

CHANGE OF CLASS OR SCHOOL ASSIGNMENT BEST INTERESTS AND MANIFEST HARDSHIP

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

A. Best Interest Reassignment – Determination by Superintendent.

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

The authorization granted the Superintendent to make reassignments under this Policy applies only after application is made by the student's parent or guardian or with the parent's or guardian's consent, and upon a finding by the Superintendent that reassignment is in the student's best interests due to the student's academic, physical, personal, or social needs.

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

1. Procedure:

- a. In order to initiate consideration of a reassignment based upon the child's best interests, the parent or guardian shall submit to the Superintendent a written request stating why and/or how the child's best interests warrant reassignment. In order to facilitate a determination, such application may also include any additional information described in Sections 1(d) and (f) below. The written request should be mailed or delivered to the SAU office, or emailed to the Superintendent at the email address provided on the District's website.
- b. Upon receipt of the request, the Superintendent shall schedule a meeting (the "reassignment meeting") with the parent or guardian, to be held within ten days of receiving the request.
- c. Prior to or at the reassignment meeting, the parent or guardian shall

- make a specific request that the student be reassigned to another public school, public academy, or approved private school within the district, or to a public school, public academy, or approved private school in another district.
- d. At the reassignment meeting, the parent or guardian may present documents, witnesses, or other relevant evidence supporting the parent's or guardian's belief that reassignment is in the best interest of the student.
 - e. The Superintendent may present such information as the Superintendent deems appropriate.
 - f. In determining whether reassignment is in the student's best interest, the Superintendent shall consider the student's academic, physical, personal, or social needs.
2. Finding Reassignment is or is not in the Student's Best Interest.
- a. Within five school days of the reassignment meeting, the Superintendent shall deliver to the parent or guardian a written determination as to whether or not reassignment is in the student's best interest. Delivery of the written determination should be done in a manner to produce evidence of the delivery (e.g., hand delivery, email, fax, certified or registered mail).
 - b. If the Superintendent finds it is in the best of the interest of the student to change the student's school or assignment, the Superintendent shall initiate:
 - i. A change of assignment within the student's current assigned school;
 - ii. The student's transfer to another public school, public academy, or approved private school within the District; or
 - iii. The student's transfer to a public school, public academy, or approved private school in another district.
 - c. If the Superintendent does not find that it is in the best interest of the student to change the student's school or assignment, the parent or guardian may request a manifest educational hardship hearing before the School Board as provided in Section B of this Policy.
3. Tuition Determination. If a student is to be reassigned to a public school or public academy as a result of a best interest determination, the Superintendent shall work with the Superintendent or administration of the receiving school to establish a tuition rate for such student. Pursuant to RSA 193:3, I (g), if the Superintendent has made a finding that it is in the

best interest of the student to be reassigned, then the School Board shall approve the tuition payment consistent with the Board's ordinary manifest approval procedures.

If a student is reassigned as a result of a best interest determination to an approved private school, the private school may charge tuition to the parent or may enter into an agreement with the District for payment of tuition.

4. Transportation: Transportation for a student reassigned to schools in another district under Section A (best interest) shall be the responsibility of the parent or legal guardian
5. Other In-District Assignments. Nothing in this Policy is intended to limit authority otherwise extended to the Superintendent to make assignments or reassignments according to the policies, regulations, and ordinary practices of the District.

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

If, after following the procedure outlined in Section A of this Policy, the Superintendent did not find that it was in the student's best interest to reassign the student as requested by the student's parent or guardian, then the parent or guardian may request a manifest educational hardship hearing before the School Board within thirty days of receipt of the Superintendent's written decision denying the best interest reassignment.

1. "Manifest Educational Hardship" Defined. As provided in RSA 193:3, II (a), "manifest educational hardship" means that a student has a documented hardship in the student's current educational placement; and that such hardship has a detrimental or negative impact on the student's academic achievement or growth, physical safety, or social and emotional well-being. Such hardship must be so severe, pervasive, or persistent that it interferes with or limits the ability of the student to receive an education.
2. Procedure for Determination of Manifest Educational Hardship.
 - a. The Superintendent shall duly notify the School Board that the parent or guardian has requested a manifest educational hardship hearing, and the School Board shall schedule a hearing to be held no more than fifteen days after the request has been received by the Superintendent. The School Board shall provide at least two full days notice of the hearing. The School Board will conduct the hearing in non-public session, unless the parent or guardian requests the hearing be held in

- public session under RSA 91-A:3, II(c).
- b. Prior to or at the manifest educational hardship hearing, the parent or guardian shall provide to the Superintendent a specific request in writing that the student attend another public school, public academy, or approved private school and the reasons for the request. The Superintendent shall provide such request to the School Board at the hearing. Although not required, the parent or guardian may include this written request and reasons as part of the original hearing request.
 - c. At the manifest educational hardship hearing, the parent or guardian may present documents, witnesses, or other relevant evidence supporting the parent's or guardian's belief that the student is experiencing a manifest educational hardship. The Superintendent may present such information as the Superintendent deems appropriate to assist the School Board in reaching its decision. The parties (or their appointed designee) shall have the right to examine all evidence and witnesses. The formal rules of evidence shall not apply. The School Board shall record the hearing.
 - d. The parent or guardian shall have the burden of establishing a manifest educational hardship by clear and convincing evidence, which means that the evidence is highly and substantially more likely to be true than untrue, and the School Board must be convinced that a manifest educational hardship is highly probable.

- e. The School Board will render its decision in writing within seven days after the hearing, and will forward its written decision to the parents or guardians via means producing proof of delivery (e.g., hand delivery, email, fax, certified or registered mail). The decision will conform to the requirements of Ed. 320.
3. Finding of Manifest Educational Hardship. If the School Board finds that the student has a manifest educational hardship, the School Board shall grant the parent's or guardian's request to reassign the student to another public school, public academy, or approved private school. Unless otherwise stated by the School Board, all reassignments are limited to one school year.

If the student is assigned to an approved private school under the manifest educational hardship determination and the private school agrees to enroll the child, it may charge tuition to the parent or may enter into an agreement for payment of tuition with the District.

4. Finding that Manifest Educational Hardship was not Established – Appeal to the New Hampshire State Board of Education. If the School Board finds that the parent or guardian has not met the parent's or guardian's burden of proof, the parent or guardian may appeal the School Board's decision to the New Hampshire State Board of Education ("SBOE"), within thirty days of receipt of the School Board's written decision in accordance with Ed. 204.01(g).
5. Tuition for Students Reassigned Upon Finding of Manifest Educational Hardship. If, after a finding of a manifest educational hardship - by either the School Board or the State Board - a student of the District is assigned to attend school in another district, or a student from another district is assigned to a school in this District, the district in which the student resides shall pay tuition to the district to which the child is reassigned. Such tuition shall be computed according to RSA 193:4. The school board of the district in which the student resides shall approve the tuition payment consistent with its ordinary manifest approval process.

C. Admission Requirements. Students reassigned under this Policy shall meet the admission requirements of the school to which the student is to be reassigned.

D. Statutory Reassignment Limit. The total reassignments or transfers made under this Policy in any one school year will not exceed one percent of the average daily membership in residence of a school district, or five percent of the average daily membership in residence of any single school, whichever is greater, unless the School Board votes to exceed this limit.

E. Count of Reassigned Students, Tuition Payment and Rate, and

Transportation. Students reassigned under this Policy will be counted in the average daily membership in residence of the student's resident school district. The resident district will forward any tuition payment due to the District to which the student was assigned.

F. Notice to the Department of Education. The Superintendent will notify the Department of Education within thirty days of any reassignment made under this Policy.

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

Legal References:

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

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

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