

Policy Committee Meeting
Monday, September 10, 2018, 4:00 PM
SAU 33 Office
Agenda

- I. Call to Order
- II. Proof of Posting
- III. Raymond Policy Review

Bullying Policy

Raymond Policy JICDA Student Safety and Violence Prevention -
Bullying and Cyberbullying

NHSBA Policy JICK Pupil Safety and Violence Prevention - Bullying

References for Employees Accused of Sexual Misconduct

Attorney Advice and Model Policy

Background Checks

Raymond Policy with Proposed Revisions GBCD
Background Investigation and Criminal Records Check

NHSBA Policy GBCD Background Investigation and Criminal Records Check

Service Animals

Raymond Policy IMGA Service Animals

NHSBA Policy IMGA Service Animals

Field Trip Requests

Raymond Policy IJOA Field Trips and Excursions

Raymond Policy IJOA-R Request for Educational Field Trip

Raymond Policy EEAFF-R Student Overnight Travel

MOU with Police Department

Under review by legal counsel at this time; Raymond law enforcement and District representatives agree that this fall is a good time to update this Policy.

Raymond Policy JICD-R Memorandum of Understanding (Safe School Zones)

NHSBA Policy JICD-R Memorandum of Understanding (Safe School Zones)

Student Discipline and Due Process

Under review by legal counsel at this time; Raymond law enforcement and District representatives agree that this fall is a good time to update this Policy in the context of our MOU with the Police Department and FERPA.

Raymond Policy JICD-R Student Conduct, Discipline, and Due Process
Administrative Procedure

NHSBA Policy JICD Student Discipline and Due Process

FERPA

Under review by legal counsel at this time; Raymond law enforcement and District representatives agree that this fall is a good time to update this Policy in the context of our MOU with the Police Department and relevant Discipline Policies.

Raymond Policy JRA Access to Student Records - FERPA

NHSBA Policy JRA Student Records and Access - FERPA

IV. NHSBA Spring 2018 Policy Update

Cover Sheet

Since all of the required Policies in the Spring 2018 Update have, or soon will be, addressed I'd like to review the other Policies in the update with the Policy Committee to determine the priorities going forward. We can also discuss other Policies or Policy sections that may be in need of review this fall and winter. For example, we may elect to systematically review all health related Policies.

**RAYMOND SCHOOL DISTRICT
SCHOOL ADMINISTRATION OFFICE #33
43 Harriman Hill Road, Raymond, NH 03077, 895-4299**

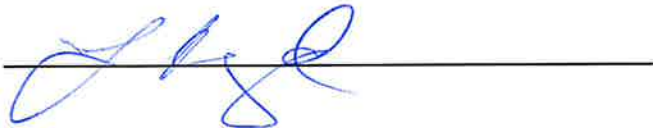
P R O O F O F P O S T I N G

The following School Board/School Board Subcommittee meetings are scheduled:

Policy Committee Meeting
Monday, September 10, 2018, 4:00 PM
SAU 33 Office

Copies of this notification were posted at the following locations on September 6, 2018:

Raymond High School
Iber Holmes Gove Middle School
Lamprey River Elementary School
Raymond Town Office
SAU 33 Office
SAU 33 Website (August 20)



Raymond School District Policy – JICDA
STUDENT SAFETY AND VIOLENCE PREVENTION
Bullying and Cyberbullying

I. Definitions (RSA 193-F:3)

1. Bullying. Bullying is hereby defined as a single significant incident or a pattern of incidents involving a written, verbal, or electronic communication, or a physical act or gesture, or any combination thereof, directed at another student which:

- (1) Physically harms a student or damages the student's property;
- (2) Causes emotional distress to a student;
- (3) Interferes with a student's educational opportunities;
- (4) Creates a hostile educational environment; or
- (5) Substantially disrupts the orderly operation of the school.

Bullying shall also include actions motivated by an imbalance of power based on a student's actual or perceived personal characteristics, behaviors, or beliefs, or motivated by the student's association with another person and based on the other person's characteristics, behaviors, or beliefs.

2. Cyberbullying. Cyberbullying is defined as any conduct defined as "bullying" in this policy that is undertaken through the use of electronic devices. For purposes of this policy, any references to the term bullying shall include cyberbullying.
3. Electronic devices. Electronic devices include, but are not limited to, telephones, cell phones, computers, pagers, electronic mail, instant messaging, text messaging, and websites.
4. School property. School property means all real property and all physical plant and equipment used for school purposes, including public or private school buses or vans.
5. Parent. Any reference in this policy to "parent" shall include parents or legal guardians.

IA. For Reports or Complaints of Discrimination, including Harassment, Based on Race, Color, National Origin, Ancestry, Sex or Disability.

In the event of an alleged act of discrimination, including harassment, based on race, color, national origin or ancestry, the Raymond School District will use the procedures in *"Discrimination, including Harassment, Based on Race, Color, National Origin and*

Ancestry – ACA.” Where there is an alleged act of discrimination, based on sex, the Raymond School District will apply its procedures under its “*AC-R-Title IX Grievances,*” and for alleged sexual harassment, it will apply “*JBAA-Sexual Harassment – Students.*” In the event of an alleged act of discrimination, including harassment, based on handicap or disability, the Raymond School District will apply the procedures under its “*ACE-Procedural Safeguards-Nondiscrimination on the Basis of Handicap/Disability.*”

II. Statement Prohibiting Bullying or Cyberbullying of a Student (RSA 193-F:4, II(a))

The Board is committed to providing all students a safe and secure school environment. This policy is intended to comply with RSA 193-F. Conduct constituting bullying and/or cyberbullying will not be tolerated and is hereby prohibited.

Further, in accordance with RSA 193-F:4, the District reserves the right to address bullying and, if necessary, impose discipline for bullying that:

- (1) Occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or
- (2) Occurs off of school property or outside of a school-sponsored activity or event, if the conduct interferes with a student’s educational opportunities or substantially disrupts the orderly operations of the school or school-sponsored activity or event.

The Superintendent of Schools is responsible for ensuring that this policy is implemented.

III. Statement prohibiting retaliation or false accusations (RSA 193-F:4, II(b))

False Reporting

A student found to have wrongfully and intentionally accused another of bullying may face discipline or other consequences, ranging from positive behavioral interventions up to and including suspension or expulsion.

A school employee found to have wrongfully and intentionally accused a student of bullying shall face discipline or other consequences as determined in accordance with applicable law, District policies, procedures, and collective bargaining agreements.

Reprisal or Retaliation

The District will discipline and take appropriate action against any student, teacher, administrator, volunteer, or other employee who retaliates against any person who makes a good faith report of alleged bullying or against any person who testifies, assists, or participates in a proceeding or hearing relating to such bullying.

1. The consequences and appropriate remedial action for a student, teacher,

administrator, volunteer, or other employee who engages in reprisal or retaliation shall be determined by the Principal after consideration of the nature, severity and circumstances of the act, in accordance with law, Board policies and any applicable collective bargaining agreements.

2. Any student found to have engaged in reprisal or retaliation in violation of this policy shall be subject to measures up to, and including, suspension and expulsion.
3. Any teacher, administrator, or other employee found to have engaged in reprisal or retaliation in violation of this policy shall be subject to discipline up to, and including, termination of employment.
4. Any school volunteer found to have engaged in reprisal or retaliation in violation of this policy shall be subject to measures up to, and including, exclusion from school grounds.

Process To Protect Students From Retaliation

If the alleged victim or any witness expresses to the Principal or other staff member that he/she believes he/she may be retaliated against, the Principal shall develop a process or plan to protect that student from possible retaliation.

Each process or plan may be developed on a case-by-case basis. Suggestions include, but are not limited to, re-arranging student class schedules to minimize their contact, stern warnings to alleged perpetrators, temporary removal of privileges, or other means necessary to protect against possible retaliation.

IV. Protection of all Students (RSA 193-F:4, II(c))

This policy shall apply to all students and school-aged persons on school district grounds and participating in school district functions, regardless of whether or not such student or school-aged person is a student within the District.

V. Disciplinary Consequences For Violations of This Policy (RSA 193-F:4, II(d))

The district reserves the right to impose disciplinary measures against any student who commits an act of bullying, falsely accuses another student of bullying, or who retaliates against any student or witness who provides information about an act of bullying.

In addition to imposing discipline under such circumstances, the board encourages the administration and school district staff to seek alternatives to traditional discipline, including but not limited to early intervention measures, alternative dispute resolution, conflict resolution and other similar measures.

VI. Distribution and Notice of This Policy (RSA 193-F:4, II(e))

Staff and Volunteers

All staff will be provided with a copy of this policy annually. The Superintendent may determine the method of providing the policy (employee handbook, website, hard copy, etc).

The Superintendent will ensure that all school employees and regular volunteers receive annual training on bullying and related district's policies.

Students

All students will be provided with a copy of this policy annually. The Superintendent may determine the method of providing the policy (student handbook, mailing, hard copy, etc).

Students will participate in an annual education program which sets out expectations for student behavior and emphasizes an understanding of harassment, intimidation, and bullying of students, the District's prohibition of such conduct and the reasons why the conduct is destructive, unacceptable, and will lead to discipline. Students shall also be informed of the consequences of bullying conduct toward their peers.

The Superintendent, in consultation with staff, may incorporate student anti-bullying training and education into the District's curriculum, but shall not be required to do so.

Parents

All parents/legal guardians will be provided with a copy of this policy annually. The Superintendent may determine the method of providing the policy (parent handbook, mailing, etc.). Parents will be informed of the program and the means for students to report bullying acts toward them or other students. They will also be told that to help prevent bullying at school they should encourage their children to:

1. Report bullying when it occurs;
2. Take advantage of opportunities to talk to their children about bullying;
3. Inform the school immediately if they think their child is being bullied or is bullying other students;
4. Cooperate fully with school personnel in identifying and resolving incidents.

Additional Notice and School District Programs

The Board may, from time to time, host or schedule public forums in which it will address the anti-bullying policy, discuss bullying in the schools, and consult with a variety of individuals including teachers, administrators, guidance counselors, school psychologists and other interested persons.

VII. Procedure for Reporting Bullying (RSA 193-F:4, II(f))

At each school, the Principal or designee shall be responsible for receiving complaints of alleged violations of this policy.

Student Reporting

1. Any student who believes he/she has been the victim of bullying should report the alleged acts immediately to the Principal. If the student is more comfortable reporting the alleged act to a person other than the Principal, the student may tell any school district employee or volunteer about the alleged bullying.
2. Any school employee or volunteers who witnesses, receives a report of, or has knowledge or belief that bullying may have occurred shall inform the Principal or designee as soon as possible, but no later than the end of that school day.
3. The administration will develop a system or method for receiving anonymous reports of bullying. Although students, parents, volunteers and visitors may report anonymously, formal disciplinary action may not be based solely on an anonymous report. Independent verification of the anonymous report shall be necessary in order for any disciplinary action to be applied.
4. The administration will develop student reporting forms to assist students and staff in filing such reports. An investigation shall still proceed even if a student is reluctant to fill out the designated form and chooses not to do so.
5. Upon receipt of a report of bullying, the Principal or designee shall commence an investigation consistent with the provisions of Section XI of this policy.

Staff Reporting

1. An important duty of the staff is to report acts or behavior that they witness that appears to constitute bullying.
2. All district employees and volunteers shall encourage students to tell them about acts that may constitute bullying. For young students, staff members ~~give~~ **given** such information will need to provide direct assistance to the student.
3. Any school employee or volunteer who witnesses, receives a report of, or has knowledge or belief that bullying may have occurred shall inform the Principal as soon as possible, but no later than the end of that school day.
4. Upon receipt of a report of bullying, the Principal or designee shall commence an investigation consistent with the provisions of Section XI of this policy.

VIII. Procedure for Internal Reporting Requirements (RSA 193-F:4, II(g))

In order to satisfy the reporting requirements of RSA 193-F:6, the Principal or designee shall be responsible for completing all New Hampshire Department of Education forms and reporting documents of substantiated incidents of bullying, annually. Said forms shall be completed within 10 school days of any substantiated incident. Upon completion of such forms, the Principal or designee shall retain a copy for him/herself and shall forward one copy to the Superintendent. The Superintendent shall maintain said forms in a safe and secure location.

IX. Notifying Parents of Alleged Bullying (RSA 193-F:4, II(h))

The Principal or designee shall report to the parents/guardians of a student who has been reported as a victim of bullying and to the parents/guardians of a student who has been reported as a perpetrator of bullying within 48 hours of receiving the report. Such notification may be made by telephone, writing or personal conference. The date, time, method, and location (if applicable) of such notification and communication shall be noted in the report. All notifications shall be consistent with the student privacy rights under the applicable provisions of the Family Educational Rights and Privacy Act of 1974 (FERPA).

X. Waiver of Notification Requirement (RSA 193-F:4, II(i))

The Superintendent may, within a 48 hour time period, grant the Principal a waiver from the requirement that the parents of the alleged victim and the alleged perpetrator be notified of the filing of a report. A waiver may only be granted if the Superintendent deems such a waiver to be in the best interest of the victim or perpetrator. Any waiver granted shall be in writing.

XI. Investigative Procedures (RSA 193-F:4, II(j))

1. Upon receipt of a report of bullying, the Principal or designee shall, within 5 school days, initiate an investigation into the alleged act. If the Principal is directly and personally involved with a complaint or is closely related to a party to the complaint, then the Superintendent shall direct another district employee to conduct the investigation.
2. The investigation may include documented interviews with the alleged victim, alleged perpetrator and any witnesses. All interviews shall be conducted privately, separately and shall be confidential. Each individual will be interviewed separately and at no time will the alleged victim and perpetrator be interviewed together during the investigation.
3. If the alleged bullying was in whole or in part cyberbullying, the Principal or designee may ask students and/or parents to provide the District with printed copies of e-mails, text messages, website pages, or other similar electronic communications.

4. A maximum of 10 school days shall be the limit for the initial filing of incidents and completion of the investigative procedural process.
5. Factors the Principal or other investigator may consider during the course of the investigation, including but not limited to:
 - A. Description of incident, including the nature of the behavior;
 - B. How often the conduct occurred;
 - C. Whether there were past incidents or past continuing patterns of behavior;
 - D. The characteristics of parties involved, (name, grade, age, etc.);
 - E. The identity and number of individuals who participated in bullying behavior;
 - F. Where the alleged incident(s) occurred;
 - G. Whether the conduct adversely affected the student's education or educational environment;
 - H. Whether the alleged victim felt or perceived an imbalance of power as a result of the reported incident; and
 - I. The date, time and method in which parents or legal guardians of all parties involved were contacted.
6. The Principal or designee shall complete the investigation within 10 school days of receiving the initial report. If the Principal needs more than 10 school days to complete the investigation, the Superintendent may grant an extension of up to 7 school days. In the event such extension is granted, the Principal shall notify in writing all parties involved of the granting of the extension.
7. Whether a particular action or incident constitutes a violation of this policy shall require a determination based on all facts and surrounding circumstances and shall include recommended remedial steps necessary to stop the bullying and a written final report to the Principal.
8. Students who are found to have violated this policy may face discipline in accordance with other applicable board policies, up to and including expulsion. Students facing discipline will be afforded all due process required by law.
9. Consistent with applicable law, the District will not require or request that a student disclose or provide to the District the student's username, password, or other authenticating information to a student's personal social media account. However, the District may request to a student or a student's parent/legal guardian that the student voluntarily share printed copies of specific information from a student's personal social media account if such information is relevant to an ongoing District investigation.

XII. Response to Remediate Substantiated Instances of Bullying (RSA 193-F:4, II(k))

Consequences and appropriate remedial actions for a student who commits one or more

acts of bullying or retaliation may range from positive behavioral interventions up to and including suspension or expulsion of students.

Consequences for a student who commits an act of bullying or retaliation shall be varied and graded according to the nature of the behavior, the developmental age of the student, and the student's history of problem behaviors and performance. Remedial measures shall be designed to correct the problem behavior, prevent another occurrence of the problem, protect and provide support for the victim, and take corrective action for documented systematic problems related to bullying.

Examples of consequences may include, but are not limited to:

- A. Admonishment
- B. Temporary removal from classroom
- C. Deprivation of privileges
- D. Classroom or administrative detention
- E. Referral to disciplinarian
- F. In-school suspension
- G. Out-of-school suspension
- H. Expulsion

Examples of remedial measures may include, but are not limited to:

- A. Restitution
- B. Mediation
- C. Peer support group
- D. Corrective instruction or other relevant learning experience
- E. Behavior assessment
- F. Student counseling
- G. Parent conferences

In support of this policy, the Board promotes preventative educational measures to create greater awareness of aggressive behavior, including bullying. The Board expects the Superintendent to work collaboratively with all staff members to develop responses other than traditional discipline as a way to remediate substantiated instances of bullying.

XIII. Reporting of Substantiated Incidents to the Superintendent (RSA 193-F:4, II(1))

The Principal shall forward all substantiated reports of bullying to the Superintendent upon completion of the Principal's investigation.

XIV. Communication With Parents Upon Completion of Investigation (RSA 193-F:4, II(m))

1. Within two school days of completing an investigation, the Principal will notify

the students involved in person of his/her findings and the result of the investigation.

2. The Principal will notify via telephone the parents of the alleged victim and alleged perpetrator of the results of the investigation. The Principal will also send a letter to the parents within 24 hours again notifying them of the results of the investigation.
3. The Principal shall offer a meeting to parents/guardians. If the parents request, the Principal shall schedule a meeting with them to further explain his/her findings and reasons for his/her actions.
4. In accordance with the Family Educational Rights and Privacy Act and other law concerning student privacy, the District will not disclose educational records of students including the discipline and remedial action assigned to those students and the parents of other students involved in a bullying incident.

XV. Appeal

A parent or guardian who is aggrieved by the investigative determination letter of the Principal or his/her designee may appeal the determination to the Superintendent for review. The appeal shall be in writing addressed to the Superintendent, shall state the reason(s) why the appealing party is aggrieved, and the nature of the relief they seek. The Superintendent shall not be required to re-investigate the matter and shall conduct such review as he/she deems appropriate under the circumstances.

It is in the best interests of students, families, and the District that these matters be promptly resolved. Therefore, any such appeal to the Superintendent shall be made within ten (10) calendar days of the parent/guardian's receipt of the investigative determination letter of the principal or his/her designee. The Superintendent shall issue his/her decision in writing.

If the parent or guardian is aggrieved by the decision of the Superintendent, they may appeal the decision to the School Board within ten (10) calendar days of the date of the parent/guardian's receipt of the Superintendent's decision. An appeal to the Superintendent shall be a prerequisite to any appeal to the School Board. The appeal to the School Board shall be in writing, addressed to the School Board Chair in care of the Superintendent, shall state the reason(s) why the appealing party is aggrieved, and the nature of the relief they seek.

An aggrieved parent/guardian has the right to appeal the final decision of the local School Board to the State Board within thirty (30) calendar days of receipt of the written decision of the local School Board in accordance with RSA 541-A and State of New Hampshire Department of Education Regulation set forth in ED 200. The State Board may waive the thirty-day requirement for good cause shown, including, but not limited

to, illness, accident, or death of a family member.

XVI. School Officials (RSA 193-F:4, II(n))

The Superintendent of schools is responsible for ensuring that this policy is implemented. In order to facilitate the implementation of this policy, the Superintendent may establish further administrative rules or regulations.

XVII. Capture of Audio Recordings on School Buses

Pursuant to RSA 570-A:2, notice is hereby given that the Board authorizes audio recordings to be made in conjunction with video recordings of the interior of school buses while students are being transported to and from school or school activities. The Superintendent shall ensure that there is a sign informing the occupants of school buses that such recordings are occurring.

XVIII. Use of Video or Audio Recordings in Student Discipline Matters

The District reserves the right to use audio and/or video recording devices on District property (including school buses) to ensure the health, safety and welfare of all staff, students and visitors. Placement and location of such devices will be established in accordance with the provisions of Policies EEAA, EEAE and ECAF.

In the event an audio or video recording is used as part of a student discipline proceeding, such video may become part of a student's education record. If an audio or video recording does become part of a student's education record, the provisions of Policy JRA shall apply.

The Superintendent is authorized to contact the District's attorney for a full legal opinion relative in the event of such an occurrence.

XIX. Reports or Complaints of Discrimination, including Harassment, Based on Race, Color, National Origin or Ancestry

Students or other persons (i.e., students' parents or guardians) who believe that a student has been the subject of discrimination, including harassment, based on race, color, national origin or ancestry are encouraged to report promptly any such alleged act or incident, by using the Raymond School District Policy for "*Discrimination, including Harassment, Based on Race, Color, National Origin and Ancestry – ACA.*"

Raymond School District employees, volunteers and independent contractors who become aware of, witness acts of or receive a student report relating to a student experiencing discrimination, including harassment, based on race, color, national origin

or ancestry shall inform the Principal or designee as soon as possible, but by no later than the beginning of the next school day, by using the Raymond School District Policy for *"Discrimination, including Harassment , Based on Race, Color, National Origin and Ancestry – ACA."*

The Raymond School District Policy for *"Discrimination, including Harassment, Based on Race, Color, National Origin and Ancestry-ACA"* can be found on the District and school's Website, under "School Board Policy."

XX. Reports or Complaints of Discrimination, including Harassment, Based on Sex or Disability

Where there is an alleged act of discrimination, based on sex, the Raymond School District will apply its procedures under its *"AC-R-Title IX Grievances,"* and for alleged sexual harassment it will apply *"JBAA-Sexual Harassment – Students."* In the event of an alleged act of discrimination, including harassment, based on handicap or disability, the Raymond School District will apply the procedures under its *"ACE- Procedural Safeguards-Nondiscrimination on the Basis of Handicap/Disability."*

Legal References:

RSA 189:70, Educational Institution Policies on Social Media
RSA 193-F:3, Student Safety and Violence Prevention Act
RSA 570-A:2, Capture of Audio Recordings on School Buses Allowed
NH Code of Administrative Rules, Section Ed 306.04(a)(8), Student Harassment

Adopted: March 1, 2001
Revised: August 1, 2002
Revised: August 4, 2004
Revised: November 19, 2008
Revised: October 20, 2010
Revised: June 6, 2012
Revised: March 2, 2016

JICK - PUPIL SAFETY AND VIOLENCE PREVENTION - Bullying

(Download policy)

Category: Priority/Required by Law

See also JBAA, JIC, JICD, IHBA

I. Definitions (RSA 193-F:3)

1. Bullying. Bullying is hereby defined as a single significant incident or a pattern of incidents involving a written, verbal, or electronic communication, or a physical act or gesture, or any combination thereof, directed at another pupil which:

- (1) Physically harms a pupil or damages the pupil's property;
- (2) Causes emotional distress to a pupil;
- (3) Interferes with a pupil's educational opportunities;
- (4) Creates a hostile educational environment; or
- (5) Substantially disrupts the orderly operation of the school.

Bullying shall also include actions motivated by an imbalance of power based on a pupil's actual or perceived personal characteristics, behaviors, or beliefs, or motivated by the pupil's association with another person and based on the other person's characteristics, behaviors, or beliefs.

2. Cyberbullying. Cyberbullying is defined as any conduct defined as "bullying" in this policy that is undertaken through the use of electronic devices. For purposes of this policy, any references to the term bullying shall include cyberbullying.

3. Electronic devices. Electronic devices include, but are not limited to, telephones, cellular phones, computers, pagers, electronic mail, instant messaging, text messaging, and websites.

4. School property. School property means all real property and all physical plant and equipment used for school purposes, including public or private school buses or vans.

Any reference in this policy to "parent" shall include parents or legal guardians.

II. Statement Prohibiting Bullying or Cyberbullying of a Pupil (RSA 193-F:4, II(a))

The Board is committed to providing all pupils a safe and secure school environment. This policy is intended to comply with RSA 193-F. Conduct constituting bullying and/or cyberbullying will not be tolerated and is hereby prohibited.

Further, in accordance with RSA 193-F:4, the District reserves the right to address bullying and, if necessary, impose discipline for bullying that:

- (1) Occurs on, or is delivered to, school property or a school-sponsored activity or event on or off school property; or
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A school employee found to have wrongfully and intentionally accused a student of bullying shall face discipline or other consequences be determined in accordance with applicable law, District policies, procedures and collective bargaining agreements.

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The District will discipline and take appropriate action against any student, teacher, administrator, volunteer, or other employee who retaliates against any person who makes a good faith report of alleged bullying or against any person who testifies, assists, or participates in a proceeding or hearing relating to such bullying.

1. The consequences and appropriate remedial action for a student, teacher, school administrator or school volunteer who engages in reprisal or retaliation shall be determined by the Principal after consideration of the nature, severity and circumstances of the act, in accordance with law, Board policies and any applicable collective bargaining agreements.
2. Any student found to have engaged in reprisal or retaliation in violation of this policy shall be subject to measures up to, and including, suspension and expulsion.
3. Any teacher or school administrator found to have engaged in reprisal or retaliation in violation of this policy shall be subject to discipline up to, and including, termination of employment.
4. Any school volunteer found to have engaged in reprisal or retaliation in violation of this policy shall be subject to measures up to, and including, exclusion from school grounds.

Process To Protect Pupils From Retaliation

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Each process or plan may be developed on a case-by-case basis. Suggestions include, but are not limited to, re-arranging student class schedules to minimize their contact, stern warnings to alleged perpetrators, temporary removal of privileges, or other means necessary to protect against possible retaliation.

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In addition to imposing discipline under such circumstances, the board encourages the administration and school district staff to seek alternatives to traditional discipline, including but not limited to early intervention measures, alternative dispute resolution, conflict resolution and other similar measures.

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The Superintendent will ensure that all school employees and volunteers receive annual training on bullying and related district's policies.

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2. Any school employee or volunteers who witnesses, receives a report of, or has knowledge or belief that bullying may have occurred shall inform the Principal as soon as possible, but no later than the end of the that school day.
3. The Principal may develop a system or method for receiving anonymous reports of bullying. Although students, parents, volunteers and visitors may report anonymously, formal disciplinary action may not be based solely on an anonymous report. Independent verification of the anonymous report shall be necessary in order for any disciplinary action to be applied.
4. The administration may develop student reporting forms to assist students and staff in filing such reports. An investigation shall still proceed even if a student is reluctant to fill out the designated form and chooses not to do so.
5. Upon receipt of a report of bullying, the Principal shall commence an investigation consistent with the provisions of Section XI of this policy.

Staff Reporting

1. An important duty of the staff is to report acts or behavior that they witness that appears to constitute bullying.
2. All district employees and volunteers shall encourage students to tell them about acts that may constitute bullying. For young students, staff members may provide direct assistance to the student.
3. Any school employee or volunteers who witnesses, receives a report of, or has knowledge or belief that bullying may have occurred shall inform the Principal as soon as possible, but no later than the end of the that school day.
4. Upon receipt of a report of bullying, the Principal shall commence an investigation consistent with the provisions of Section XI of this policy.

VIII. Procedure for Internal Reporting Requirements (RSA 193-F:4, II(g))

In order to satisfy the reporting requirements of RSA 193-F:6, the Principal or designee shall be responsible for completing all New Hampshire Department of Education forms and reporting

documents of substantiated incidents of bullying. Said forms shall be completed within 10 school days of any substantiated incident. Upon completion of such forms, the Principal or designee shall retain a copy for himself and shall forward one copy to the Superintendent. The Superintendent shall maintain said forms in a safe and secure location.

IX. Notifying Parents of Alleged Bullying (RSA 193-F:4, II(h))

The Principal shall report to the parents of a student who has been reported as a victim of bullying and to the parents of a student who has been reported as a perpetrator of bullying within 48 hours of receiving the report. Such notification may be made by telephone, writing or personal conference. The date, time, method, and location (if applicable) of such notification and communication shall be noted in the report. All notifications shall be consistent with the student privacy rights under the applicable provisions of the Family Educational Rights and Privacy Act of 1974 (FERPA).

X. Waiver of Notification Requirement (RSA 193-F:4, II(i))

The Superintendent may, within a 48 hour time period, grant the Principal a waiver from the requirement that the parents of the alleged victim and the alleged perpetrator be notified of the filing of a report. A waiver may only be granted if the Superintendent deems such a waiver to be in the best interest of the victim or perpetrator. Any waiver granted shall be in writing.

XI. Investigative Procedures (RSA 193-F:4, II(j))

1. Upon receipt of a report of bullying, the Principal shall, within 5 school days, initiate an investigation into the alleged act. If the Principal is directly and personally involved with a complaint or is closely related to a party to the complaint, then the Superintendent shall direct another district employee to conduct the investigation.
2. The investigation may include documented interviews with the alleged victim, alleged perpetrator and any witnesses. All interviews shall be conducted privately, separately and shall be confidential. Each individual will be interviewed separately and at no time will the alleged victim and perpetrator be interviewed together during the investigation.
3. If the alleged bullying was in whole or in part cyberbullying, the Principal may ask students and/or parents to provide the District with printed copies of e-mails, text messages, website pages, or other similar electronic communications.
4. A maximum of 10 school days shall be the limit for the initial filing of incidents and completion of the investigative procedural steps.
5. Factors the Principal or other investigator may consider during the course of the investigation, including but not limited to:
 - Description of incident, including the nature of the behavior;
 - How often the conduct occurred;
 - Whether there were past incidents or past continuing patterns of behavior;
 - The characteristics of parties involved, (name, grade, age, etc.);
 - The identity and number of individuals who participated in bullying behavior;

- Where the alleged incident(s) occurred;
 - Whether the conduct adversely affected the student's education or educational environment;
 - Whether the alleged victim felt or perceived an imbalance or power as a result of the reported incident; and
 - The date, time and method in which parents or legal guardians of all parties involved were contacted.
6. The Principal shall complete the investigation within 10 school days of receiving the initial report. If the Principal needs more than 10 school days to complete the investigation, the Superintendent may grant an extension of up to 7 school days. In the event such extension is granted, the Principal shall notify in writing all parties involved of the granting of the extension.
7. Whether a particular action or incident constitutes a violation of this policy shall require a determination based on all facts and surrounding circumstances and shall include recommended remedial steps necessary to stop the bullying and a written final report to the Principal.
8. Students who are found to have violated this policy may face discipline in accordance with other applicable board policies, up to and including suspension. Students facing discipline will be afforded all due process required by law.
9. Consistent with applicable law, the District will not require or request that a student disclose or provide to the District the student's user name, password or other authenticating information to a student's personal social media account. However, the District may request to a student or a student's parent/guardian that the student voluntarily share printed copies of specific information from a student's personal social media account if such information is relevant to an ongoing District investigation.

XII. Response to Remediate Substantiated Instances of Bullying (RSA 193-F:4, II(k))

Consequences and appropriate remedial actions for a student or staff member who commits one or more acts of bullying or retaliation may range from positive behavioral interventions up to and including suspension or expulsion of students and dismissal from employment for staff members.

Consequences for a student who commits an act of bullying or retaliation shall be varied and graded according to the nature of the behavior, the developmental age of the student, and the student's history of problem behaviors and performance. Remedial measures shall be designed to correct the problem behavior, prevent another occurrence of the problem, protect and provide support for the victim, and take corrective action for documented systematic problems related to bullying.

Examples of consequences may include, but are not limited to:

- Admonishment
- Temporary removal from classroom
- Deprivation of privileges

- Classroom or administrative detention
- Referral to disciplinarian
- In-school suspension
- Out-of-school suspension
- Expulsion

Examples of remedial measures may include, but are not limited to:

- Restitution
- Mediation
- Peer support group
- Corrective instruction or other relevant learning experience
- Behavior assessment
- Student counseling
- Parent conferences

In support of this policy, the Board promotes preventative educational measures to create greater awareness of aggressive behavior, including bullying. The Board encourages the Superintendent to work collaboratively with all staff members to develop responses other than traditional discipline as a way to remediate substantiated instances of bullying.

XIII. Reporting of Substantiated Incidents to the Superintendent (RSA 193-F:4, II(l))

The Principal shall forward all substantiated reports of bullying to the Superintendent upon completion of the Principal's investigation.

XIV. Communication With Parents Upon Completion of Investigation (RSA 193-F:4, II(m))

1. Within two school days of completing an investigation, the Principal will notify the students involved in person of his/her findings and the result of the investigation.
2. The Principal will notify via telephone the parents of the alleged victim and alleged perpetrator of the results of the investigation. The Principal will also send a letter to the parents within 24 hours again notifying them of the results of the investigation.
3. If the parents request, the Principal shall schedule a meeting with them to further explain his/her findings and reasons for his/her actions.
4. In accordance with the Family Educational Rights and Privacy Act and other law concerning student privacy, the District will not disclose educational records of students including the discipline and remedial action assigned to those students and the parents of other students involved in a bullying incident.

XV. Appeals

A parent or guardian who is aggrieved by the investigative determination letter of the principal

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or his/her designee may appeal the determination to the Superintendent for review. The appeal shall be in writing addressed to the Superintendent, shall state the reason(s) why the appealing party is aggrieved, and the nature of the relief they seek. The Superintendent shall not be required to re-investigate the matter and shall conduct such review as he/she deems appropriate under the circumstances.

It is in the best interests of students, families and the District that these matters be promptly resolved. Therefore, any such appeal to the Superintendent shall be made within ten (10) calendar days of the parent/guardian's receipt of the investigative determination letter of the principal or his/her designee. The Superintendent shall issue his/her decision in writing.

If the parent or guardian is aggrieved by the decision of the Superintendent, they may appeal the decision to the school board within ten (10) calendar days of the date of the parent/guardian's receipt of the Superintendent's decision. An appeal to the Superintendent shall be a prerequisite to any appeal to the School Board. The appeal to the School Board shall be in writing, addressed to School Board Chair in care of the Superintendent, shall state the reason(s) why the appealing party is aggrieved, and the nature of the relief they seek.

An aggrieved parent/guardian has the right to appeal the final decision of the local School Board to the State Board within thirty (30) calendar days of receipt of the written decision of the local School Board in accordance with RSA 541-A and State of New Hampshire Department of Education Regulations set forth in ED 200. The State Board may waive the thirty-day requirement for good cause shown, including, but not limited to, illness, accident, or death of a family member.

XVI. School Officials (RSA 193-F:4, II(n))

The Superintendent of schools is responsible for ensuring that this policy is implemented.

XVII. Capture of Audio Recordings on School Buses

Pursuant to RSA 570-A:2, notice is hereby given that the Board authorizes audio recordings to be made in conjunction with video recordings of the interior of school buses while students are being transported to and from school or school activities. The Superintendent shall ensure that there is a sign informing the occupants of school buses that such recordings are occurring.

XVIII. Use of Video or Audio Recordings in Student Discipline Matters

The District reserves the right to use audio and/or video recording devices on District property (including school buses) to ensure the health, safety and welfare of all staff, students and visitors. Placement and location of such devices will be established in accordance with the provisions of Policies EEAA, EEAE and ECAF.

In the event an audio or video recording is used as part of a student discipline proceeding, such video may become part of a student's education record. If an audio or video recording does become part of a student's education record, the provisions of Policy JRA shall apply.

The Superintendent is authorized to contact the District's attorney for a full legal opinion relative in the event of such an occurrence.

NHSBA Note, September 2015: New paragraph (Paragraph #9) added to Section XI - Investigative Procedures. This change is in response to RSA 189:70, effective September 2015.

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RSA 189:70 prohibits school districts from requiring students to provide information relative to personal social media accounts. Districts may request certain information if such information is relative to an ongoing investigation. However, such information cannot be demanded or required. RSA 189:70 is also now added to Legal References.

NHSBA Note, September 2014: Only changes are to Section XV - Appeals. These changes are included after consultation with school officials as to the manner in which the NH Department of Education is now accepting appeals from school board decisions on bullying-related matters.

Legal References:

RSA 189:70, Educational Institution Policies on Social Media

RSA 193-F:3, Pupil Safety and Violence Prevention Act

RSA 570-A:2, Capture of Audio Recordings on School Buses Allowed

NH Code of Administrative Rules, Section Ed 306.04(a)(8), Student Harassment

Revised: September 2014

Revised: July 2004, August 2006, May 2008, September 2010

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SOULE, LESLIE, KIDDER,
SAYWARD & LOUGHMAN^{P.L.L.C.}

ATTORNEYS AT LAW

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MEMORANDUM

TO: Superintendents of Client School Districts

FROM: Michael S. Elwell and Diane M. Gorrow

RE: Providing References For School Employees Accused of Sexual Misconduct

DATE: August 7, 2018

School district references for employees accused of sexual misconduct have been the subject of much discussion in two recent contexts. The United States Department of Education recently reminded state departments of education, which in turn communicated to school districts, that the Elementary and Secondary Education Act requires districts to adopt policies which prohibit assistance in obtaining a new job for a school district employee, contractor or agent who is known or is believed to have engaged in sexual misconduct with a minor or a student. There also have been many recent headlines concerning sentencing statements made by school district employees in support of a former co-worker who pleaded guilty to sexual assault of a student. We have received questions from many of you about each of these situations. Please consider the following.

I. Policy Pursuant to ESSA and ESEA

Section 8546(a) of the Elementary and Secondary Education Act, as reauthorized in December 2015 by the Every Student Succeeds Act,¹ requires a local education agency that receives federal funds under the ESEA to have a policy which prohibits it (and its employees, contractors and agents) from assisting a school employee, contractor or agent in obtaining a new job if the individual or the agency knows or has probable cause to believe that the person engaged in illegal sexual misconduct regarding a minor or a student. The Department of

¹ Codified at 20 U.S.C. 7926(a).

Education's recent letter specifies that providing a "recommendation of employment" is prohibited, but Section 8546(a) also requires the policy to prohibit other forms of assistance to obtain a new job.

Section 8546(b) of the ESEA establishes some limits and exceptions. Routine transmission of administrative and personnel files is permissible. The requirements of Section 8546(a) also do not apply if:

1. Information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction; and
2. That information also has been properly reported to other authorities as required by law (e.g., DCYF); and
3. Either (a) the matter has been officially closed; (b) the prosecutor or police have investigated and notified school officials that there is insufficient evidence for them to proceed; (c) the alleged perpetrator has been charged and acquitted or otherwise exonerated; or (d) the case remains open and no charges have been filed for at least four years after the information was reported to the law enforcement agency.

In our experience, school districts do not provide references or other employment assistance to persons believed to have engaged in sexual misconduct with students or minors. However, Section 8546 now requires a formal policy that prohibits such assistance by the school district and its employees, contractors and agents. A model policy, which tracks the language in Section 8546, is attached.

II. Character References for School Employees Who Have Sexually Assaulted Students

Kristie Torbick, a former guidance counselor, pleaded guilty to four counts of felonious sexual assault against a student and was sentenced to 2 ½ to 5 years in prison. Educators recently were asked to attend her sentencing hearing and speak on her behalf. Some refused, some went without the knowledge or consent of their employers, and a few went with the authorization of their employers. Educators who supported or spoke favorably about Kristie Torbick at her sentencing hearing have been publicly criticized.

What, if anything, can or should districts do to avoid what happened in the Torbick case? Individuals who are employed by districts have the right under the First Amendment as individuals to speak in support of someone to be sentenced. As long as the educator is speaking as an individual, the individual cannot be terminated or disciplined for that speech.

Districts do have control over what individuals can do as representatives of the districts. As a general rule, unless the district is a party to an action, a district is not required to send representatives to court hearings without a subpoena. Districts do not need to adopt board policies to address how to respond to requests for testimony. However, the superintendent should establish guidelines to handle requests to appear in court. The guidelines should require the following: Any employee who receives a request to testify or appear in court as a

representative of the district must notify the building principal. The building principal must then contact the superintendent. The superintendent should determine, in consultation with legal counsel, how to respond to the request.

POLICY

The School District and its employees, contractors and agents are prohibited from providing a recommendation of employment and from otherwise assisting a school employee, contractor or agent in obtaining a new job if it is known or there is probable cause to believe that such school employee, contractor or agent engaged in illegal sexual misconduct with a minor or a student. Routine transmission of administrative and personnel files is not prohibited.

The requirements of the foregoing paragraph shall not apply if:

1. Information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction; and
2. That information also has been properly reported to other authorities as required by law (e.g., DCYF); and
3. Either (a) the matter has been officially closed; (b) the prosecutor or police have investigated and notified school officials that there is insufficient evidence for them to proceed; (c) the alleged perpetrator has been charged and acquitted or otherwise exonerated; or (d) the case remains open and no charges have been filed for at least four years after the information was reported to the law enforcement agency.

Raymond School District Policy - GBCD

BACKGROUND INVESTIGATION AND CRIMINAL RECORDS CHECK

Background Investigation

The Superintendent, or his/her designee, ~~shall~~ **will** conduct a thorough investigation into the past employment history, **criminal history records**, and other ~~applicable~~ **appropriate** background, ~~of any person considered for employment with the District~~ **of any applicant as defined in this policy**. This investigation shall be completed prior to making an offer of **final** employment, **approving the contract with an individual contracting directly with the District, or approving the assignment of an employee of a contractor, a student teacher, or designated volunteer to work within the District.**

The Superintendent shall develop a background investigation protocol for use in completing a background investigation and shall keep a written record of all background investigations that have been done. **For the purposes of this policy, the term "applicant" shall include a selected applicant for employment by the District, an individual or entity with whom the District contracts to provide services directly to students, any employee of a contractor with whom the District contracts to provide services directly to students, student teachers who are proposed to be placed in a District school, and designated volunteers. All applicants will be subject to a criminal records history check meeting the minimum requirements of law, however, the Superintendent's protocol may specify additional background check steps for specific groups of employees, such as verifying the educational achievements and employment history of an applicant for a teaching position. The Superintendent's protocol shall include a list of felonies and misdemeanors, in addition to those specified in RSA 189:13-a,V, convictions of which shall be disqualifying. The protocol shall require that an analysis be conducted of any pending charges or convictions for crimes not on the statutory list of disqualifying offenses to determine whether the applicant should be disqualified. The protocol shall take into consideration the time which has passed since the conviction, the facts and circumstances of the charge or conviction, evidence of successful rehabilitation and an extended period of lawful behavior. For charges pending disposition for offenses not on the statutory list of disqualifying offenses, which the applicant discloses or which come to light during the background check, the presumption of innocence shall apply, however, the Superintendent shall consider all reliable information in assessing the applicant's suitability. The Superintendent shall assess whether, in light of the totality of the circumstances, the pending charges or convictions raise reasonable cause to doubt the applicant's suitability for the position.**

As part of the application process, each applicant ~~for a position~~ shall be asked whether he/she has ever been convicted of any crime, and whether there are any criminal charges pending against him/her at the time of application. **The applicant will also be directed to report any criminal charges brought against him or her after the application is submitted and until either hired or notified that he or she will not be hired.** The falsification or omission of any information on a job application or in a job interview, including, but not limited to, information concerning criminal convictions or pending criminal

charges, shall be grounds for disqualification from consideration for employment or immediate discharge from employment.

The fee and costs associated with the fingerprinting process and/or submission or processing of the criminal history records checks for a contractor or for employees of a contractor who provides services directly to students shall be borne by the contractor. Any other applicant for whom the Board requires a criminal history records check shall pay all fees and costs associated with the fingerprinting process and/or the submission or processing of the criminal history records check, unless otherwise determined by the Board.

Criminal History Records Check

Each applicant must submit to a State and FBI Criminal Records Check.

~~Each person considered for employment by the Board whose duties require regular contact with students must submit to a State and FBI Criminal Records Check.~~

~~Persons "regularly in contact with students" means a person or persons who, in the performance of his/her duties: (1) comes in direct contact with students on a daily basis for any period of time; (2) meets regularly, e.g., once or twice a week, with students, including, but not limited to, an art, music, or physical education teacher; (3) a substitute teacher who comes in direct contact with students on a limited basis; or (4) any other persons who the Superintendent believes, by virtue of their duties and contact with students, should appropriately undergo a Criminal Records Check.~~

~~The Superintendent is responsible for establishing all necessary internal procedures relative to the initiation and completion of the State and FBI Criminal Records Check.~~

Volunteers

Designated Volunteers are subject to a background investigation/criminal records check and the provisions of this policy. "Designated Volunteers" are defined and so designated pursuant to Policy IJOC. Volunteers not categorized as "Designated Volunteers" per Policy IJOC will generally not be subject to a background investigation or criminal records check. However, the Board may require a Criminal Records Check of any Volunteer at any time.

Student Teachers

The District will not accept the services of student teachers who would be disqualified from employment under this policy.

Contractors

~~Any contractor and employees of the contractor whose duties require regular contact with students are subject to State and FBI Criminal Records Check in accordance with this policy.~~

Any contractor and employees of the contractor who provide services directly to students are subject to State and FBI Criminal Records Check in accordance with this policy.

Conditional and Final Offers of Employment

~~Persons who have been selected for employment may be hired on a conditional basis, pending a successful completion of the State and FBI Criminal Records Check.~~

Persons who have been selected for employment may be given a conditional offer of employment, with the final offer subject to the successful completion of the State and FBI criminal history records check.

No selected applicant for employment shall be extended a conditional offer of employment until the Superintendent, or his/her designee, has initiated the formal State and FBI Criminal Records Check process and ~~has completed~~ a background investigation.

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

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

Final Offer of Employment

A person who has been extended a conditional offer of employment may be extended a final offer of employment upon the completion of a ~~Criminal Records Check~~ **criminal history records check** that is satisfactory to the Board.

~~No person with a conditional offer of employment shall be extended a final offer of employment if such person has been convicted of the following offenses, as referenced in RSA 189:13-a, V: (1) murder; (2) child pornography; (3) aggravated felonious sexual assault; (4) felonious sexual assault; (5) kidnapping; (6) manufacturing, selling, administering, dispensing, or distributing any controlled substance(s) on School property; or (7) sexual misconduct within an education setting in this State, or where such person has been convicted of the same conduct in another state, territory, or possession of the United States, or where such person has been convicted of the same conduct in a foreign country.~~

No person shall be extended a final offer of employment, and no person will work within the District, if such person has charges pending or has been convicted of any crime listed in RSA 189:13-a, V; or where such person has been convicted of the same conduct in another state,

territory, or possession of the United States; or were such person has been convicted of the same conduct in a foreign country.

In addition to the felonies listed as disqualifying in pertinent and applicable law RSA 189:13-a, V, a person may be denied a final offer of employment an applicant will not work within the District if he/she has charges pending or has been convicted of any crime, either a misdemeanor or felony. Such determination will be made by the School Board, on a case by case basis. For misdemeanors, an applicant will not work within the District if he/she has charges pending or has been convicted of a misdemeanor for any of the offenses listed in RSA 189:13-a, V, or for any offenses involving sexual offenses, child abuse or domestic violence.

The Superintendent shall assess the other misdemeanors on a case-by-case basis on the following factors:

- **Time which has passed since the charge of conviction**
- **Age of person at time of the charge of conviction**
- **Number of charges or convictions**
- **Type of charge of conviction in light of the person's possible position/responsibilities**
- **Facts and circumstances of the charge or conviction**
- **Successful rehabilitation**
- **Extended period of lawful behavior**

~~The Superintendent, or designee, will transmit this policy to the State Police, who will then screen the Criminal Records Check for any selected applicant for employment, or designated volunteer, and will notify the District whether the record of said selected applicant or volunteer contains any felony convictions.~~

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

The Superintendent is responsible to establish II necessary internal procedures relative to the initiation and completion of the State and FBI Criminal Records Check. In accordance with RSA 189:13-a, III, only the Superintendent will review the criminal history record received from the State Police and shall destroy that document as required by law.

When the District receives notification of an employee, contractor, contractor's employee, or volunteer being charged with or convicted of a disqualifying offense under RSA 189:13-a, the Superintendent's protocol, or other crime which is evidence of the individual's unsuitability to continue in their role, the Superintendent shall take immediate appropriate action to remove the individual from contact with students. Employees shall be placed on paid administrative leave, if not subject to and immediately discharged. The Superintendent will then take appropriate employment or other action, consistent with law and any applicable employment agreement or contract to address the individual's ongoing relationship with the District.

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

Additional Criminal Records Checks

~~The Board may require a Criminal Records Check of any employee at any time.~~

The Board may require a criminal history records check of any employee, an individual with whom the District has contracted to provide services directly to students, a contractor or employee of a contractor with the District who has been assigned to provide services directly to students, student teachers who are placed in a District school, and designated volunteers at any time.

Statutory Reference:

RSA 189:13-a

See Appendixes: GBCD-R N.H. Department of Education, School Employee Background Investigation, Including A Criminal History Records Check

Adopted: May 16, 2002
Revised: March 7, 2007
Revised: August 27, 2008
Revised: May 3, 2017

GBCD - BACKGROUND INVESTIGATION AND CRIMINAL RECORDS CHECK

(Download policy)

Sample Policy

Category: Priority/Required by Law

See also IJOC

Background Investigation

The Superintendent, or his/her designee, will conduct a thorough investigation into the past employment history, criminal history records, and other appropriate background of any applicant as defined in this policy. This investigation shall be completed prior to making a final offer of employment, approving the contract with an individual contracting directly with the District, or approving the assignment of an employee of a contractor, a student teacher, or designated volunteer to work within the District.

The Superintendent shall develop a background investigation protocol for use in completing a background investigation and shall keep a written record of all background investigations which have been done. For the purposes of this policy the term "applicant" shall include an applicant for employment by the District, an individual with whom the District may contract to provide services directly to students, any person identified by a contractor with the District whom the contractor proposes to assign to provide services directly to students, student teachers who are proposed to be placed in a District school, and designated volunteers. All applicants will be subject to a criminal records history check meeting the minimum requirements of law, however, the Superintendent's protocol may specify additional background check steps for specific groups of employees, such as verifying the educational achievements and employment history of an applicant for a teaching position. The Superintendent's protocol shall include a list of felonies and misdemeanors, in addition to those specified in RSA 189:13-a, V, convictions of which shall be disqualifying. The protocol shall require that an analysis be conducted of any pending charges or convictions for crimes not on the statutory list of disqualifying offenses to determine whether the applicant should be disqualified. The protocol shall take into consideration the time which has passed since the conviction, the facts and circumstances of the charge or conviction, evidence of successful rehabilitation and an extended period of lawful behavior. For charges pending disposition for offenses not on the statutory list of disqualifying offenses, which the applicant discloses or which come to light during the background check, the presumption of innocence shall apply, however, the Superintendent shall consider all reliable information in assessing the applicant's suitability. The Superintendent shall assess whether, in light of the totality of the circumstances, the pending charges or convictions raise reasonable cause to doubt the applicant's suitability for the position.

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

limited to, information concerning criminal convictions or pending criminal charges, shall be grounds for disqualification from consideration for employment or immediate discharge from employment.

Any applicant for whom the Board requires a criminal history records check or their employer in the case of an employee of a contractor shall pay all fees and costs associated with the fingerprinting process and/or the submission or processing of the requests for the criminal history records check, unless otherwise determined by the Board.

Criminal History Records Check

Each applicant must submit to a background check and a criminal history records check with the State of New Hampshire, including FBI national records. Refusal to provide the required criminal history records release form and any other required releases to authorize a background check will result in immediate disqualification and no further consideration for the position.

Volunteers

Designated Volunteers are subject to a background investigation/criminal records check and the provisions of this policy. "Designated Volunteers" are defined and so designated pursuant to Policy IJOC. Volunteers not categorized as "Designated Volunteers" per Policy IJOC will not be subject to a background investigation or criminal records check.

Conditional Offer of Employment

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

No applicant selected for employment shall be extended a conditional offer of employment until the Superintendent, or his/her designee, has initiated the formal State and FBI criminal history records check process and a background investigation.

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

Final Offer of Employment

A person who has been extended a conditional offer of employment or conditional approval to work within the District as a contractor or employee of a contractor may be extended a final offer of employment or final approval upon the completion of a criminal history records check and a background check which is satisfactory to the Board.

No person with a conditional offer of employment shall be extended a final offer of employment if such person has charges pending or has been convicted of any crime listed in RSA 189:13-a, V; or where such person has been convicted of the same conduct in another state, territory, or possession of the United States; or where such person has been convicted of the same conduct in a foreign country.

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In addition to the felonies listed as disqualifying in pertinent and applicable law, a person may be denied a final offer of employment if he/she has charges pending or has been convicted of any crime, either a misdemeanor or felony, provided the basis for disqualifying the candidate is job related for the position in question and is consistent with business necessity. Such determination will be made by the Superintendent in accordance with the established protocol and on a case-by-case basis. If the Superintendent chooses to nominate an applicant who has a history of conviction of a crime or with pending charges for a position that must be approved by the School Board, the School Board shall be informed of that history in non-public session.

The Superintendent, or designee, will transmit each applicant's Criminal Record Release Authorization Form and, where inked cards are used, the applicant's fingerprint cards to the State Police. The State Police will then conduct the criminal history records check and will provide the Superintendent with the applicant's criminal history record or confirmation that the individual does not have a record of being charged with or convicted of a crime. In accordance with RSA 189:13-a, III, only the Superintendent will review the criminal history record received from the State Police and shall destroy that document as required by law.

When the District receives a notification of an employee, contractor, contractor's employee, or volunteer being charged with or convicted of a disqualifying offense under RSA 189:13-a, the Superintendent's protocol, or other crime which is evidence of the individual's unsuitability to continue in their role, the Superintendent shall take immediate appropriate action to remove the individual from contact with students. Employees shall be placed on paid administrative leave, if not subject to and immediately discharged. The Superintendent will then take appropriate employment or other action, consistent with law and any applicable employment agreement or contract to address the individual's ongoing relationship with the District.

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

Additional Criminal Records Checks

The Board may require a criminal history records check of any employee, an individual with whom the District has contracted to provide services directly to students, any person identified by a contractor with the District who has been assigned to provide services directly to students, student teachers who are placed in a District school, and designated volunteers at any time.

Legal References:

*RSA 189:13-a, School Employee and Volunteer Background Investigations
Appendix GBCD-R: Sample Background Check, Criminal History Records Check
Protocol*

Revised: September 2017

Revised: September 2016

Revised: November 1999, December 2004, August 2007, September 2010

NHSBA note, September 2017: This policy is revised to conform with the changes to RSA 189:13-a enacted by House Bill 556, Laws of 2017, Chapter 245. These changes require the District to assess whether convictions for felonies or misdemeanors, which are not on the list of

disqualifying crimes in state law, are nonetheless disqualifying and to perform the background and criminal history record checks on contractors, employees of contractors, and student teachers, who will be providing services directly to students.

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RAYMOND SCHOOL DISTRICT POLICY – IMGA

Service Animals

Purpose

This policy addresses the use of service animals within school buildings and on school grounds. As established and defined by the Americans with Disabilities Act and its accompanying regulations, individuals with disabilities shall be permitted to bring their service animals in school buildings or on school grounds in accordance with this policy. Conditions relative to pets and non-service animals within the school building and on school grounds are found in Board Policy IMG.

“Service Animal” Defined

In accordance with 28 CFR 35.104 (effective March 15, 2011) a “service animal” is defined as:

Any dog that is individually trained to do or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purpose of this definition. The work or tasks performed by a service animal must be directly related to the handler’s disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or who have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or task for the purpose of this definition.

This definition shall be construed to include a “hearing ear dog,” “guide dog,” or “service dog,” as those terms are currently defined in NH RSA 167-D:3.

Permissible Inquires

The District will not make the inquiry about the nature or extent of an individual’s disability in determining whether to allow a service animal in a school building or on school grounds. The District will inquire whether the animal is required because of a disability and what work or task the animal has been trained to perform. The work and tasks do not include the provision of emotional support, well-being, comfort or companionship. The presence of a service animal is considered a workplace or learning accommodation. If the animal is required because of a disability, documentation must

show what work on task the animal has been trained to perform. A physician's statement will also be required regarding the need and scope of work of the service animal.

When a student or employee's disability requires the presence of a service animal in a school building or on school grounds during the school day, the District shall also require annual submission of proof of current vaccinations and immunizations of the service animal and a current veterinary health certificate.

Access to the School Buildings and Grounds

In accordance with federal regulations, individuals with disabilities shall be permitted to be accompanied by their service animal in all areas of District schools, where members of the public, participants in services, programs, or invitees, as relevant, are allowed to go.

Animals for Children with Educational Disabilities or a Section 504 Plan

If a student with an educational disability or a Section 504 Plan seeks to bring an animal on a school campus that is not a service animal, the request shall be referred to the IEP or Section 504 Team to determine whether the animal is necessary for the student to receive a free and appropriate education (FAPE). It is recommended that information regarding the service animal be provided to students and teachers in the event an animal is used in the school/classrooms.

Management of Service Animals

Service animals must be under control of their handlers. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means). In the event of an emergency with the handler, emergency contacts to retrieve the animal must be identified.

Care of and Responsibility for Service Animals

The District is not responsible for the care or supervision of a service animal. The owner or handler of the service animal shall be solely responsible for:

1. Supervision and care of the animal, including feeding, exercising, clean-up and stain removal;
2. Restraint of the animal at all times;
3. Damages to the school buildings, property and vehicles caused by the animal;
4. Injuries to students, employees, volunteers and visitors caused by the animal;
5. Annual submission of documentation of vaccinations and immunizations;
6. The School District is not responsible for the animal's care or supervision.

Animals for Employees

Use of a service animal by a qualified employee with a disability will be allowed when such use is necessary to enable the employee to perform the essential functions of his/her position or to enjoy the benefits of employment in a manner comparable to those similarly situated non-disabled employees.

Circumstances Under Which a Service Animal Will Be Prohibited from Campus

The Superintendent or other designee may ask an individual with a disability to remove a service animal from the campus or school event, or may even deny a request for use of a service animal on campus or at a school event if:

1. The animal is out of control and the animal's handler does not take effective action to control it;
2. The animal is not housebroken;
3. The presence of the animal will require a fundamental alteration of the program or will significantly disrupt or interfere with the educational process;
4. When the animal is to be used regularly during the school day or at school events, the handler fails to submit proof of current vaccinations and immunizations of the service animal and a current veterinary health certificate;
5. To the extent applicable, the handler fails to comply with NH RSA 167-D.

If an animal is properly removed or prohibited from the premises, the District will continue to give the individual with a disability the opportunity to participate in District services, programs, or activities without having the service animal on the premises.

A decision to remove or prohibit a service animal from District schools may be appealed to the Superintendent of Schools.

Legal References

Section 504 of the Rehabilitation Act – 29 U.S.C. 794

Americans with Disabilities Act – 42 U.S.C. 12101 et seq.

Nondiscrimination on the Basis of Disability, Title 28 CFR Part 35, Part 36

NH RSA 167-D

Adopted: December 7, 2011

SERVICE ANIMALS IN SCHOOLS*Category: Priority – Required by Law**Related Policy: IMG***A. General Conditions.**

1. Use of a service animal by a person with a disability will be allowed in or upon District property when the animal is required to perform work or tasks directly related to the individual's disability.

Qualified individuals with disabilities and service animal trainers are eligible to use service animals in the School.

2. "Service animals":

- a. "Service Animal" for the purposes of this policy shall mean and include any dog individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Service animal shall be construed to include a "hearing ear dog," "guide dog," or "service dog," as those terms are currently defined in NH RSA 167-D:1. "Emotional support," "therapy," or "comfort dogs" are generally not service animals for the purposes of this policy, except as may be provided under Paragraph B.2, below.

Miniature horses do not specifically fall within the state or federal statutory definitions for "service animal". However, miniature horses which have been individually trained to perform specific work or tasks may be permitted in the schools in certain circumstances as a reasonable accommodation for a qualified individual with a disability. Any such requests should be directed to the Superintendent or his/her designee, who in addition to the above will take into consideration the provisions of Paragraph B.2, and Section C, below. If a miniature horse is approved, all the conditions in this policy shall apply.

Other species of animals, whether wild or domestic, trained or untrained, are not service animals for purposes of this definition.

- b. The work or tasks performed by a service animal must be directly related to the individual's disability. Under state and federal law, work and tasks may include, but are not limited to: (1) assisting individuals who are blind or have low vision with navigation and other tasks; (2) alerting individuals who are deaf or hard of hearing to the presence of people or sounds; (3) providing nonviolent protection or rescue work; (4) pulling a wheelchair; (5) assisting an individual during a seizure; (6) alerting individuals to the presence of allergens; (7) retrieving items such as medicine or a telephone; (8) providing physical support and assistance with balance and stability to individuals with mobility disabilities; and (9) helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effect of an animal's presence and the provision of emotional support, well-being, comfort, or companionship does not constitute work or tasks for the purposes of the law.

SERVICE ANIMALS IN SCHOOLS

3. "Comfort" animals/pets: Animals which do not meet the definition of Service Animal as provided above, are not entitled to protection under this policy and are subject to such other applicable policies or administrative regulations of the District or school.
4. The District will have no responsibility for the training, feeding, grooming or care of any service animal permitted to attend school under this policy (except in the limited circumstances described in Section B.3.a, below. It shall be the responsibility of the individual with a disability or designated handler to ensure the proper care and supervision of the service animal.
5. All service animals must be kept on a harness, leash or tether (unless this prevents the animal from performing his/her specific work or tasks with the individual), or must otherwise be under the control of the individual with a disability or designated handler at all times.
6. The individual (in the case of a student, the student's parent/guardian(s)) is liable for any damage to District property or other personal property, and for any injuries to individuals caused by the service animal, consistent with any applicable laws.
7. Individuals with service animals may access the same areas that individuals without disabilities are authorized to access.
8. As used in this policy, "service animal trainer" shall have the same definition as that provided under RSA 167-D:1 as the same may be amended or replaced from time-to-time. As of February 1, 2017 that statute defines "service animal trainer": (i) as any person who is employed to train dogs for or is volunteering to raise dogs for a provider of service animals for persons with disabilities, (ii) or an individual trainer who helps a person with disabilities to train his or her own service animal, (iii) or an individual trainer who tests an animal to verify its eligibility for the New Hampshire service animal tag.

B. Administrative Review of Service Animals.

1. Whenever a service animal is in the school or on District property (and it is not obvious that the animal qualifies as a service animal, e.g., guide dog for a blind person), a building administrator or other authorized District personnel may ask:
 - a. Whether the service animal is required because of a disability;
 - b. What work or task(s) the animal has been trained to perform;
 - c. In the case of a service animal trainer, documentation of the individual's affiliation with a recognized organization as described in RSA 167, and section A.7 above.
2. If a student with an educational disability or a Section 504 Plan seeks to bring an animal on a school campus that is not a service animal as defined above, the request shall be referred to the IEP or Section 504 Team to determine whether the animal is necessary for the student to receive a free and appropriate education (FAPE). After such review, if the animal is deemed necessary for the student to receive FAPE, then the animal shall be a service animal for the purposes of this policy.

SERVICE ANIMALS IN SCHOOLS

3. When it is anticipated that a service animal is going to be in school on a regular basis with a third party (e.g., employee, volunteer, service animal trainer or other frequent visitor to the school), the individual using the service animal (or in the case of a student, the student's parent/guardian(s)) are strongly encouraged to notify the Superintendent or the Principal in advance.
 - a. The school will not provide any staff support to care for or control a service animal, but may provide support to a student using a service animal as needed in a particular instance (i.e., accompanying a young student who takes a service animal outside to relieve itself).
 - b. Any handler (service animal trainer, parent/guardian or other person) accompanying the service animal must have approval to work in the school from the New Hampshire Department of Education and undergo the State criminal background check.
4. Service animals must be properly licensed and vaccinated in accordance with New Hampshire law (see RSA Chapter 466).

C. Additional Considerations Relative to Service Miniature Horses.

In making a determination as to whether to allow a specific miniature horse as a service animal, the Superintendent/designee will consider pertinent factors, including, without limitation:

- a. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
- b. Whether the handler has sufficient control of the miniature horse;
- c. Whether the miniature horse is housebroken; and
- d. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements necessary for the safety of students or others.

D. Removal or Exclusion of Service Animals from School.

1. The Superintendent, Principal or other authorized school official may require that the service animal be removed from the school or other District property under any of the following circumstances:
 - a. The service animal poses a direct threat to the safety of individuals, causes a significant disruption of school activities or programs, fundamentally alters the nature of any school program, or otherwise jeopardizes the safe operation of the school in a manner that cannot be eliminated by modifications;
 - b. The service animal demonstrates that he/she is unable to perform reliably the work or tasks which he/she was represented as being able to perform (which is required to be defined as a service animal);

SERVICE ANIMALS IN SCHOOLS

- c. The service animal is not under the full control of the person with a disability, or the authorized handler/trainer, and the individual does not take effective action to control the animal;
 - d. The service animal is sick (i.e., vomiting, etc.), infested with parasites, has an infection of the skin, mouth or eyes, or otherwise presents a threat to the public health (applying the standard that would be applied to any other animal allowed on school premises); and/or
 - e. The service animal is not housebroken (i.e., demonstrates that it is not sufficiently trained to relieve itself outside in appropriate locations).
2. If a service animal is removed or excluded, the individual shall still be provided access to school facilities, programs and/or services.

History:

First reading: _____

Second reading/adopted: _____

Legal References:

Section 504 of the Rehabilitation Act – 29 U.S.C. 794;

Americans with Disabilities Act – 42 U.S.C. 12101 et seq.;

Nondiscrimination on the Basis of Disability, Title 28 CFR Part 35-36;

NH RSA 167-D and 466;

NHSBA history: New policy - April 2011
Revised – May 2018

NHSBA revision note, May 2018: NHSBA has revised sample policy IMGA to add clarity and to reflect emerging interpretations of applicable statutes and regulations.

w/p-update/2018spring/IMGA Service Animals 2018-5

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Raymond School District Policy - IJOA

FIELD TRIPS AND EXCURSIONS

Field trips may be recommended by the building Principal and authorized by the Superintendent.

The teacher, in requesting permission to take his/her class away from school grounds, should submit the details of such a trip to the Principal. A Warning and Consent Form should be sent to the parents/guardian of each participating child, for parent/guardian signature and return to the school. This is to be done after the field trip has been authorized.

Consent forms of those attending should be filed with the Principal at least three weeks before the trip. No child may leave the school grounds on a field trip unless this form has been signed by the parents.

Arrangements for financing all field trips must be made prior to the trip. If student contributions are involved, the necessary funds must be in the hands of the Principal before the trip will be taken.

Any overnight or out-of-state field trips must have the approval of the School Board upon the recommendation of the Superintendent.

Appendix IJOA-R

Adopted: August 1, 2002

Raymond School District Policy – IJOA-R*

REQUEST FOR EDUCATIONAL FIELD TRIP

At least two (2) weeks before the proposed day of any field trip involving transportation, the teacher shall supply the following information in duplicate to the Principal.

Grade _____ Date _____

Trip _____

Date of Trip _____ Estimated Miles _____

Departure Time _____ Return by _____

Number of Pupils _____ Adults _____

Teacher _____

Bus Driver _____

Names of Chaperones _____

Comments _____

Adopted: August 1, 2002

Raymond School District Policy – EEAF-R*

STUDENT OVERNIGHT TRAVEL

School: _____

Organization: _____

Faculty Advisor: _____

Sponsor (if other): _____

Destination: _____

Dates: Departure: _____ Return: _____

Any Days of School Missed?: _____

How Many?: _____

Insurance Coverage
By Travel Group

Insurance Agency: _____

Attach Copy

Certificate of Insurance: _____

Number of Insurance Certificate

Amount: _____

Cost Per Student: \$ _____ Total Number of Students: _____

Cost to School: \$ _____ Total Number of Chaperons: _____
(if any)

Transportation Provided by: _____

Fully Insured: - Name of Insurance Co. _____

Educational Purpose of Trip: _____

Detailed Itinerary: (Use attached sheet if necessary)

Reviewed: May 16, 2002

RAYMOND SCHOOL DISTRICT POLICY JICD-R

RAYMOND SCHOOL DISTRICT AND RAYMOND POLICE DEPARTMENT MEMORANDUM OF UNDERSTANDING

for administering the Provisions of RSA 193-D Safe School Zones

1. General Principles

The School Board and the Police Department agree to work in a cooperative effort to provide a safe and healthy school environment for students, staff and visitors. In furtherance of that effort, this Memorandum of Understanding is intended to comply with the provisions of RSA 193-D Safe School Zones. The Board and the Police Department further agree to respond effectively to incidents of school delinquency or criminal behavior in school, on school grounds, and at school sponsored events.

This memorandum deals with the law enforcement response to any incident involving the possession, use, sale or distribution of alcohol and other drugs in a school setting or during any school sponsored activity. This memorandum also addresses the efforts by the school and police to respond to incidents of violence; weapons possession; or acts of theft, violence or destruction, on school property and at school functions, under the provisions of and in concert with the implementation of the Safe Schools Act, RSA 193-D. This Memorandum applies to reportable behavior of adults as well as children.

The School Board and the Police Department agree to coordinate these efforts with the local prosecuting Attorney's Office and the New Hampshire Department of Education.

The School Board recognizes that in cases of an emergency situation or imminent danger to students, staff or the community, the Police Department and the School District may act without regard to the Memorandum of Understanding. Nothing contained in this Memorandum is intended to limit the events that may be reported to the Police Department or limit school employees from requesting police assistance on matters not referred to in this Memorandum.

In the event either the School Board or the Police Department desires to amend this Memorandum, the agency seeking changes will arrange for meeting with the other.

2. Definitions

The following terms, as defined in RSA 193-D-1 apply to this Memorandum:

- "Safe School Zone" means an area inclusive to any school property or school buses.
- "School" means any public or private elementary, secondary or secondary vocational-technical school in New Hampshire. It shall not include home schools.
- "School Employee" means any school administrator, teacher, or other employee of any public or private school, school district, school department, or school administrative unit, or any person providing, or performing continuing contract services for any public or private school, school districts school

department or school administrative unit.

- "School property" means all real property, physical plant and equipment used for school purposes, including but not limited to school playgrounds and buses, whether public or private.
- "School purposes" means school-sponsored programs, including but not limited to educational or extra-curricular activities.

3. School/Police Liaisons

In order to facilitate prompt and clear communication of incidents, the School Board and the Police Department will designate individuals to serve as primary contact liaisons. The Superintendent of Schools shall designate the Principal at each school as that school's Reporting Official. He/she shall be responsible for handling all reportable incidents of: (1) drug/alcohol use, possession, sale and/or distribution; (2) assault or violence; (3) possession of weapons; and/or (4) theft or destruction of property. The School District liaison will communicate information on such incidents to the Police Department.

The Chief of Police shall designate a police officer(s) who shall be responsible for handling all reportable incidents brought to the attention of the Police Department by the school's Reporting Officials. In addition to communication between the Reporting Official and the Police Officer on the specific incidents mentioned above, it is recommended that Official and Officer meet regularly to discuss the scope of these problems, and to identify strategies aimed at reducing them.

4. Reportable Acts

A. School Reports to Police Department

1. Mandatory: Notwithstanding the provisions of RSA 193-D, the Safe School Zone Act, the following incidents must be reported to the Police Department by the designated school employee:
 - a. Possession of alcohol by a minor or if it appears that a student is under the influence of alcohol or drugs on school property, or at school functions;
 - b. Possession, selling or distribution of any controlled substance (including drug paraphernalia) as defined in NH RSA 318-B, by an individual on school property, or at school functions;
 - c. Any incident in which any individual who is responsible for, suspected of, or determined to be selling or distributing drugs or alcohol on school property, or at school functions,;
 - d. Unlawful possession, sale, or use of firearms or other dangerous or prohibited weapons, fireworks and explosives, as defined in NH RSA's 208, 644 and 159, on school property, or at school functions;
 - e. Arson under RSA 634:1 any person who knowingly starts any fire or causes any explosion which results in injury, damage to property of another, or is done with intentional disregard for the safety of others;
 - f. Burglary under RSA 635: any person who enters a building to

separately secured section of a building, with a purpose to commit a crime;

g. Robbery under RSA 636: including any theft that is accomplished by the physical force or the threat of imminent use of force;

h. Thefts of property where the value is more than \$50.00, repeated occurrences of theft by one student, (thefts by students who are in the third grade or lower are generally not reported to the Police);

i. Homicides under RSA 630: any death shall immediately be reported to the Police Department, regardless of suspected cause;

j. Any first or second degree assault under RSA 631, whereby an injury occurs to a person, requiring medical treatment beyond basic first aid or requiring outside medical follow up, caused by another person.

Investigation may reveal that not all of these incidents constitute an actual crime. Reporting will allow an investigation to be conducted;

k. Any sexual assault under RSA 632-A. Any sexual contact with a person who is under 13 years of age will be reported;

l. Criminal Mischief under RSA 634:2, purposely or recklessly damaging the property of another, resulting in a value of \$50 or more of damage. This includes vandalism to school property;

m. Threatening behavior under RSA 631:4 which purposely places or attempts to place another in fear of imminent bodily injury or physical contact.

n. Simple assault under RSA 631:2a. Simple assault may result in some injuries. Simple assault also includes knowingly having unprivileged physical contact with another person. Law enforcement and school officials can jointly determine the best action to be taken in terms of filing a report.

2. Discretionary Reporting Events are up to the Discretion of the Building Principal.

a. Refusal or neglect to conform to reasonable rules of the school or to clear non-injurious directions given by staff member.

b. Theft, under RSA 637, of property under \$49.

c. Criminal Mischief under RSA 634:2, purposely or recklessly damaging the property of another, resulting in a value of \$49 or less of damage. This includes vandalism to school property.

B. Police Department Reports to School

1. The following information shall be reported by the Police Department to the School Principal:

a. An arrest made by the Police Department of a student, when such information is relevant to the safety of that student, or of other students in the school, where the law allows.

2. The following information may be shared with school Administration by

the Police Department, subject to applicable statutes and regulations governing confidentiality:

- a. The arrest and filing of a delinquency complaint against any student under the age of 17 years.
- b. Other non-criminal activity that the Police Department deems pertinent to the student's well-being, including but not limited to threatening to attempt suicide; victimization of the student by a parent, caretaker or other individual.

5. Procedures for Reporting

A. It is agreed that every school employee who has witnessed, or has information from the victim of an act of theft, destruction, or violence in a safe school zone shall report such act immediately to a supervisor. A supervisor receiving such report shall immediately forward such information to the school Principal. The Principal shall then contact the Police Department immediately and report the incident. The Principal shall also provide the Police Department with a written report within 48 hours of the incident.

B. The report required shall include:

1. Identification of the act of theft, destruction, or violence that was alleged.
2. The name and address of witnesses to the alleged act.
3. The name and home address of any person suspected of committing the act.

C. The written report required under RSA 193-D:4 shall be waived by law enforcement officials when there is a law enforcement response at the time of the incident which results in a written police report.

D. School Response

1. A teacher or other school employee who has reasonable grounds to believe that a student has committed a reportable act shall:
 - a. Confront the student with the nature of the offense;
 - b. Take the student to the Principal's office;
 - c. Retrieve and turn over any physical evidence to the Principal.
2. For Mandatory Reportable acts, the Principal shall:
 - a. Notify the police and student's parent/guardian, and inform them of the nature of the incident;
 - b. Turn over any physical evidence seized and a written fact summary to the Police Department;
 - c. Initiate disciplinary action in accordance with Board policies.
3. For Discretionary Reportable Acts, the Principal shall:
 - a. Determine if the police and parent/guardian should be notified and, if

so, make the calls as soon as reasonably possible. Any incident reported to the Police shall also be reported to the student's parent/ guardian;

b. Initiate disciplinary action in accordance with Board policies.

4. As a result of New Hampshire RSA 193-D:7, school employees are relieved of concerns regarding confidentiality. It states:

Notwithstanding any other provision of law, 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 identity of any juvenile, police records relating to a juvenile, or other relevant information when such information reasonable relates to delinquency or criminal 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.

E . Police Response

(1) The Police Officer will make contact with the school as soon as possible after receiving a report from the Principal to investigate the incident, or take any other appropriate action.

(2) During the investigation, the Police Officer may meet with the Principal, the student, the student's parent/guardian and appropriate persons with knowledge of pertinent facts, if required.

(3) If at the conclusion of the investigation, the student is found to have committed the alleged offense, the Police Officer may initiate the formal complaint process.

(4) When the Police Officer is called to the school in response to offenses involving the sale and/or distribution of drugs or alcohol, violent behavior, or the possession of a weapon, and when probable cause exists for arrest, the Officer shall take the appropriate action to initiate the formal complaint process.

(5) To the extent possible, precautions will be taken by both Police and school officials at all times to ensure the education process is not disrupted.

Chief of Police

School Board Chair

Superintendent

Date

Date

Date

MEMORANDUM OF UNDERSTANDING

for administering the Provisions of RSA 193-D

Safe School Zones

1. General Principles

The School Board and the Police Department agree to work in a cooperative effort to provide a safe and healthy school environment for students, staffs and visitors. In furtherance of that effort, this Memorandum of Understanding is intended to comply with the provisions of RSA 193-D Safe School Zones. The Board and the Police Department further agree to respond effectively to incidents of school delinquency or criminal behavior in school, on school grounds, and at school sponsored events.

This memorandum deals with the law enforcement response to any incident involving the possession, use, sale or distribution of alcohol and other drugs in a school setting or during any school sponsored activity. This memorandum also addresses the efforts by- the school and police to respond to incidents of violence; weapons possession; or acts of theft, violence or destruction, on school property and at school functions, under the provisions of and in concert with the implementation of the Safe Schools Act, RSA 193-D. This Memorandum applies to reportable behavior of adults, as well as, children.

The School Board and the Police Department agree to coordinate these efforts with the local prosecuting Attorney's Office and the New Hampshire Department of Education.

The School Board recognizes that in cases of an emergency situation or imminent danger to students, staff or the community, the Police Department and the School District may act without regard to the Memorandum of Understanding. Nothing contained in this Memorandum is intended to limit the events that may be reported to the Police Department or limit school employees from requesting police assistance on matters not referred to in this Memorandum.

In the event either the School Board or the Police Department desires to amend this Memorandum, the agency seeking changes will arrange for meeting with the other.

2. Definitions

The following terms, as defined in RSA 193:D-1 apply to this Memorandum:

- "Safe School Zone" means an area inclusive to any school property or school buses.
- "School" means any public or private elementary, secondary or secondary vocational-technical school in New Hampshire. It shall not include home schools.
- "School Employee" means any school administrator, teacher, or other employee of any public or private school, school district, school department, or school administrative unit, or any person providing, or perforating continuing contract services for any public or private school, school districts school department or school administrative unit.
- "School property" means all real property, physical plan and equipment used for school purposes, including but not limited to school playgrounds and buses, whether

public or private.

- "School purposes" means school-sponsored programs, including but not limited to educational or extra-curricular activities.

3. School/Police Liaisons

In order to facilitate prompt and clear communication of incidents School Board and the Police Department will designate individuals to serve as primary contact liaisons. The Superintendent of Schools shall designate the Principal at each school as that school's Reporting Official. He/she shall be responsible for handling all reportable incidents of: (1) drug/alcohol use, possession, sale and/or distribution; (2) assault or violence; (3) possession of weapons; and/or (4) theft or destruction of property. The School District liaison will communicate information on such incidents to the Police Department.

The Chief of Police shall designate a police officer(s) who shall be responsible for handling all reportable incidents brought to the attention of the Police Department by the school's Reporting Officials. In addition to communication between the Reporting Official and the Police Officer on the specific incidents mentioned above, it is recommended that Official and Officer meet regularly to discuss the scope of these problems, and to identify strategies aimed at reducing them.

4. Reportable Acts

A. School Reports to Police Department

1. Mandatory: Notwithstanding the provisions of RSA 193-D, the Safe School Zone Act, the following incidents must be reported to the Police Department by the designated school employee:

- a. Possession of alcohol by a minor or if it appears that a student is under the influence of alcohol or drugs on school property, or at school functions;
- b. Possession, selling or distribution of any controlled substance (including drug paraphernalia) as defined in NH RSA 318-B, by an individual on school property, or at school functions;
- c. Any incident in which any individual who is responsible for, suspected of, or determined to be selling or distributing drugs or alcohol on school property, or at school functions,;
- d. Unlawful possession, sale, or use of firearms or other dangerous or prohibited weapons, fireworks and explosives, as defined in NH RSA's 208, 644 and 159, on school property, or at school functions;
- e. Arson under RSA 634:1 any person who knowingly starts any fire or causes any explosion which results in injury, damage to property of another, or is done with intentional disregard for the safety of others;
- f. Burglary under RSA 635: any person who enters a building to separately secured section of a building, with a purpose to commit a crime;
- g. Robbery under RSA 636: including any theft that is accomplished by the physical

force or the threat of imminent use of force;

h. Thefts of property where the value is more than \$50.00, repeated occurrences of theft by one student, (thefts by students who are in the third grade or lower are generally not reported to the Police);

i. Homicides under RSA 630: any death shall immediately be reported to the Police Department, regardless of suspected cause;

j. Any first or second degree assault under RSA 631, whereby an injury occurs to a person, requiring medical treatment beyond basic first aid or requiring outside medical follow up, caused by another person. Investigation may reveal that not all of these incidents constitute an actual crime. Reporting will allow an investigation to be conducted;

k. Any sexual assault under RSA 632-A will be reported;

l. Criminal Mischief under RSA 634:2, purposely or recklessly damaging the property of another, resulting in a value of \$50 or more of damage. This includes vandalism to school property;

m. Threatening behavior under RSA 631:4 which purposely places or attempts to place another in fear of imminent bodily injury or physical contact.

2. Discretionary Reporting Events are up to the Discretion of the Building Principal.

a. Refusal or neglect to conform to reasonable rules of the school or to clear non-injurious directions given by staff member.

b. Simple assault incidents (which don't meet the criteria as stated in j. above), depending upon the nature of the incident, as determined by the school administration.

c. Theft, under RSA 637, of property under \$49.

d. Criminal Mischief under RSA 634:2, purposely or recklessly damaging the property of another, resulting in a value of \$49 or less of damage. This includes vandalism to school property.

B. Police Department Reports to School

1. The following information shall be reported by the Police Department to the School Principal:

a. An arrest made by the Police Department of a student, when such information is relevant to the safety of that student, or of other students in the school, where the law allows.

2. The following information may be shared with school Administration by the Police Department, subject to applicable statutes and regulations governing confidentiality:

a. The arrest and filing of a delinquency complaint against any student under the age of 17 years.

- b . Other non-criminal activity that the Police Department deems pertinent to the student's well-being, including but not limited to threatening to attempt suicide; victimization of the student by a parent, caretaker or other individual).

5. Procedures for Reporting

A. It is agreed that every school employee who has witnessed, or has information from the victim of an act of theft, destruction, or violence in a safe school zone shall report such act immediately to a supervisor. A supervisor receiving such report shall immediately forward such information to the school Principal. The Principal shall then contact the Police Department by telephone and report the incident. The Principal shall also provide the Police Department with a written report within 48 hours of the incident.

B. The report required shall include:

1. Identification of the act of theft, destruction, or violence that was alleged.
2. The name and address of witnesses to the alleged act.
3. The name and home address of any person suspected of committing the act.

C. The written report required above shall be waived when there is a law enforcement response at the time of the incident which results a written police report.

D. School Response

1 . A teacher or other school employee who has reasonable grounds to believe that a student has committed a reportable act shall:

- a. Confront the student with the nature of the offense;
- b. Take the student to the Principal's office;
- c. Retrieve and turn over any physical evidence to the Principal.

2. For Mandatory Reportable acts, the Principal shall:

- a. Notify the police and student's parent/guardian, and inform them of the nature of the incident;
- b. Turn over any physical evidence seized and a written fact summary to the Police Department;
- c. Initiate disciplinary action in accordance with Board policies.

3. For Discretionary Reportable Acts, the Principal shall:

- a. Determine if the police and parent/guardian should be notified and, if so, make the calls as soon as reasonably possible. Any incident reported to the Police shall also be reported to the student's parent/ guardian;
- b. Initiate disciplinary action in accordance with Board policies.

E . Police Response

(1) The Police Officer will make contact with the school as soon as possible after

receiving a report from the Principal to investigate the incident, or take any other appropriate action.

(2) During the investigation, the Police Officer may meet with the Principal, the student, the student's parent/guardian and appropriate persons with knowledge of pertinent facts, if required.

(3) If at the conclusion of the investigation, the student is found to have committed the alleged offense, the Police Officer may initiate the formal complaint process.

(4) When the Police Officer is called to the school in response to offenses involving the sale and/or distribution of drugs or alcohol, violent behavior, or the possession of a weapon, and when probable cause exists for arrest, the Officer shall take the appropriate action to initiate the formal complaint process.

(5) To the extent possible, precautions will be taken by both Police and school officials at all times to ensure the education process is not disrupted.

Chief of Police

Date

School Board Chair

Date

Superintendent

Date

STUDENT CONDUCT, DISCIPLINE, AND DUE PROCESS

ADMINISTRATIVE PROCEDURE

The Raymond School District rules relative to student conduct, discipline, and due process in the schools are adapted from rules of the New Hampshire State Board of Education. See Part ED. 317. The purpose of the State Board rules is set forth as follows:

I. Purpose

- a. These rules provide due process and statewide uniformity in the enforcement of RSA 193-D relative to disciplinary action for misconduct by a pupil in a safe school zone, including possessing a firearm or any other dangerous weapon, and RSA 193:13 relative to suspension and expulsion of pupils.
- b. Since RSA 193-D:2, II provides that school boards may adopt policies relative to pupil conduct and disciplinary procedures, these rules also provide a standard so that the policies of school boards are consistent throughout the state.
- c. These rules also link discipline and due process in safe school zones to the requirements of ED. 1109 relative to special needs students.

II. Definitions

- a. "Expulsion" means the permanent denial of a pupil's attendance at school for any of the reasons listed in RSA 193:13,II and III.
- b. "Weapon" means (1) a firearm [see 18USC Section 921], to include a pellet or BB gun; (2) any object prohibited, licensed, or regulated under RSA 159; (3) a knife, but not a folding pocket knife or cafeteria-issued dining utensil; and/or (4) a knife and/or any other substance or object which, in the manner it is used, intended to be used, or threatened to be used, is known to be capable of producing serious injury.
- c. "Gross misconduct" means an act or acts which: (1) results in violence to another person or property; or (2) poses a direct threat to the safety of others in a safe school zone; or (3) is identified in RSA 193-D:1; or (4) involves repeated instances of misconduct or inappropriate behavior for which the pupil has been previously warned or disciplined.
- d. "Neglect" in the context of RSA 193:13,I and II means the failure of a pupil to pay attention to an announced, posted, or printed school rule.

STUDENT CONDUCT, DISCIPLINE, AND DUE PROCESS
ADMINISTRATIVE PROCEDURE
(continued)

- e. "Possession" shall include, but not be limited to, having control over a weapon during any part of a school day or during any part of a school-related activity, including transporting the weapon to school or to a school-related activity and storage of the weapon anywhere on school premises, whether in the student's locker or in another student's locker or in any other place on school premises. Possession is also deemed to include doing any other act whereby the actor knowingly contributes to causing a weapon to be on school premises or contributes to causing use of a weapon on school premises.
- f. "Pupil" means a child through age 21 in attendance at the school during the school day. (If the pupil is age 18 or older and not under guardianship, the written notices required below to issue to a parent shall issue instead only to the pupil and, further, all consents or decisions required in the suspension or expulsion process will issue from the pupil.)
- g. "Refusal," in the context of RSA 193:13, I and II, means the defiance of a pupil to comply with an announced, posted, or printed school rule.
- h. "Safe school zone" means "safe school zone" as defined in RSA 193-D: I, II.
- i. "School day" shall include not only the instructional portion of the day, but also may include travel to and from school or a school-related activity, as well as the time spent as a participant or spectator at a school-related activity.
- j. "School premises" shall include the school and surrounding school property, including, without limitation, parking areas, athletic fields, and playgrounds; school buses or other vehicles furnished by the district or its agents for transportation to or from school or a school-related activity; school bus stops; and/or those premises and surroundings being used for a school-related activity. For purposes of this procedure and without intending to interfere with the rights and duties of the police and/or private property owners, school premises shall also be deemed to include streets and exterior property in the school neighborhood during the course of travel to and from school or a school-related activity.
- k. "Superintendent" means the School Superintendent or, in the absence of the Superintendent, the Superintendent's designee.
- l. "Suspension" means the temporary denial of a student's attendance at school for a specific period of time for gross misconduct or for neglect or refusal to conform to announced, posted, or printed school rules.
- m. "Day," with respect to the number of days, shall refer to school days unless there is specific reference to "calendar" days.

STUDENT CONDUCT, DISCIPLINE, AND DUE PROCESS
ADMINISTRATIVE PROCEDURE
(continued)

III. Standard for Expulsion by the School District

- a. If the school board expels a pupil under RSA 193:13, II or III, it shall state in writing the act or acts leading to expulsion; and the specific statutory reference prohibiting that act or acts as set forth in RSA 193:13 and/or RSA 193-D; and shall provide notice that the expulsion may be reviewed prior to the start of each school year in accordance with Appendix A to this Procedure.
- b. The principal of each school shall make certain that the pupil has received notice of the requirements of RSA 193:13 and RSA 193-D:1 through announced, posted, or printed school rules. The statutory text shall be printed in the school handbook to be distributed to each student at the beginning of the school year; and shall be announced, posted, and printed at other appropriate locations and times in the middle school and high school. Nothing herein shall prevent a school principal from printing, posting, and/or announcing other rules applicable to the school.
- c. If the student is subject to expulsion and a weapon is involved, the responsibility shall be upon the Superintendent to contact local law enforcement officials whenever there is any issue concerning:
 1. Whether a firearm is legally licensed under RSA 159; or
 2. Whether a firearm is lawfully possessed, as opposed to unlawfully possessed, under the legal definitions of RSA 159.
- d. If a pupil brings or possesses a weapon in a safe school zone without written authorization from the Superintendent, the following shall apply:
 1. The pupil shall be suspended for a period of not less than ten (10) days and, if the weapon is determined to be a firearm as defined in 18 USC Section 921, the school board shall hold a hearing within ten (10) days to determine whether:

The student was in violation of RSA 193:13, III, and, therefore, is subject to expulsion for a period of not less than twelve (12) months; and whether the student's expulsion will be modified under policies set forth in Appendix B to this Procedure.
- e. Nothing in this provision shall be deemed to replace, supercede, or modify IDEA re-authorized.

STUDENT CONDUCT, DISCIPLINE, AND DUE PROCESS
ADMINISTRATIVE PROCEDURE
(continued)

IV. Disciplinary Procedures

There shall be the following levels of discipline available to school officials enforcing RSA 193:13 and/or RSA 193-D relative to the suspension and expulsion of pupils.

- a. A short-term suspension (not to exceed 10 days). The School Board hereby designates that the Superintendent and each Principal, and Assistant Principal, and Administrative Assistants shall have authority to suspend a pupil for 10 days or less.
- b. A long-term suspension (between 11 and 20 days). Following a hearing, the Superintendent and each Principal shall have authority to extend a short-term suspension to 20 days. This hearing shall be conducted by and the decision shall be issued by a different administrator than the administrator who suspended the pupil for the first 10 days.
- c. An expulsion by the School Board whereby conditions are established for reinstatement. See also Appendix A to this Procedure relative to review of an expulsion prior to the start of any school year.

Due process in disciplinary proceedings shall include, at a minimum, the following:

- a. In a short-term suspension:
 1. The pupil shall be informed of the purpose of the meeting.
 2. At or before the meeting, oral and/or written notice of the charges and an oral and/or written explanation of the evidence against the pupil shall be provided to the pupil:
 3. The pupil shall be provided an opportunity to present his/her side of the story;
 4. Following the meeting, a written statement shall be issued to the pupil and at least one of the pupil's parents or guardians, delivered in person or by mail to the pupil's last known address, including an explanation of the charges, the evidence, the findings, any recommendation for additional suspension or expulsion, and a recommendation for student action to correct the discipline problem.

STUDENT CONDUCT, DISCIPLINE, AND DUE PROCESS
ADMINISTRATIVE PROCEDURE
(continued)

- b. In a long-term suspension of a pupil:
 - 1. The written statement issued under Section IV,a.4 above shall establish a date for a hearing. The hearing will not generally be postponed if the postponement would interrupt the continuity of a short-term suspension into a long-term-term suspension.
 - 2. A hearing in accordance with the procedures set forth below in Section IV,c.6..
 - 3. A written decision, which includes the legal and factual basis for the conclusion that the pupil should be suspended for an additional 10 days or less.
 - 4. Within 10 calendar days of the decision, this decision may be appealed to the School Board under RSA 193:13, I. The Board may or may not stay the suspension while the appeal is pending. The Board reserves the right to issue a decision without hearing any evidence or all proffered evidence, but may instead rely upon the record as it has been developed during the suspension process.
- c. In the expulsion by the School Board, due process shall include the following minimal requirements:
 - 1. A formal hearing shall be held before any expulsion.
 - 2. Such hearing may be held either before or after the short-term suspension has expired.
 - 3. If the hearing is held after the expiration of a short-term suspension, the pupil shall be entitled to return to school after the short-term suspension has expired, pending the expulsion hearing. The School Board reserves the right to deny a request for postponement of a scheduled hearing if the request for postponement is objected to by either the pupil or the administrator recommending expulsion.
 - 4. The written statement issued under Section IV,a.4 above shall establish a date for the expulsion hearing and shall also include a complete description of the process used by administration to reach its recommendation that the student should be expelled.
 - 5. This notice shall be delivered to the pupil and at least one of the pupil's parents or guardians at least 5 calendar days prior to the hearing.

STUDENT CONDUCT, DISCIPLINE, AND DUE PROCESS
ADMINISTRATIVE PROCEDURE
(continued)

6. The following hearing procedures shall apply:
- (6.1) The pupil, together with a parent or guardian, may waive the right to a hearing and accept the findings.
 - (6.2) Formal rules of evidence shall not be applicable; however, school officials shall present evidence in support of the charge(s) and the accused pupil or his/her parent or guardian shall have an opportunity to present any defense or reply.
 - (6.3) The hearing shall be either public or private and the choice shall be that of the pupil or his parent or guardian. Provided, nevertheless, that if the nature of the evidence will violate the privacy of other students or if the School Board determines that substantial harm to the pupil could result from an ill-conceived decision to hold the hearing in public, then the Board reserves the right and obligation to insist upon a private hearing.
 - (6.4) During the hearing, the pupil, parent, guardian, or counsel representing the pupil shall have the right to examine any and all witnesses.
- a. The decision of the School Board shall be based on a dispassionate and fair consideration of substantial evidence that the accused pupil committed the act or acts for which expulsion is to be imposed and that such acts are, in fact, a proper reason for expulsion;
 - b. The decision shall state whether the student is expelled; a statement of the time period for which the student is expelled; and any action the student may take to be restored by the Board.
 - c. If the decision is to expel the pupil, the decision shall include the legal and factual basis for the decision; and,
 - 1. A decision shall include a statement that the pupil has the right to appeal the decision to the State Board of Education.
 - 2. All appeals to the State Board allowed under RSA 193:13, II or III, shall be filed within 20 calendar days of receipt of the written decision of the School Board and shall be in accordance with RSA 541-A and ED. 200.

STUDENT CONDUCT, DISCIPLINE, AND DUE PROCESS
ADMINISTRATIVE PROCEDURE
(continued)

V. Reporting Procedures

- a. In accordance with RSA 193-D:4, each written report by a supervisor to the principal relating to an act of theft, destruction, or violence in a safe school zone shall be on standardized New Hampshire State Board of Education Form ED. 317.
- b. The report by a supervisor to a principal on Form ED. 317 shall contain all the statutory information required by RSA 193:D:4.
- c. Form ED. 317 shall be completed and filed with the Commissioner of Education on or before June 30 of each year.
- d. Form ED. 317 shall contain the following information:
 1. School name
 2. School address
 3. School telephone number
 4. Name of School Principal
 5. Date of incident involving an act of theft, destruction, or violence, or the possession of a firearm
 6. Time of incident in (5) above
 7. Location of incident in (5) above
 8. Alleged offense
 9. Description of incident
 10. Name of suspect
 11. Grade in school of suspect
 12. Address of suspect
 13. Gender of suspect
 14. Name of victim
 15. Grade in school of victim
 16. Address of victim
 17. Gender of victim
 18. Name of employee reporting incident
 19. Date report was completed by employee
 20. Date report was filed with law enforcement authority by school principal.

STUDENT CONDUCT, DISCIPLINE, AND DUE PROCESS
ADMINISTRATIVE PROCEDURE
(continued)

VI. Discipline of Students with an Educational Disability

The district shall comply with the provisions of the Individual with Disabilities Education Act (IDEA) when disciplining students. Any special education student whose gross disobedience/ misconduct is not a manifestation of his or her disability may be expelled pursuant to the expulsion procedures, except that such disabled student shall continue to receive educational services as provided in the IDEA during such period of expulsion. A special education student may be suspended for a maximum of 10 consecutive days of school per offense, when the student's gross disobedience or misconduct is not a manifestation of his or her disabling condition, without the need for the district to provide any educational services. (A special education student may be suspended for additional removals as long as the removals do not constitute a pattern.) During such subsequent suspensions for 10 school days or less, the district must provide services to the student with disabilities to the extent determined necessary to enable the student to advance appropriately in the general curriculum and toward achieving his/her IEP goals. School administrators and the special education teacher will determine the services needed. The IEP team (PPT) will decide the level of services to be provided to a student with disabilities who is expelled for behavior unrelated to his/her disability.

Any special education student may be temporarily excluded to an appropriate alternative educational setting for no more than 45 days by court order or by order of a duly appointed hearing officer if the district demonstrates that maintaining the student in his/her current placement is substantially likely to result in injury to the student or others.

A special education student who has carried a weapon to school or to a school function or who knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function may be removed from school. Such a student shall be suspended for an initial period of 45 days or less in accordance with IDEA. This determination is made by the School Principal.

STUDENT CONDUCT, DISCIPLINE, AND DUE PROCESS
ADMINISTRATIVE PROCEDURE
(continued)

APPENDIX A

An expelled pupil has the right to request a review of the expulsion prior to the start of each school year.

A request for review should be directed by the pupil to the Superintendent of Schools and should be received by the Superintendent on or before August 15. The request shall set forth each and all reasons why the pupil's right to attend school should be reinstated. Of particular importance would necessarily be such information as might convince school authorities that the conduct that led to the expulsion would not be repeated.

The Superintendent of Schools shall direct written recommendation to the School Board with a copy to the pupil.

The expulsion may be continued; the pupil may be reinstated without conditions; or the pupil may be required to meet certain conditions prior to reinstatement. A code of conduct and consequences may be established for a reinstated pupil that are more strict than for the general student population.

STUDENT CONDUCT, DISCIPLINE, AND DUE PROCESS
ADMINISTRATIVE PROCEDURE
(continued)

APPENDIX B

The mandatory 12-month expulsion from school for bringing or possessing a firearm in a safe school zone may be modified on a case-by-case basis in the sole discretion of the Superintendent of Schools in the following situations:

1. The Superintendent determines that possession of the firearm was inadvertent in that another person had left the firearm in the pupil's vehicle; and the pupil had not noticed that s/he was bringing the firearm within the safe school zone; or
2. The Superintendent determines that the pupil intended to use the firearm for sport immediately before or after school and had no intention to display the firearm to other students.
3. The pupil is in the fifth grade or lower grade and the Superintendent determines that the pupil did not properly understand the dangers of firearms when the firearm was brought to school.
4. The Superintendent determines that the firearm was not loaded; and that no ammunition was reasonably available; and that the pupil had no intention to display the firearm to other students.

See Policies IHBA and JICI

Adopted: August 1, 2002
Revised: June 18, 2008

JICD - STUDENT DISCIPLINE AND DUE PROCESS

(Download policy)

Category: Priority - Required by Law

Related Policies: JI, JIA, JIC, JICDD & JICK

See also Appendix JICD-R

At all times, students are required to conduct themselves in accordance with behavioral standards set forth in Policy JIC and all other applicable Board policies and all District or school rules. Failure to comply can lead to disciplinary consequences as set forth in this policy and applicable law.

A. Disciplinary Measures - "Definitions".

Disciplinary measures include, but are not limited to, removal from the classroom, detention, in-school suspension, out-of-school suspension, restriction from activities, probation, and expulsion.

1. "Removal from the classroom" means a student is sent to the building Principal's office. It is within the discretion of the person in charge of the classroom to remove the student.
2. "Detention" means the student's presence is required for disciplinary purposes before or after the hours when the student is assigned to be in class. The building Principal is authorized to establish guidelines or protocol for when detention shall be served (either before school or after school). Whether a student will serve detention, and the length of the detention, is within the discretion of the licensed employee disciplining the student or the building Principal.
3. "In-school suspension" means the student will attend school but will be temporarily isolated from one or more classes while under supervision. An in-school suspension will not exceed ten (10) consecutive school days.
4. "Out-of-school suspension" means the temporary denial of a student's attendance at school for a specific period of time for gross misconduct, for neglect, or refusal to conform to school rules or policies.
 - a. "Short-term suspension" means a suspension of ten (10) school days or less. Ed 317.04(a)(1).
 - b. "Long-term suspension" means the continuation of a short-term suspension under RSA 193:13, I (b)-(c), and also means a suspension in excess of ten (10) school days under Ed 317.04(a)(2).
5. "Restriction from school activities" means a student will attend school, classes, and practice but will not participate in other school extra-curricular activities, including competitions.
6. "Probation" means a student is given a conditional suspension of a penalty for a definite period of time in addition to being reprimanded. The conditional suspension will mean the student must meet the conditions and terms for the suspension of the penalty. Failure of the student to meet these conditions and terms will result in immediate

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reinstatement of the penalty.

7. "Expulsion" means the permanent denial of a pupil's attendance at school for any of the reasons listed in RSA 193:13, II and III.

B. Standards for Removal from Classroom and Detention.

Students may be removed from the classroom at the classroom teacher's discretion if the student refuses to obey the teacher's directives, becomes disruptive, fails to abide by school rules or policies, or otherwise impedes the educational purpose of the class.

Likewise, classroom teachers may assign students to detention for similar conduct.

The building Principal may assign students to detention under the same standard.

C. Standards for In-School Suspension, Restriction of Activities, and Probation.

The building Principal is authorized to issue in-school suspensions, restrictions of activities, or place a student on probation for any failure to conform to school or School District policies or rules, or for any conduct that causes material or substantial disruption to the school environment, interferes with the rights of others, presents a threat to the health and safety of students, employees, and visitors, is otherwise inappropriate, or is prohibited by law.

Restriction of activities may also be issued pursuant to rules or policies pertaining to specific clubs or teams.

D. Process for Out-of-School Suspension.

The power of suspension is authorized for gross misconduct, for neglect, or refusal to conform to School District policies and rules as follows:

1. Short-term Suspensions. The [_____ building Principal] (as designee of the Superintendent) is authorized to suspend a student for ten (10) school days or less. The Principal shall consult with the Superintendent prior to issuing any suspension.

As required by RSA 193:13(a), educational assignments shall be made available to the suspended pupil during the period of suspension.

Due process standards for short-term suspensions (ten (10) days or less) will adhere to the requirements of Ed 317.04(f)(1).

2. Long-term Suspensions. The [_____ Superintendent??? {note: 193:13 and Ed. 317 both authorize the School Board to designate a representative to issue long term suspensions. Most districts designate the Superintendent}}] is authorized to continue the suspension and issue a long-term suspension of a pupil for a period in excess of ten (10) school days, provided only that if the Superintendent issued the original short-term suspension, then the School Board may designate another person to continue the short-term suspension and issue the long-term suspension.

Prior to a long-term suspension, the student will be afforded an informal hearing on the matter. The informal hearing need not rise to the level and protocol of a formal hearing

before the School Board, but the process must comply with the requirements of Ed 317.04 (f)(2) and Ed 317.04 (f)(3)(g), including, without limitation, the requirements for advance notice and a written decision.

Any suspension in excess of ten (10) school days, as described in Paragraph 2 of this Section, is appealable to the School Board, provided the Superintendent receives the appeal in writing within ten (10) days after the issuance of the [Superintendent]'s decision described in Paragraph 2. Any suspension in excess of ten (10) school days shall remain in effect while this appeal is pending.

E. Process for Expulsion.

1. Any pupil may be expelled by the School Board for (a) an act of theft, destruction, or violence as defined in RSA Chapter 193-D, (b) for possession of a pellet paint ball gun or BB gun or rifle as provided by RSA 193:13, II, or (c) for gross misconduct, or for neglect or refusal to conform to the reasonable rules of the school. An expulsion under this paragraph will run until the School Board restores the student's permission to attend school. A student seeking restoration of permission to attend school shall file a written request with the Superintendent which details the basis for the request. The Board will determine whether and in what manner it will consider any such request.
2. Additionally, any pupil may be expelled by the School Board for bringing or possessing a firearm as defined in Section 921 U.S.C. Title 18 in a safe school zone, as defined in RSA 193-D:1, unless such pupil has written authorization from the Superintendent. Any expulsion under this provision shall be for a period of not less than twelve (12) months.
3. Prior to any expulsion, the District will ensure that the due process standards set forth in Ed 317.04(f)(3) are followed.
4. Any decision by the Board to expel a student may be appealed to the State Board of Education.
5. The Superintendent of Schools is authorized to modify the expulsion or suspension requirements of Sections E.1 and E.2 above on a case-by-case basis.

F. Sub-committee of Board. For purposes of sections D and E of this policy, "Board" or "School Board" may either be a quorum of the full Board, or a subcommittee of the Board duly authorized by the School Board.

G. Disciplinary Removal of Students with Disabilities.

If a student is disabled under the Individuals with Disabilities Act (IDEA), the New Hampshire RSA 186-C, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, or any other law providing special rights to disabled students, those laws shall govern and shall supersede these local policies to the extent these local policies are inconsistent with those laws. Accordingly, any suspension or expulsion of a child with a disability as defined in Ed 1102.01(t) shall be in accordance with Ed 1124.01.

H. Notice.

This policy and school rules which inform the student body of the content of RSA 193:13

shall be printed in the student handbook and made available on the District's website to students, parents, and guardians. The Principal or designated building administrator shall also inform the student body concerning this policy and school rules which address the content of RSA 193:13 through appropriate means, which may include posting and announcements. See: Ed. 317.04(d).

History:

First reading: _____

Second reading/adopted: _____

Legal References:

RSA 189:15, Regulations

RSA 193:13, Suspension & Expulsion of Pupils

RSA Chapter 193-D, Safe Schools Zones

NH Code of Administrative Rules, Section Ed 306.04(a)(3), Discipline

NH Code of Administrative Rules, Section Ed 306.04(f), Student Discipline Policy

NH Code of Administrative Rules, Section Ed 317.04, Suspension and Expulsion of Pupils Assuring Due Process Disciplinary Procedures

In re Keelin B., 162 N.H. 38, 27 A.3d 689 (2011)

See Appendix: JICD-R

NHSBA revision history: Revised - May 2018; September 2017; April 2011; May 2008; November 2007; October 2005; November 1999

NHSBA note, May 2018: This sample policy has been substantially updated to more closely reflect and track the language of 193:13 and Ed 317.04. This revised version also includes a provision relative to discipline of children with educational disabilities. NHSBA adoption considerations: Because most of this policy derives from specific statutes or DOE regulations, and involves potential deprivation of a student's "property" rights, it is essential that the language adopted by the local School Board, including the designation of responsible personnel, track the applicable statutes and regulations. Districts should also be certain to update pertinent handbooks, website, and other pertinent publications to assure consistency. Finally, districts which do not use the NHSBA/NEPN code reference system, should check to make sure that the internal policy references included in JICD are changed to reflect the local coding system. See also revisions to sample policy JIC.

NHSBA note, September 2017: Revised to include the requirement that educational assignments shall be made available to the suspended student when suspended up to ten (10) days, enacted by House Bill 216, Laws of 2017, Chapter 12, effective June 16, 2017, and to conform to other changes to law and administrative rules. In light of the Supreme Court's decision in *In re Keelin B.*, language is added reflecting the School Board's authority under that statute to adopt policies defining misconduct beyond that explicitly addressed in RSA Chapter 193-D and RSA 193:13. RSA 189:15 was last amended in 1969 and it uses the term "regulation." More recent law and NHSBA practice uses the term "policy" for rules set by the School Board. "Regulation" is the term used for rules and procedure set by the Superintendent or Administrators using authority delegated by the School Board or established by statute. We recommend that School Boards continue to classify their "rule-making as policy, but it may be

beneficial when setting a policy using the authority granted by RSA 189:15, to include in the text of the policy reference to that statute.

w/p-update/spring2018/JICD Student Discipline 2018-5 (f)

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Raymond School District Policy - JRA

ACCESS TO STUDENT RECORDS – FERPA

General Statement. It is the policy of the School Board that all school district personnel 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 will follow the provisions of the Family Educational Rights Privacy Act (FERPA) and its corresponding regulations.

Education Record. For the purposes of this policy and in accordance with FERPA, the term “educational record” is defined as all records, files, documents and other material containing information directly related to a student; and 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.

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:

1. Students' name, address, telephone number, date and place of birth, dates of enrollment
2. Parents/guardians' name and address
3. Students' grade level, enrollment status and dates of attendance
4. Students' photograph
5. Students' participation in recognized school activities and sports
6. Weight and height of members of athletic teams
7. Students' diplomas, certificates, awards and honors received

The District may release or disclose student directory information without prior consent of the student's parents/guardians/eligible students. Within the first three weeks of each school year, the District will provide notice to parents/guardians/eligible students that the District may publish directory information without their prior consent.

Parents/guardians/eligible students will be given until September 15 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/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.

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; the student's or student's 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; 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, the District will publish notice to parents/guardians 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. The notice will include:

- (1) The rights of parents/guardians/eligible students to inspect and review the student's education records;
- (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/eligible student; (b) as directory information; or (c) under certain, limited circumstance, as permitted by law;
- (3) The right of parents/guardian/eligible students 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; this includes 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/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 parents/guardians/eligible students should follow to obtain copies of this policy.

Procedure To Inspect Education Records. Parents/guardians/eligible students may inspect and review education records which they are entitled to. In some circumstances, it may be more convenient for the record custodian to provide copies of records.

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/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/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/eligible student of the time and place where the records may be inspected. This procedure must be completed within 30 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/eligible student cannot personally inspect and review a student's education records, the principal may arrange for the parent/guardian/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/eligible student 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.

Procedures To Seek Correction of Education Records. Parents/guardians of students/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, following processes are established.

1. First-level decision. When a parent/guardian/eligible student finds an item in the student's education records that he/she believes is inaccurate, misleading or in violation of student 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/eligible student's satisfaction, both parties shall sign a document/form stating the date the records were changed and that the parent/guardian/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;
2. Ask the parent/guardian/eligible student to initiate a written request for the change, which will be forwarded to the Superintendent;
3. Forward the written request to the Superintendent; and
4. Inform the parents/guardians/eligible student that the matter has been forwarded to the Superintendent for subsequent processing.

2. Second-level decision. If the parent/guardian/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/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.

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;

4. Schedule a meeting with the parents/guardians/eligible student if the Superintendent believes such a meeting would be necessary; and
5. Contact the parents/guardians/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/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/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/eligible student's satisfaction, both parties shall sign a document/form stating the date the records were changed and that the parent/guardian/eligible student is satisfied with the correction.

If the Superintendent determines the records will not be amended, he/she will notify the parents/guardians/eligible student in writing of his/her decision. Such letter will also notify the parents/guardians/eligible student of their right to an appeal hearing before the school board.

3. Third-level decision. If the parents/guardians/eligible student is/are not satisfied with the Superintendent's decision, they may submit a written request for a hearing before the School Board. The parents/guardians/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/eligible student requests that the hearing be held in public session. The school board will give the parent/guardian/eligible student a full and fair opportunity to present evidence relevant to the issues raised under their request/complaint. Parents/guardians/eligible students may be assisted or represented 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/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 reasons for its decision.

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 the parents/guardians/eligible student 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/eligible

student is satisfied with the correction.

The school board's decision will be final.

Disclosure of Student Records and Student Information. 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.

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 orders or lawfully issued subpoenas.
8. Health and safety emergencies.

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.

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

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

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. This record is kept with, but is not a part of, each student's cumulative school records. It is available only to the record custodian, the eligible student, the parent(s)/guardian(s) of the student or to federal, state or local officials for the purpose of auditing or enforcing federally supported educational programs.

The record 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.

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 the parent(s)/guardian(s)/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 parent(s)/guardian(s)/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.

Legal References:

RSA 91-A:5,III, Exemptions, Pupil Records

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

Adopted: December 18, 1975

Revised: August 1, 2002

Adopted: June 23, 2010

JRA - STUDENT RECORDS AND ACCESS - FERPA

(Download policy)

Category: Recommended

Related Policies: EHB & JRC

A. General Statement. It is the policy of the School Board that all school district personnel 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 will follow the provisions of the Family Educational Rights Privacy Act (FERPA) and its corresponding regulations.

B. "Education Record". For the purposes of this policy and in accordance with FERPA, the term "educational record" is defined as all records, files, documents and other material containing information directly related to a student; and 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, completed forms, printed documents, handwriting, videotape, audiotape, electronic or computer files, film, print, microfilm and/or microfiche. Educational records do not include records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute.

C. "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:

1. Students' name(s), address(es), telephone number(s), and date(s) of enrollment;
2. Parents'/guardians' name(s) and address(es);
3. Students grade levels, enrollment status and dates of attendance;
4. Student photographs;
5. Students participation in recognized school activities and sports;
6. Weight and height of members of athletic teams;
7. Post-high school plans; and
8. Students' diplomas, certificates, awards and honors received.

Except for elements of a student's directory information which the student's parents or an eligible student has notified the District not to disclose, the District may release or disclose student directory information without prior consent of the student's parents/eligible students. Within the first three weeks of each school year, the District will provide notice to parents/eligible students of their rights under FERPA and that the District may publish directory information without their prior consent. Parents/eligible students will be given until [_____] ?? date to be determined after consultation with Superintendent] 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/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.

D. "Personally Identifiable Information". "Personally identifiable information" is defined as data or information which makes the individual who is the subject of a record known, including a student's name; the student's or student's family's address; the name of the student's parent or other family members; a personal identifier such as a student's Social Security number; the student's date of birth, place of birth, or mother's maiden name. "Personally identifiable information" also includes 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 other information requested by a person who the District reasonably believes knows the identity of the student to whom the education record relates.

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

1. The rights of parents or eligible students to inspect and review the student's education records;
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 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 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; this includes a hearing to present evidence that the records should be changed if the District decides not to alter them according to the parent'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 or an eligible student should follow to obtain copies of this policy.

F. Procedure To Inspect Education Records. Parents or eligible students may inspect and review that student's education records. In some circumstances, it may be more convenient for the record custodian to provide copies of records.

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 and eligible students wish to inspect records where they are maintained, school Principals will determine if a review at that site is reasonable.

Although not specifically required, in order that a request is handled in a timely manner, parents/eligible students should consider submitting their request in writing to the school Principal, identifying as precisely as possible the record or records that he/she wishes to inspect.

The Principal will contact the parents 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 or eligible student of the time and place where the records may be inspected. This procedure must be completed within fourteen (14) days that the request for access is first made. Note: the fourteen (14) day limit is required under New Hampshire RSA 189:66, IV, in contrast to the forty-five (45) day period otherwise allowed under FERPA.

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

When records contain information about students other than a parent's child or the eligible student, the parent or eligible student 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. Where practicable, it may be necessary to prepare a copy of the record which has all personally identifiable information on other students redacted, with the parent or eligible student being allowed to review or receive only a copy of the redacted record. Both the original and redacted copy should be retained by the District.

G. Procedures To Seek To Correction of Education Records. Parents 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. FERPA and its regulations use both "correct/ion" and "amend". For the purposes of this policy, the two words (in all of their respective forms) shall mean the same thing unless the context suggests otherwise. To establish an orderly process to review and correct (amend) the education records for a requester, following processes are established.

1. First-level decision. When a parent or eligible student finds an item in the student's education records that he/she believes is inaccurate, misleading or in violation of student 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/eligible student's satisfaction, both parties shall sign a document/form stating the date the records were changed and that the parent/eligible student is satisfied with the correction.

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

- a. Provide the requester a copy of the questioned records at no cost;
- b. Ask the parent/eligible student to initiate a written appeal of the denial of the request for the change, which will be forwarded to the Superintendent;
- c. Forward the written appeal to the Superintendent; and
- d. Inform the parents/eligible student that the appeal has been forwarded to the Superintendent for a decision.

2. Second-level decision. If the parent/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/eligible student shall submit a written request to the Principal asking that the matter be appealed to the Superintendent. The Principal will forward the appeal to the Superintendent.

The Superintendent shall, within ten (10) business days after receiving the appeal:

- a. Review the request;
- b. Discuss the request with other school officials;
- c. Make a decision whether or not to make the requested correction to the educational record;
- d. Schedule a meeting with the parents/eligible student if the Superintendent believes such a meeting would be necessary; and
- e. Notify the parents/eligible student of the Superintendent's decision on their request to correct the student's educational record.

If the Superintendent determines the records should be corrected, he/she will make the change and notify the parents/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/eligible student to inspect and review the records to verify that the records have been corrected and the correction is satisfactory. If the records are changed to the parent's/eligible student's satisfaction, both parties shall sign a document/form stating the date the records were changed and that the parent/eligible student is satisfied with the correction.

If the Superintendent determines the records are will not be corrected, he/she will notify the parents/eligible student in writing of his/her decision. Such letter will also notify the parents/eligible student of their right to an appeal hearing before the School Board.

3. Third-level decision. If the parents 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/eligible student shall submit the request for a hearing with the Superintendent within ten (10) business days of the date 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 forty five (45) days of receipt of the request. Once the meeting is scheduled, the Superintendent will inform the parents/eligible student 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/eligible student requests that the hearing be held in public session. The School Board will give the parent/eligible student a full and fair opportunity to present evidence relevant to the issues raised under their request. The parents/eligible students may be assisted or represented by one or more individuals of their own choice, including an attorney.

The School Board will issue its final decision in writing within thirty (30) days of the hearing, and will notify the parents/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 reasons for its decision.

If the School Board determines that the student record should be corrected, it will direct the Superintendent to do so as soon as possible. The Superintendent will then contact the parents/eligible student for a meeting so they can review and inspect the records to verify that they have been corrected. At this meeting, both parties shall sign a document/form stating the date the records were corrected and that the parent/eligible student is satisfied with the correction.

The School Board's decision will be final.

4. Parent/Eligible Student Explanation to be Included in Record. Notwithstanding the resolution of any request to correct a student's record(s), in accordance with section (a)(2) of FERPA, a parent or eligible student may insert into that student's educational record a written explanation respecting the content of the record.

H. Disclosure of Student Records and Student Information. In addition to directory information, the District may disclose student records and student information without consent to the following parties on the condition that the recipient agrees not to permit any other party to have access to the released information without the written consent of the parents of the student, and under the conditions specified.

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, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record. This exception continues after the date that a student has transferred
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. The recipient organization must agree to limit access to the information and to destroy the information when no longer needed for the purpose for which it is released.
6. Accrediting organizations.
7. Judicial orders or lawfully issued subpoenas, upon condition that parents and the student are notified of all such orders or subpoenas in advance of compliance therewith by the District, except when a parent is a party to a court proceeding involving child abuse or neglect or dependency. The Principal shall consult with the Superintendent and legal

counsel as needed to ensure compliance with the judicial order and applicable law.

8. Health and safety emergencies.

I. 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.

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

The principal will ensure that all records are maintained in accordance with applicable retention schedules as may be established by law.

J. 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 the information it discloses and persons to whom it permits access, with some exceptions listed below. This record is kept with, but is not a part of, each student's cumulative school records. It is available only to the record custodian, the eligible student, the parent(s) of the student or to federal, state or local officials for the purpose of auditing or enforcing federally supported educational programs.

The record 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.

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 parent(s) 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 parent/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.

The records of a request for the correction of an educational record, including any appeal of a denial of that request, if the educational record is ultimately corrected shall not be treated as part of the educational record of the student and shall be preserved separately.

History:

First reading: _____

Second reading/adopted: _____

Legal References:

RSA 91-A:5,III, Exemptions, Pupil Records

RSA 189:1-e, Directory Information

RSA 189:66, IV, Data Inventory and Policies Publication

20 U.S.C. §1232g, Family Educational Rights and Privacy Act

34 C.F.R. Part 99, Family Educational Rights and Privacy Act Regulations

NHSBA history: Revised - May 2018; September 2009; November 2006; March 2005; April 2004

NHSBA revision note, May 2018: This update to JRA includes several important modifications to reflect (1) a state requirement that Districts respond to parent requests for access to their student's records within fourteen (14) days; (2) to remove birth date/place of birth information from the list of "directory information"; and several other content changes to better reflect the requirements of FERPA and applicable regulations. We have also added "post-high school plans" to the list of items included as directory information. NHSBA adoption considerations: As noted, this update includes a removal of a student's birth date and place of birth from the list of data included as "directory information" (section C). The reason for this is to limit the potential for identity theft. There is, however, no prohibition to including that information. Also, neither FERPA, nor State law, require that a request to inspect records or for copies of records be submitted in writing. Staff should be trained (as they should be with Right to Know requests) to direct parents/eligible students to appropriate forms, procedures and/or personnel, but to also be prepared to process the request whether it is in writing or not.

w/p-update/2018spring/JRA Student Records 2018-5(f)

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NEW HAMPSHIRE SCHOOL BOARDS ASSOCIATION

POLICY SERVICES

SPRING 2018 POLICY UPDATE

Notice of special "third" policy update for 2018.

In recent years, NHSBA had provided to School Boards which subscribe to the NHSBA policy service two policy updates. The first – or "Spring" – update, issued generally in April or May, includes either new policies following member requests, or revisions to existing NHSBA policies to reflect new court decisions, changes in accepted best practices, or otherwise to improve content. The second – "Fall" – update, includes new or revised policies to reflect new Legislative or regulatory requirements.

For 2018, NHSBA, however, will release a third update, which will be completed and distributed in June. As all districts should now be aware, the New Hampshire Department of Education has recently revisited its oversight function with respect to awards of Federal grant funds. NHDOE has been working with NHSBA to identify areas calling for either new policies or revisions to existing NHSBA sample policies. Accordingly, the special policy update will include new and revised policies to more completely and/or clearly align with the Federal grant compliance requirements.

Sample Policies Included in this Update:

BCA – Board Member Ethics.

[Recommended policy]

- We have revised sample policy BCA to include (a) language to better reflect that, while School Board decisions tend to be more effective and successful when supported by all members (after a majority vote), individual members do not at any time lose their individual right to express dissent; (b) provisions better identifying the distinction between governance and management; and (c) reorganized for better flow.

EHB – Data/Records Retention.

[Priority – Required policy]

- NHSBA has modified sample policy EHB to include style and grammatical changes within Section A.

IHBG – Home Education Instruction and Access to Curricular and Co-curricular Programs.

[Recommended policy]

- We have substantially revised IHBG so that it more clearly articulates and parallels the specific requirements of RSA 193-A and Ed. 315. In doing so, we have removed some of the interpretive provisions of the previous version of IHBG, especially with respect to the evaluation and assessment requirements. This version also better reflects the flexibility called for in the language of RSA 193-A:6, II (d).

IHBG-R – Participation in Public School Activities by Home Educated, Charter and Non-Public School Pupils

[Recommended procedure]

- We have revised IHBG-R to reflect amendments to RSA 193:1-c which specifically extend the right to participate in public school activities by charter school students (in addition to home educated and non-public school students).

IJ – Instructional Resources and Instructional Resources Plan.

[Recommended policy]

- This policy is updated (with a change in title) to conform with the current requirements of Ed 306.08 Instructional Resources, including the requirement that the School Board implement a "written plan" regarding instructional resources. It is presumed that most districts likely have plans which satisfy the plan requirements, although not necessarily linked to this policy or Ed. 306.08 (a)(4) and (b). Inclusion of the provisions in the policy, allow districts to recognize and remain in compliance with the applicable standards.
- **Adoption note:** in order to assure compliance with the provisions of Ed. 306.08 regarding maintenance of a resource plan, the Board should consider a provision (included in the sample) for a specific periodic review.

IKFC – Alternative Diploma for Students with Significant Cognitive Disabilities.

[Recommended policy]

- This is a new policy intended to adopt the provisions of the federal *Every Student Succeeds Act* ("ESSA") allowing the awarding of a "state-defined" Alternate Diploma to certain students with the most significant cognitive disabilities.
- **Adoption note:** If adopting this policy, language of the designated parties should be checked for consistency with District personnel (e.g., Director of Special Education, Student Services Director, etc.)

IMGA – Service Animals in Schools.

[Priority - Required policy]

- NHSBA has revised sample policy IMGA to add clarity and to reflect emerging interpretations of applicable statutes and regulations.

JIC – Student Conduct.

[Recommended policy]

- We revised sample policy JIC to: (a) include mandated notice requirements; (b) to update the language regarding discipline of children with disabilities, and (c) to remove redundant provisions more appropriately included in JICD (which has also been substantially revised with the May 2018 policy update). ***NHSBA adoption considerations:*** If your District uses its own coding system rather than the NHSBA/NEPN letter coding, you should change the internal policy references within this sample policy to match the equivalent policies of your own District.
- See also revisions to sample policy JICD.

JICD – Student Discipline and Due Process.

[Priority - Required policy]

- We have substantially updated sample policy JICD to more closely reflect and track the language of 193:13 and Ed 317.04, and remove some internal inconsistencies resulting from the most recent changes to Ed 317. This revised JICD also adds a carve-out provision relative to discipline of children with educational disabilities.
- ***NHSBA adoption considerations:*** Because most of this policy derives from specific statutes or DOE regulations, and involves potential deprivation of a student's "property" rights, it is essential that the language adopted by the local School Board, including the designation of responsible personnel, track the applicable statutes and regulations. Districts should also be certain to update pertinent handbooks, website, and other pertinent publications to assure consistency.
- See also revisions to sample policy JIC.

ILD – Non-Educational/Non-Academic Surveys and Questionnaires and Research.

[Priority – Required policy]

- Prior to the 2017 amendment to RSA 186:11, XI-d, the notice and previous "opt-out" requirements of the state law were found in NHSBA sample policy ILDA. With the 2017 amendments, the similarities between the state and federal statutes were greater than their differences, and NHSBA determined to combine the requirements into one policy. As such, we have modified sample policy ILD to identify some of the remaining differences between the applicable state and federal statutes, and to reconcile the resulting overlap between former ILD and ILDA.
- **See also** ILDA notes below. Because of the 2017 amendments to RSA 186:11, IX-d, the most significant difference between the Federal and State laws (opt-in vs. opt-out) was eliminated, ILD and ILDA were more alike than they were different. In an effort to reduce the possibility that the requirements of one or the other are overlooked, we determined to consolidate the two policies. Accordingly, with the May 2018 policy update, NHSBA is withdrawing sample policy ILDA.

ILDA – Non-Educational/Non-Academic Questionnaires, Surveys and Research.

[WITHDRAWN]

- Because of the 2017 amendments to RSA 186:11, IX-d, the most significant difference between the Federal and State laws (opt-in vs. opt-out) was eliminated, ILD and ILDA were more alike than they were different. In an effort to reduce the possibility that the requirements of one or the other are overlooked, we determined to consolidate the two policies. Accordingly, with the May 2018 policy update, NHSBA is withdrawing sample policy ILDA.

IMDA – Patriotic Exercises.

[Recommended policy]

- We have amended sample policy IMDA to include the requirement under RSA 194:15-c that schools set aside a period of time each day for the recitation of the Pledge of Allegiance. As noted in the sample, a district may not compel a student to participate.
- **Adoption notes:** Some districts have adopted variously titled policies (in addition to NHSBA's IMDA) which include one or more of the provisions included in this revised IMDA. Upon a sampling of the various policies, we did not find any such policies which included all of the components. Districts should review their policies and consolidate as appropriate.

JRA – Student Records and Access - FERPA.

[Recommended policy]

- This update to JRA includes several important modifications to reflect (1) a state requirement that Districts respond to parent requests for access to their student's records within **fourteen (14)** days; (2) to remove birth date/place of birth information from the list of "directory information"; and several other content changes to better reflect the requirements of FERPA and applicable regulations. We have also added "post-high school plans" to the list of items included as directory information.
- **NHSBA adoption considerations:** As noted, this update includes a removal of a student's birth date and place of birth from the list of data included as "directory information" (section C). The reason for this is to limit the potential for identity theft. There is, however, no prohibition to including that information. Also,
- Neither FERPA, nor State law, require that a request to inspect records or for copies of records be submitted in writing. **Staff should be trained (as they should be with Right to Know requests)** to direct parents/eligible students to appropriate forms, procedures and/or personnel, but to also be prepared to process the request whether it is in writing or not.

JJJ – Access to Public school Programs by Nonpublic, Charter School, and Home Educated Pupils.

[Recommended policy]

- We have modified the category code in sample policy JJJ from optional to recommended to better inform school personnel and families of the statutory obligation of districts to provide access to nonpublic, charter, and home educated students.
- See also revisions on sample appendix IHBG-R

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