsibilities and duties. A "school official" is defined as a person employed by the school or school district as an administrator, supervisor, instructor, or support staff member (including, health or medical staff and law enforcement unit personnel) or a person serving on the school board. A school official will also include a volunteer, contractor, or consultant who, while

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not employed by the school, performs an institutional service or function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of personally identifiable information from education records, such as an attorney, auditor, medical consultant, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks.

2. To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where a student is already enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of 34 C.F.R. §99.34.
3. To authorized representatives of the U.S. Comptroller General, the U.S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational agency (SEA) in the parent or eligible student's State. Disclosures under this provision may be made, subject to the requirements of 34 C.F.R. §99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of personally identifiable information to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf, if applicable requirements are met.
4. In connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid.
5. To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released, subject to §99.38.
6. To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction, if applicable requirements are met.
7. To accrediting organizations to carry out their accrediting functions.
8. To parents of an eligible student if the student is a dependent for IRS tax purposes.

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9. To comply with a judicial order or lawfully issued subpoena if applicable requirements are met.
10. To appropriate officials in connection with a health or safety emergency, subject to 34 C.F.R. §99.36.
11. Information the school has designated as “directory information” if applicable requirements under 34 C.F.R. §99.37 are met.
12. To an agency caseworker or other representative of a State or local child welfare agency or tribal organization who is authorized to access a student’s case plan when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student in foster care placement.
13. To the Secretary of Agriculture or authorized representatives of the Food and Nutrition Service for purposes of conducting program monitoring, evaluations, and performance measurements of programs authorized under the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966, under certain conditions.
- ~~1. School Officials with a Legitimate Educational Interest. School officials with a legitimate educational interest may access student records. “Legitimate education interest” refers to school officials or employees who need to know information in a student’s education record in order to perform the employee’s employment responsibilities and duties.~~
- ~~2. Other schools into which a student is transferring or enrolling.~~
- ~~3. Officials for audit or evaluation purposes.~~
- ~~4. Appropriate parties in connection with financial aid.~~
- ~~5. Organizations conducting certain studies for, or on behalf of the school district. Student records or student information will only be provided pursuant to this paragraph if the study is for the purpose of: developing, validating, or administering predictive tests; administering student aid programs; or improving instruction.~~
- ~~6. Accrediting organizations.~~
- ~~7. Judicial order or lawfully issued subpoenas.~~
- ~~8. Health and safety emergencies.~~

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Maintenance of Student Records and Data. The principal of each building is responsible for record maintenance, access and destruction of all student records. All school district personnel having access to records shall place great emphasis upon privacy rights of students and parents/~~guardians~~.

The principal will ensure that all records are maintained in accordance with application retention schedules as may be established by law ~~and District policy~~.

~~All entries into student records must be dated and signed by the person access such records.~~

Records of Disclosures Made From Education Records. The District will maintain an accurate record of all requests for it to disclose information from, or to permit access to, a student's education records and of information it discloses and access it permits, with some exceptions listed below. ~~The District will also maintain an accurate record of the names of State and local educational authorities and federal officials and agencies listed in 34 C.R.F. §99.31(a)(3) (local, state, and federal agencies for the purposes of audit or evaluation) that may make further disclosures of personally identifiable information from the student's education records without consent under 34 C.R.F. §99.33(b).~~

~~The District will maintain this record as long as it maintains the student's education record. This record is kept with, but is not a part of, each student's cumulative school records. ~~It~~ The record is available only to the record custodian ~~and his/her assistants~~, the eligible student, the parents/~~guardians~~ of the student ~~who is not an eligible student~~, or ~~to~~ federal, state, or local officials for the purpose of auditing or enforcing federally supported educational programs. See 34 C.F.R. §99.32(c).~~

The record ~~of disclosure~~ includes:

1. The name of the person who or agency which made the request;
2. The interest which the person or agency has in the information;
3. The date on which the person or agency made the request;
4. Whether the request was granted and, if it was, the date access was permitted, or the disclosure was made; ~~and~~
5. In the event of a health and safety emergency, the articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and the parties to whom the agency or institution disclosed the information.

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6. If the District discloses educational records with the understanding that they are to be further disclosed in pursuant to a provision of FERPA, the record will also include:
 - a. The names of the additional parties to which the receiving party may disclose the information on behalf of the educational agency or institution; and
 - b. The legitimate interests which each of the additional parties has in requesting or obtaining the information.

The District's records of disclosure will not include requests for access or information relative to access which has been granted;

~~The District will maintain this record as long as it maintains the student's education record. The records do not include requests for access or information relative to access which has been granted to parents/guardians of the student or to an eligible student, requests for access or access granted to officials of the District who have a legitimate educational interest in the student; requests for, or disclosures of, information contained in the student's education records if the request is accompanied by the prior written consent of a parents/guardians or eligible student or if the disclosure is authorized by such prior consent or for requests for, or disclosures of, directory information designated for that student.~~

1. To a parent(s) of a student or to an eligible student;
2. To officials of the district who have a legitimate educational interest in the information;
3. By a request accompanied by prior written consent of a parent(s) or eligible student; or
4. The disclosure is authorized by such prior consent or for requests for, or disclosures of, directory information.

Military Recruiters and Institutions of Higher Learning. Military recruiters or institutions of high learning shall have access to secondary school students' names, addresses, and telephone listings unless an adult student or the parent of the minor student requests that such information not be released without prior written consent. The District shall notify parents of the option to opt out of this disclosure as part of its Annual Notice of Directory Information, and it shall comply with any requests received.

Law Enforcement and Reporting Agencies. Consistent with RSA 193-D:7, it shall be permissible for any law enforcement officer and any school administrator to exchange information relating only to acts of theft, destruction, or violence in a safe school zone regarding the identify of any juvenile, police records relating to a juvenile, or other relevant information when such information reasonably relates to delinquency or criminal conduct, suspected delinquency or suspected criminal conduct, or any conduct which would classify a pupil as a child in need of services under RSA 169-D or a child in need of protection under RSA 169-C.

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Complaints. The United States Department of Education maintains an office that handles complaints about alleged violations of FERPA by local school districts. Complaints regarding violations of rights accorded parents/eligible students may be submitted in writing to:

Student Privacy Policy Office
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington D.D. 20202-5901

Related Policies: Data/Records Retention (EHB)

Legal Reference:

RSA 91-A:5, III, Exemptions, Pupil Records
RSA 189:66, IV(A), Data Inventory and Policies Publication
RSA 189:1-e, Directory Information
20 U.S.C. §1232g, Family Educational Rights and Privacy Act
34 C.F.R. Part 99, Family Educational Rights and Privacy Act Regulations

1st Reading: September 12, 2022

2nd Review: October 17, 2022

Adoption:

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 HARDSHIP**1. Procedure**

- a. ~~In order~~ To initiate consideration of a reassignment based upon the child's best interests, the parent/guardian shall submit to the Superintendent a written request stating why and/or how the child's best interests warrant reassignment. In order to facilitate a determination, such application may also include any additional information described in **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.

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- 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. The 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 ~~this~~ Section A (Best Interest) shall be the responsibility of the parent/guardian.

5. Tuition for Students Reassigned by Other Districts

Pursuant to RSA 193:3, I, it is the general policy of the Board that the tuition amount to be charged to another district for any student reassigned by that district to a school within this district under the best interest standard of 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).

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6. Final Decision

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

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 ~~requesting may request~~ a manifest educational hardship hearing ~~shall by~~ submitting a written application to the Superintendent detailing the specific reasons why they believe that the current assignment constitutes a manifest educational hardship.

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- 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 ~~the~~ **this** district is assigned to a school in ~~this~~ **another** district, **or a student from another ~~the~~ 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

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