

**HILLSBORO-DEERING SCHOOL BOARD
REGULAR MEETING
Monday, June 3, 2019 – 6:15pm
Hillsboro-Deering Elementary School Media Center**

AGENDA

A. Call Meeting to Order

B. Pledge of Allegiance and Moment of Silence

Public announcement - the meeting is being video and audio recorded and will appear on the district website, www.hdsd.org. A live stream video, in real time, can be viewed at www.townhallstreams.com.

C. Recognitions

1. Retirees
 - a. Katherine Channon – 35 years of service
 - b. Peter Dunbar – 23 years of service
 - c. Victoria Wheeler – 31 years of service
 - d. Helene Newbold – 9 years of service
 - e. Louis Yelgin – 4 years of service

D. Correspondence

E. Student Report

F. Public Comment

NOTE: This is an opportunity for members of the public to share an idea or concern with the board. Comments are limited to 5 minutes per person. It is not the practice of the board to immediately respond to comments made.

G. School Board Response to Public Comment

NOTE: At this time the board may respond to comments made or answer questions asked during previous board meeting public comment sessions. No additional public comments will be taken at this time.

H. Board Discussion Items

1. Live-Stream Video Recording of Board Meetings
2. Policy Committee – Chris Bober
 - a. EHAB Data Governance and Security – First Reading
 - b. EHAA Computer Security, Email and Internet Communications – Revision
 - c. IJ Instructional Resources and Instructional Resources Plan – Revision
 - d. DAF Administration Of Federal Grant Funds – Final Approval
3. DOE FY 2020 General Assurances
4. Summer Retreat – Monday, July 15, 2019, 6:30-9:00pm (continuing on 7/16/19 if necessary)

I. Superintendent's Report

1. Appointments, Leaves and Resignations
2. Business Administrator's Report
 - a. Audit Update

J. Minutes – May 20, 2019 regular meeting

K. Public Comment

NOTE: See first Public Comment note above – for the sake of time, only new comments please.

L. School Board Response to Public Comment

NOTE: At this time the board may respond to comments made or answer questions asked during previous board meeting public comment sessions. No additional public comments will be taken at this time.

M. Action Items

1. Appointments, Leaves and Resignations
2. Policies Requiring Board Action
 - a. EHAB Data Governance and Security – First Reading
 - b. EHAA Computer Security, Email and Internet Communications – Revision
 - c. IJ Instructional Resources and Instructional Resources Plan – Revision
 - d. DAF Administration Of Federal Grant Funds – Final Approval
3. DOE FY 2020 General Assurances

N. Non-Public Session – RSA 91-A:3 II. (a)

O. Call Back to Order

P. Action Following Non-Public Session

Q. Adjournment

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Per RSA 91-A:3 II. (a) -(e), (k) and (l) only the following matters may be considered or acted upon by a school board in non-public session:

- a) the dismissal, promotion or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him/her, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted;
- b) the hiring of any person as a public employee;
- c) matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting;
- d) consideration of the acquisition, sale or lease of property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community; and
- e) consideration or negotiations of pending claims or litigation which has been threatened in writing or filed against the body or agency or any; subdivision thereof, or against any member thereof, because of his/her membership in such body or agency until the claim or litigation has been fully adjudicated or otherwise settled.
- k) Consideration by a school board of entering into a student or pupil tuition contract authorized by RSA 194 or RSA 195-A, which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general public or the school district that is considering a contract, including any meeting between the school boards, or committees thereof, involved in the negotiations.
- l) Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present.

DATA GOVERNANCE AND SECURITY

To accomplish the District's mission and comply with the law, the District must collect, create and store information. Accurately maintaining and protecting this data is important for efficient District operations, compliance with laws mandating confidentiality, and maintaining the trust of the District's stakeholders. All persons who have access to District data are required to follow state and federal law, District policies and procedures, and other rules created to protect the information.

The provisions of this policy shall supersede and take precedence over any contrary provisions of any other policy adopted prior to the date of this policy.

A. Definitions

Confidential Data/Information – Information that the District is prohibited by law, policy or contract from disclosing or that the District may disclose only in limited circumstances. Confidential data includes, but is not limited to, personally identifiable information regarding students and employees.

Critical Data/Information – Information that is determined to be essential to District operations and that must be accurately and securely maintained to avoid disruption to District operations. Critical data is not necessarily confidential.

B. Information Security Officer.

The Director of Technology is hereby designated as the District's Information Security Officer (ISO) and reports directly to the Superintendent or designee. The ISO is responsible for implementing and enforcing the District's security policies and administrative procedures applicable to digital and other electronic data, and suggesting changes to these policies, the Data Governance Plan, and procedures to better protect the confidentiality and security of District data. The ISO will work with the both District and building level administrators and Data managers (paragraph E, below) to advocate for resources, including training, to best secure the District's data.

The Superintendent may designate an alternate ISO and will assume the responsibilities of the ISO when the ISO is not available.

C. Data and Privacy Governance Plan - Administrative Procedures.

1. Data Governance Plan. The Superintendent, in consultation with the District Information Security Officer ("ISO") (see paragraph C, below) shall create a Data and Privacy Governance Plan ("Data Governance Plan"), to be presented to the Board no later than June 30, 2019. Thereafter, the Superintendent, in consultation with the ISO, shall update the Data Governance Plan for presentation to the Board no later than June 30 each year.

The Data Governance Plan shall include:

- a. An inventory of all software applications, digital tools, and extensions. The inventory shall include users of the applications, the provider, purpose, publisher, privacy statement, and terms of use;
 - b. A review of all software applications, digital tools, and extensions and an assurance that they meet or exceed minimum standards set by the New Hampshire Department of Education;
 - c. Policies and procedures for access to data and protection of privacy for students and staff including acceptable use policy for applications, digital tools, and extensions used on District hardware, server(s) or through the District network(s);
 - d. A response plan for any breach of information; and
 - e. requirement for a service provider to meet or exceed standards for data protection and privacy.
2. Policies and Administrative Procedures. The Superintendent, in consultation with the ISO, is directed to review, modify and recommend (policies) create (administrative procedures), where necessary, relative to collecting, securing, and correctly disposing of District data (including, but not limited to Confidential and Critical Data/Information, and as otherwise necessary to implement this policy and the Data Governance Plan. Such policies and/or procedures will may or may not be included in the annual Data Governance Plan

D. Responsibility and Data Stewardship.

All District employees, volunteers and agents are responsible for accurately collecting, maintaining and securing District data including, but not limited to, Confidential and/or Critical Data/Information.

E. Data Managers.

All District administrators are data managers for all data collected, maintained, used and disseminated under their supervision as well as data they have been assigned to manage in the District's data inventory. Data managers will monitor employee access to the information to ensure that confidential information is accessed only by employees who need the information to provide services to the District and that confidential and critical information is modified only by authorized employees. Data managers will assist the ISO in enforcing District policies and procedures regarding data management.

F. Confidential and Critical Information.

The District will collect, create or store confidential information only when the Superintendent or designee determines it is necessary, and in accordance with applicable law. The District will provide access to confidential information to appropriately trained District employees and volunteers only when the District determines that such access is necessary for the performance of their duties. The District will disclose confidential information only to authorized District contractors or agents who need access to the information to provide services to the District and who agree not to disclose the information to any other party except as allowed by law and authorized by the District.

District employees, contractors and agents will notify the ISO or designee immediately if there is reason to believe confidential information has been disclosed to an unauthorized person or any information has been compromised, whether intentionally or otherwise. The ISO or designee will investigate immediately and take any action necessary to secure the information, issue all required legal notices and prevent future incidents. When necessary, the Superintendent, ISO or designee is authorized to secure resources to assist the District in promptly and appropriately addressing a security breach.

Likewise, the District will take steps to ensure that critical information is secure and is not inappropriately altered, deleted, destroyed or rendered inaccessible. Access to critical information will only be provided to authorized individuals in a manner that keeps the information secure.

All District staff, volunteers, contractors and agents who are granted access to critical or confidential information/data are required to keep the information secure and are prohibited from disclosing or assisting in the unauthorized disclosure of such confidential or critical data/information. All individuals using confidential and critical data/information will strictly observe all administrative procedures, policies and other protections put into place by the District including, but not limited to, maintaining information in locked rooms or drawers, limiting access to electronic files, updating and maintaining the confidentiality of password protections, encrypting and redacting information, and disposing of information no longer needed in a confidential and secure manner.

G. Using Online Services and Applications.

District staff members are encouraged to research and utilize online services or applications to engage students and further the District's education mission. District employees, however, are prohibited from installing or using applications, programs or other software, or online system/website, that either stores, collects or shares confidential or critical data/information, until the ISO approves the vendor and the software or service used. Before approving the use or purchase of any such software or online service, the ISO or designee shall verify that it meets the requirements of the law, Board policy, and the Data Governance Plan, and that it appropriately protects confidential and critical data/information. This prior approval is also required whether or not the software or online service is obtained or used without charge.

H. Training.

The ISO will provide appropriate training to employees who have access to confidential or critical information to prevent unauthorized disclosures or breaches in security. All school employees will receive annual training in the confidentiality of student records, and the requirements of this policy and related procedures and rules.

I. Data Retention and Deletion.

The ISO or designee shall establish a retention schedule for the regular archiving and deletion of data stored on District technology resources. The retention schedule should comply with, and be incorporated into the data/record retention schedule established under District policy **EHB** and administrative procedure **EHB-R**, including but not limited to, provisions relating to Litigation and Right to Know holds as described in District policy **EHB**.

J. Consequences

Employees who fail to follow the law or District policies or procedures regarding data governance and security (including failing to report) may be disciplined, up to and including termination. Volunteers may be excluded from providing services to the District. The District will end business relationships with any contractor who fails to follow the law, District policies or procedures, or the confidentiality provisions of any contract. In addition, the District reserves the right to seek all other legal remedies, including criminal and civil action and seeking discipline of an employee's teaching certificate.

The District may suspend all access to data or use of District technology resources pending an investigation. Violations may result in temporary, long-term or permanent suspension of user privileges. The District will cooperate with law enforcement in investigating any unlawful actions. The Superintendent or designee has the authority to sign any criminal complaint on behalf of the District.

Any attempted violation of District policies, procedures or other rules will result in the same consequences, regardless of the success of the attempt.

Appendix – EHAB-R HDSD Data Governance Manual**Legal References:**

15 U.S.C. §§ 6501-6506 Children's Online Privacy Protection Act (COPPA)
20 U.S.C. § 1232g Family Educational Rights and Privacy Act (FERPA)
20 U.S.C. § 1232h Protection of Pupil Rights Amendment (PPRA)
20 U.S.C. § 1400-1417 Individuals with Disabilities Education Act (IDEA)
20 U.S.C. § 7926 Elementary and Secondary Education Act (ESSA)
RSA 189:65 Definitions
RSA 186:66 Student Information Protection and Privacy
RSA 189:67 Limits on Disclosure of Information
RSA 189:68 Student Privacy
RSA 189:68-a Student Online Personal Information
RSA 359-C:19-21 Right to Privacy/Notice of Security Breach

Policy Adoption & Revision History:

Policy Committee Review: 5/28/19

First Reading:

Second Reading:

Final Approval:

Minimum Standards for Privacy and Security of Student and Employee Data
New Hampshire Department of Education

I. Purpose & Applicability

A. This document defines minimum standards (“Standards”) for the privacy and security of student and employee information for Local Education Agencies (“LEA”) that the Department is required to establish according to New Hampshire Revised Statutes Annotated (RSA) 189:66, V.

B. These Standards apply to “Student Personally-Identifiable Data” and “Teacher Personally-Identifiable Data” (RSA 189:65), as well as “Covered Information” (RSA 189:68) handled by LEAs in both electronic and physical formats. Unless otherwise noted, the terms “Covered Information” shall include Student and Teacher Personally-Identifiable Data throughout this document.

C. All LEAs under the purview of the New Hampshire Department of Education are required to implement these Standards.

II. Minimum Privacy and Security Standards

These Standards have been developed from a subset of basic and derived security requirements from National Institute of Standards and Technology Special Publication 800-171 Revision 1, “Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations.” More information about each security standard can be found at the reference listed from NIST SP 800-171. LEAs are encouraged to review and incorporate additional security requirements from NIST SP 800-171, as appropriate.

A. Access Control

1. Limit system access to authorized users, processes acting on behalf of authorized users, and devices (including other systems). (NIST SP 800-171: 3.1.1)
2. Limit system access to the types of transactions and functions that authorized users are permitted to execute. (NIST SP 800-171: 3.1.2)
3. Employ the principle of least privilege, including for specific security functions and privileged accounts. (NIST SP 800-171: 3.1.5)
4. Limit unsuccessful logon attempts. (NIST SP 800-171: 3.1.8)
5. Employ cryptographic mechanisms to protect the confidentiality of remote access sessions. (NIST SP 800-171: 3.1.13)
6. Authorize wireless access prior to allowing such connections. (NIST SP 800-171: 3.1.16)

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7. Protect wireless access using authentication and encryption. (NIST SP 800-171: 3.1.17)

B. Awareness and Training

1. Ensure that managers, systems administrators, and users of organizational systems are made aware of the security risks associated with their activities and of the applicable policies, standards, and procedures related to the security of those systems. (NIST SP 800-171: 3.2.1)
2. Ensure that personnel are trained to carry out their assigned information security-related duties and responsibilities. (NIST SP 800-171: 3.2.2)

C. Audit and Accountability

1. Create and retain system audit logs and records to the extent needed to enable the monitoring, analysis, investigation, and reporting of unlawful or unauthorized system activity. (NIST SP 800-171: 3.3.1)
2. Ensure that the actions of individual system users can be uniquely traced to those users so they can be held accountable for their actions. (NIST SP 800-171: 3.3.2)

D. Configuration Management

1. Establish and maintain baseline configurations and inventories of organizational systems (including hardware, software, firmware, and documentation) throughout the respective system development life cycles. (NIST SP 800-171: 3.4.1)
2. Establish and enforce security configuration settings for information technology products employed in organizational systems. (NIST SP 800-171: 3.4.2)
3. Restrict, disable, or prevent the use of nonessential programs, functions, ports, protocols, and services. (NIST SP 800-171: 3.4.7)

E. Identification and Authentication

1. Identify system users, processes acting on behalf of users, and devices. (NIST SP 800-171: 3.5.1)
2. Authenticate (or verify) the identities of users, processes, or devices, as a prerequisite to allowing access to organizational systems. (NIST SP 800-171: 3.5.2)
3. Enforce a minimum password complexity and change of characters when new passwords are created. (NIST SP 800-171: 3.5.7)

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F. Incident Response

1. Establish an operational incident-handling capability for organizational systems that includes preparation, detection, analysis, containment, recovery, and user response activities. (NIST SP 800-171: 3.6.1)
2. Track, document, and report incidents to designated officials and/or authorities both internal and external to the organization. (NIST SP 800-171: 3.6.2)

G. Maintenance

1. Perform maintenance on organizational systems. (NIST SP 800-171: 3.7.1)
2. Provide controls on the tools, techniques, mechanisms, and personnel used to conduct system maintenance. (NIST SP 800-171: 3.7.2)
3. Ensure equipment removed for off-site maintenance is sanitized of any Covered Information in accordance with NIST SP 800-88 Revision 1. (NIST SP 800-171: 3.7.3)

H. Media Protection

1. Protect (i.e., physically control and securely store) system media containing Covered Information, both paper and digital. (NIST SP 800-171: 3.8.1)
2. Limit access to Covered Information on system media to authorized users. (NIST SP 800-171: 3.8.2)
3. Sanitize or destroy system media containing Covered Information in accordance with NIST SP 800-88 Revision 1 before disposal or release for reuse. (NIST SP 800-171: 3.8.3)
4. Control access to media containing Covered Information and maintain accountability for media during transport outside of controlled areas. (NIST SP 800-171: 3.8.5)

I. Personnel Security

1. Screen individuals prior to authorizing access to organizational systems containing Covered Information. (NIST SP 800-171: 3.9.1)
2. Ensure that organizational systems containing Covered Information are protected during and after personnel actions such as terminations and transfers. (NIST SP 800-171: 3.9.2)

J. Physical Protection

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1. Limit physical access to organizational systems, equipment, and the respective operating environments to authorized individuals. (NIST SP 800-171: 3.10.1)

2. Protect and monitor the physical facility and support infrastructure for organizational systems. (NIST SP 800-171: 3.10.2)

K. Risk Assessment

1. Periodically assess the risk to organizational operations (including mission, functions, image, or reputation), organizational assets, and individuals, resulting from the operation of organizational systems and the associated processing, storage, or transmission of Covered Information. (NIST SP 800-171: 3.11.1)

2. Scan for vulnerabilities in organizational systems and applications periodically and when new vulnerabilities affecting those systems and applications are identified. (NIST SP 800-171: 3.11.2)

3. Remediate vulnerabilities in accordance with risk assessments. (NIST SP 800-171: 3.11.3)

L. Security Assessment

1. Periodically assess the security controls in organizational systems to determine if the controls are effective in their application. (NIST SP 800-171: 3.12.1)

2. Develop and implement plans of action designed to correct deficiencies and reduce or eliminate vulnerabilities in organizational systems. (NIST SP 800-171: 3.12.2)

3. Monitor security controls on an ongoing basis to ensure the continued effectiveness of the controls. (NIST SP 800-171: 3.12.3)

M. System and Communications Protection

1. Monitor, control, and protect communications (i.e., information transmitted or received by organizational systems) at the external boundaries and key internal boundaries of organizational systems. (NIST SP 800-171: 3.13.1)

2. Deny network communications traffic by default and allow network communications traffic by exception (i.e., deny all, permit by exception). (NIST SP 800-171: 3.13.6)

3. Protect the confidentiality of Covered Information at rest. (NIST SP 800-171: 3.13.16)

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N. System and Information Integrity

1. Identify, report, and correct system flaws in a timely manner. (NIST SP 800-171: 3.14.1)
2. Provide protection from malicious code (i.e. Antivirus and Antimalware) at designated locations within organizational systems. (NIST SP 800-171: 3.14.2)
3. Monitor system security alerts and advisories and take action in response. (NIST SP 800-171: 3.14.3)
4. Update malicious code protection mechanisms when new releases are available. (NIST SP 800-171: 3.14.4)

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APPENDIX A

GLOSSARY

authentication	Verifying the identity of a user, process, or device, often as a prerequisite to allowing access to resources in a system.
availability	Ensuring timely and reliable access to and use of information.
confidentiality	Preserving authorized restrictions on information access and disclosure, including means for protecting personal privacy and proprietary information.
configuration settings	The set of parameters that can be changed in hardware, software, or firmware that affect the security posture and/or functionality of the system.
external system	A system or component of a system that is outside of the authorization boundary established by the organization and for which the organization typically has no direct control over the application of required security controls or the assessment of security control effectiveness.
external system service	A system service that is implemented outside of the authorization boundary of the organizational system (i.e., a service that is used by, but not a part of, the organizational system) and for which the organization typically has no direct control over the application of required security controls or the assessment of security control effectiveness.
external system service provider	A provider of external system services to an organization through a variety of consumer-producer relationships including but not limited to: joint ventures; business partnerships; outsourcing arrangements (i.e., through contracts, interagency agreements, lines of business arrangements); licensing agreements; and/or supply chain exchanges.
external network	A network not controlled by the organization.
incident	An occurrence that actually or potentially jeopardizes the confidentiality, integrity, or availability of a system or the information the system processes, stores, or transmits or that constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies.
information	Any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual.
information security	The protection of information and information systems from unauthorized access, use, disclosure, disruption, modification,

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	or destruction in order to provide confidentiality, integrity, and availability.
information system	A discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.
information technology	Any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency. For purposes of the preceding sentence, equipment is used by an executive agency if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency which: (i) requires the use of such equipment; or (ii) requires the use, to a significant extent, of such equipment in the performance of a service or the furnishing of a product. The term <i>information technology</i> includes computers, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources.
integrity	Guarding against improper information modification or destruction, and includes ensuring information non-repudiation and authenticity.
internal network	A network where establishment, maintenance, and provisioning of security controls are under the direct control of organizational employees or contractors; or the cryptographic encapsulation or similar security technology implemented between organization-controlled endpoints, provides the same effect (with regard to confidentiality and integrity). An internal network is typically organization-owned, yet may be organization-controlled while not being organization-owned.
least privilege	The principle that a security architecture should be designed so that each entity is granted the minimum system resources and authorizations that the entity needs to perform its function.
media	Physical devices or writing surfaces including, but not limited to, magnetic tapes, optical disks, magnetic disks, Large-Scale Integration (LSI) memory chips, and printouts (but not including display media) onto which information is recorded, stored, or printed within a system.
multifactor authentication	Authentication using two or more different factors to achieve authentication. Factors include something you know (e.g., PIN, password); something you have (e.g., cryptographic identification device, token); or something you are (e.g., biometric).
network	A system implemented with a collection of interconnected components. Such components may include routers, hubs,

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	cabling, telecommunications controllers, key distribution centers, and technical control devices.
network access	Access to a system by a user (or a process acting on behalf of a user) communicating through a network (e.g., local area network, wide area network, Internet).
privileged account	A system account with authorizations of a privileged user.
privileged user	A user that is authorized (and therefore, trusted) to perform security-relevant functions that ordinary users are not authorized to perform.
remote access	Access to an organizational system by a user (or a process acting on behalf of a user) communicating through an external network (e.g., the Internet).
risk	<p>A measure of the extent to which an entity is threatened by a potential circumstance or event, and typically a function of: (i) the adverse impacts that would arise if the circumstance or event occurs; and (ii) the likelihood of occurrence.</p> <p>System-related security risks are those risks that arise from the loss of confidentiality, integrity, or availability of information or systems. Such risks reflect the potential adverse impacts to organizational operations, organizational assets, individuals, other organizations, and the Nation.</p>
risk assessment	<p>The process of identifying risks to organizational operations (including mission, functions, image, reputation), organizational assets, individuals, other organizations, and the Nation, resulting from the operation of a system.</p> <p>Part of risk management, incorporates threat and vulnerability analyses, and considers mitigations provided by security controls planned or in place. Synonymous with risk analysis.</p>
sanitization	<p>Actions taken to render data written on media unrecoverable by both ordinary and, for some forms of sanitization, extraordinary means.</p> <p>Process to remove information from media such that data recovery is not possible. It includes removing all classified labels, markings, and activity logs.</p>
security control	A safeguard or countermeasure prescribed for a system or an organization designed to protect the confidentiality, integrity, and availability of its information and to meet a set of defined security requirements.
security control assessment	The testing or evaluation of security controls to determine the extent to which the controls are implemented correctly, operating as intended, and producing the desired outcome with respect to meeting the security requirements for a system or organization.
system component	A discrete, identifiable information technology asset (hardware, software, firmware) that represents a building

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user

block of a system. System components include commercial information technology products.

Individual, or (system) process acting on behalf of an individual, authorized to access a system.

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FREQUENTLY ASKED QUESTIONS

1. What is meant by “Minimum Standards”?

The “Minimum Standards for Privacy and Security of Student and Employee Data” (hereafter referred to simply as the “Minimum Standards”) are security and privacy requirements which must be implemented on your information systems and networks which process, store or transmit any of the types of data identified in section 1.B.

a. Are any of these standards optional?

No, none of the Minimum Standards are optional. The Minimum Standards as a whole establish the minimally acceptable baseline of security and privacy.

2. Could you explain the “Applicability” of the Minimum Standards?

Section 1 of the document defines the WHO and WHAT that the Minimum Standards apply to, as well as their purpose. The Minimum Standards apply to all local education agencies who fall under the purview of RSA 189:66 and the New Hampshire Department of Education. From a technical perspective, the Minimum Standards apply specifically to those information systems, servers, workstations, storage devices (including portable and mobile), printers, and networking devices which process, store or transmit the types of information identified in section 1.B.

As an example, consider a school network which has workstations, servers, printers and network devices which collectively either process, store or transmit student or teacher personally identifiable data, or perhaps these devices do all three (process, store and transmit). The Minimum Standards must be applied to all of this information technology (IT) equipment – none of the devices are exempt from the Minimum Standards. In a network environment, you should assume that **all devices** which support the processing of the student or teacher data must implement the Minimum Standards.

Consider on the other hand the case of an “isolated” or “standalone” system. This would be defined as one or more machines that **are not connected** to the school network, and more importantly, **do not process, store or transmit** any of the student, teacher or “covered” data. In this example, the Minimum Standards would not have to be applied. An example of this could be a single PC that serves an administrative or logistical function for the school, but does not handle any student, teacher or covered data, and furthermore, is not connected to the school network that does handle student data. So long as the machine does not handle the sensitive data and is not connected to other machines which do handle the data, the Minimum Standards would not apply to that single machine.

Here is another example of an isolated system. Let’s say the school has an Internet connection from an ISP **which does not connect to the main school network**, but instead connects to a dozen or so workstations in a technology lab. Assume the lab

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FREQUENTLY ASKED QUESTIONS

machines have software tools for learning computer programming, and these machines connect to an Internet site with computer science educational material. So long as the computer programming applications and the Internet sites that the students connect to as part of the lab do not collect, process, store or transmit student, teacher or other “Covered information” as described in section 1.B, these lab machines **would not have to** implement the Minimum Standards. But as soon as students in the learning lab environment have to create accounts which identify them by name and in the process of the educational program, collects or records other student data, the Minimum Standards would apply. Furthermore, if the computer lab is connected to the school network, it will be hard to argue that no student, teacher or “Covered Information” is ever collected, processed or stored on the lab machines, so in that event, the lab machines would also have to comply with the Minimum Standards.

3. Do the Minimum Standards apply to vendor hosted applications or service providers?

Yes, if the vendor hosted applications or service providers collect, process, store or transmit any of the student, teacher or other “Covered Information” identified in section 1.B. This requirement is also highlighted in RSA 189:66, V.e.

4. How are the Minimum Standards related to FERPA?

They are complementary in nature.

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. FERPA gives parents certain rights with respect to their children's education records.

The Minimum Standards are much more specific and technical in nature, and apply more specifically in the configuration of IT systems and networks which handle student data, while FERPA provides a higher level focus on privacy rights and protections covering dissemination and disclosure.

5. The underlying NIST publication SP 800-171 says that it is for protecting “Controlled Unclassified Information” or CUI – how does that relate to student records and the Minimum Standards?

“Controlled Unclassified Information” or CUI was defined in 32 CFR (Code of Federal Regulations) part 2002, to establish policy for agencies on designating, safeguarding,

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FREQUENTLY ASKED QUESTIONS

disseminating, marking, decontrolling, and disposing of CUI. Furthermore, the CUI Registry established the category of “Student Records” relative to education records that are directly related to a student under FERPA as a type of information to be protected as Controlled Unclassified Information. Therefore, NIST SP 800-171, “*Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations*” has a direct relationship to the CUI category of “student records” and thus serves as the best underlying federal guidance to apply to the Minimum Standards.

It should be emphasized that **not all security requirements** from NIST SP 800-171 were incorporated into the Minimum Standards – but rather that the Minimum Standards represent a core subset of the security requirements from NIST SP 800-171. Some of the more rigorous or stringent security requirements from NIST SP 800-171 were omitted from the Minimum Standards due to the level of difficulty they would have imposed on all schools, therefore the end result represents a **tailored set** of security requirements for schools to implement.

6. How will the Minimum Standards be enforced, and by whom?

As described in RSA 189:66, paragraph V, each local education agency is to develop a data and privacy governance plan which is to be presented to the school board for review and approval by June 30, 2019, and will be updated annually. The data and privacy governance plan should include the school’s progress and status in implementing the Minimum Standards, along with other requirements as described in items RSA 189:66, V.a through V.e.

7. Will the State audit compliance with the Minimum Standards?

At the present time, the state has not established a program to audit compliance with the Minimum Standards.

8. Can our school/school district implement more rigorous security or privacy protections?

Yes, a school or school district may implement more rigorous (stringent) security or privacy protections at their discretion. The school should consult with their school board and reflect this approach in their data and privacy governance plan.

9. How soon will we have to implement all of the Minimum Standards?

Minimum Standards for Privacy and Security of Student and Employee Data
New Hampshire Department of Education

FREQUENTLY ASKED QUESTIONS

Although the Revised Statute requires that local education agencies “shall develop a data and privacy governance plan which shall be presented to the school board for review and approval by June 30, 2019,” RSA 189:66 does not mandate full compliance by a specific date. It is expected that each local education agency will continue to make progress in their implementation of the Minimum Standards, and will reflect this status in their annual reporting to the school board, to include the results from periodic risk assessments.

10. How can we measure/assess our implementation of the Minimum Standards?

Since each of the Minimum Standards map back to a specific security or privacy requirement in NIST SP 800-171, schools can download NIST SP 800-171 and NIST SP 800-171A from the NIST website. NIST SP 800-171A, titled “*Assessing Security Requirements for Controlled Unclassified Information*” provides process and procedures to assess each security requirement or sub-requirement as described in NIST SP 800-171. Additionally, if the school engages a cyber-security vendor to conduct either a security assessment, risk assessment or both, the vendor should be asked to assess compliance against the Minimum Standards and the companion security requirements from NIST SP 800-171.

11. Can I map these standards back to NIST SP 800-53 security controls?

Yes. NIST SP 800-171, Appendix D has a table which maps the 800-171 security requirements (which the Minimum Standards are based upon) to the corresponding NIST SP 800-53 Security Controls.

12. Do I need to retain an attorney to assist in the implementation of the Minimum Standards or a risk assessment?

No, retaining an attorney is not required to assist in the implement of the Minimum Standards or a risk assessment.

13. What if I still have questions about interpreting or implementing the Minimum Standards?

Please contact the New Hampshire Department of Education.

COMPUTER SECURITY, EMAIL, AND INTERNET COMMUNICATIONS

The District has established this policy with regard to access and disclosure of electronic data composed, stored, sent, or received by employees using the District computer system. This policy is designed to protect the safety and security of the District's computer systems including e-mail and Internet use.

1. The computer hardware system, software and e-mail system are owned by the District, and all messages or data composed, stored, sent, or received using the system are and remain the private property of the District. They are not the property of the employee. The District reserves, and intends to exercise without prior notice, the right to read, review, audit, intercept, access or disclose any and all information.
2. District technology should be used for educational purposes only during school time, while occasional personal use of the District's network is acceptable on personal time.
3. The electronic mail system may not be used to solicit or proselytize for commercial ventures, religious or political causes.
4. The District prohibits discriminatory, harassing, or offensive materials in any form of media. Among those which are considered offensive are any messages which contain sexual implications, racial slurs, gender-specific comments, or any other comments that offensively address someone's age, sexual orientation, religious or political beliefs, national origin, or disability.
5. The electronic mail system shall not be used to send (upload) or receive (download) copyrighted materials, trade secrets, proprietary financial information, or similar materials without prior authorization. Any communications created, sent, or retrieved using e-mail may be read by individuals other than the intended recipient.
6. The confidentiality of any message or data should not be assumed. Even when a message is erased, it is still possible to retrieve and read that message. The use of passwords for security does not guarantee confidentiality, or that the District will not retrieve it.
7. Notwithstanding the District's right to retrieve and monitor any e-mail messages, such messages should be treated as confidential by other employees and accessed only by the intended recipient. Employees are not to retrieve or read any e-mail that is not sent to them, without authorization. Any exception to this policy must receive prior approval by the Superintendent or designee.
8. Any employee who violates this policy or uses the computer system or electronic mail system for improper purposes shall be subject to discipline up to and including discharge.
9. The District has the authority to terminate or limit access to any program at any time.
10. Personal devices cannot be used on the system **subject to** ~~unless pre-authorized~~ **administration** by administration.
11. The District will take all necessary measures to maintain student privacy relative to the District's website, online information and storage of student personally identifiable information, as required by state and federal law.

Legal References:

RSA 189:68-a, Student Online Personal Information

RSA 194:3-d, School District Computer Networks

Policy Adoption & Revision History:

Policy Committee Review: 5/3/16, 5/17/16

First Reading: 6/20/16

Second Reading: 8/1/16

Final Approval: 8/15/16

Policy Committee Review: 05/28/19

Board Approval of Revision:

**INSTRUCTIONAL MATERIALS RESOURCES AND
INSTRUCTIONAL RESOURCES PLAN**

~~The Board is legally responsible to approve and to provide the necessary instructional materials used in the District. Online materials, print materials, manipulatives, equipment, and instructional technologies will be used~~ **All instructional resources will be selected based on their ability to provide quality learning experiences for students in that they:**

1. Enrich and support the curriculum;
2. Stimulate growth in knowledge, literary appreciation, aesthetic value, and ethical standards;
3. Provide background information to enable students to make intelligent judgments;
4. **Present opposing sides of controversial issues;**
5. **Represent the many religious, ethnic, and cultural groups that contribute to our American heritage;**
6. **Are current;**
7. Depict in an accurate and unbiased way the cultural diversity and pluralistic nature of the American society; **and**
8. Be matched to the appropriate skill levels of pupils.

Administrators and teachers may select instructional materials from a variety of media, including, but not limited to, books, online/internet materials, equipment, newspapers, other media, and instructional technologies. Selection of such materials should be made only after a determination that such materials are developmentally and age appropriate, provide quality learning experiences, and fit within the District's educational goals and philosophies.

Each school shall provide instructional resources, including those available online or through interlibrary loan, which provide instruction in:

- a. **Accessing information efficiently and effectively;**
- b. **Evaluating information and sources critically and competently;**
- c. **Citing sources and not plagiarizing;**
- d. **Using information accurately and creatively;**
- e. **Pursuing information related to personal interests;**
- f. **Appreciating literature and other creative expressions of information;**
- g. **Striving for excellence in information-seeking and knowledge generation;**
- h. **Recognizing the importance of information to a democratic society;**

- i. Practicing ethical behavior in regard to information and information technology; and
- j. Participating effectively in groups to pursue and generate information.

Basic instructional course material in the fundamental skill areas of language arts, mathematics, science and social studies shall be reviewed at intervals not exceeding five (5) years. All instructional materials must be sequential, and must be compatible with previous and future offerings.

Instructional resources maintained by the District shall be catalogued and classified in accordance with applicable NHDOE rules, and should be managed under policies and procedures designed to maximize their use.

Instructional Resources Plan

The Superintendent is directed to prepare, maintain and implement a written plan for the ongoing development, organization, acquisition, maintenance, replacement, and updating of instruction resources necessary to support the needs of the user population and the approved curriculum. The plan shall conform to applicable NHDOE requirements (currently found at NHDOE Ed. 306.08(a)(4) and (b)), and should be presented to the School Board every 3 (three) years for periodic review.

Legal Reference:

NH Code of Administrative Rules, Section Ed. 306.08, Instructional Resources

NH Code of Administrative Rules, Section Ed 306.141(a)(4), Instructional Materials and Resources

Policy Adoption & Revision History:

First Reading: 11/07/05

Second Reading: 12/19/05

Board Approval: 01/03/06

Policy Committee Review: 05/28/19

Board Approval of Revision:

ADMINISTRATION OF FEDERAL GRANT FUNDS

This Policy includes “sub-policies” relating to specific provisions of the Uniform Administrative Requirements for Federal Awards issued by the U.S. Office of Budget and Management. Those requirements, which are commonly known as Uniform Grant Guidance (“UGG”), are found in Title 2 of the Code of Federal Regulations (“CFR”) part 200. The sub-policies include:

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NOTICE: Notwithstanding any other policy of the District, all funds awarded directly or indirectly through any Federal grant or subsidy programs shall be administered in accordance with this Policy, and any administrative procedures adopted implementing this Policy.

The Board accepts federal funds, which are available, provided that there is a specific need for them and that the required matching funds are available. The Board intends to administer federal grant awards efficiently, effectively and in compliance with all requirements imposed by law, the awarding agency and the New Hampshire Department of Education (NHDOE) or other applicable pass-through entity.

This policy establishes the minimum standards regarding internal controls and grant management to be used by the District in the administration of any funds received by the District through Federal grant programs as required by applicable NH and Federal laws or regulations, including, without limitation, the UGG.

The Board directs the Superintendent and/or designees to develop, monitor, and enforce effective administrative procedures and other internal controls over federal awards as necessary in order to provide reasonable assurances that the District is managing the awards in compliance with all requirements for federal grants and awards. Systems and controls must meet all requirements of federal and/or law and regulation and shall be based on best practices.

The Superintendent is directed to assure that all individuals responsible for the administration of a federal grant or award shall be provided sufficient training to carry out their duties in accordance with all applicable requirements for the federal grant or award and this policy.

To the extent not covered by this Policy, the administrative procedures and internal controls must provide for:

1. identification of all federal funds received and expended and their program source;
2. accurate, current, and complete disclosure of financial data in accordance with federal requirements;
3. records sufficient to track the receipt and use of funds;
4. effective control and accountability over assets to assure they are used only for authorized purposes and
5. comparison of expenditures against budget.

DAF-1 ALLOWABILITY

The Superintendent is responsible for the efficient and effective administration of grant funds through the application of sound management practices. Such funds shall be administered in a manner consistent with all applicable Federal, State and local laws, the associated agreements/assurances, program objectives and the specific terms and conditions of the grant award.

A. **Cost Principles:** Except whether otherwise authorized by statute, costs shall meet the following general criteria in order to be allowable under Federal awards:

1. Be “necessary” and “reasonable” for proper and efficient performance and administration of the Federal award and be allocable thereto under these principles.
 - a. To determine whether a cost is “reasonable”, consideration shall be given to:
 - i. whether a cost is a type generally recognized as ordinary and necessary for the operation of the District or the proper and efficient performance of the Federal award;
 - ii. the restraints or requirements imposed by such factors as sound business practices, arm’s length bargaining, Federal, State, local, tribal and other laws and regulations;
 - iii. market prices for comparable goods or services for the geographic area;

- iv. whether the individuals concerned acted with prudence in the circumstances considering their responsibilities; and
 - v. whether the cost represents any significant deviation from the established practices or Board policy which may increase the expense. While Federal regulations do not provide specific descriptions of what satisfied the “necessary” element beyond its inclusion in the reasonableness analysis above, whether a cost is necessary is determined based on the needs of the program. Specifically, the expenditure must be necessary to achieve an important program objective. A key aspect in determining whether a cost is necessary is whether the District can demonstrate that the cost addresses an existing need and can prove it.
- b. When determining whether a cost is “necessary”, consideration may be given to whether:
- i. the cost is needed for the proper and efficient performance of the grant program;
 - ii. the cost is identified in the approved budget or application;
 - iii. there is an educational benefit associated with the cost;
 - iv. the cost aligns with identified needs based on results and findings from a needs assessment; and/or
 - v. the cost addresses program goals and objectives and is based on program data.
- c. A cost is allocable to the Federal award if the goods or services involved are chargeable or assignable to the Federal award in accordance with the relative benefit received.
2. Conform to any limitations or exclusions set forth as cost principles in CFR-Part 200 or in the terms and conditions of the Federal award.
 3. Be consistent with policies and procedures that apply uniformly to both Federally-financed and other activities of the District.
 4. Be afforded consistent treatment. A cost cannot be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been assigned as an indirect cost under another award.
 5. Be determined in accordance with generally accepted accounting principles.
 6. Be representative of actual cost, net of all applicable credits or offsets.

The term “applicable credits” refers to those receipts or reductions of expenditures that operate to offset or reduce expense items allocable to the Federal award. Typical examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to/or received by the State relate to the Federal award, they shall be credited to the Federal award, either as a cost reduction or a cash refund, as appropriate.

7. Be not included as a match or cost-share, unless the specific Federal program authorizes Federal costs to be treated as such.
8. Be adequately documented:
 - a. in the case of personal services, the Superintendent shall implement a system for District personnel to account for time and efforts expended on grant funded programs to assure that only permissible personnel expenses are allocated;
 - b. in the case of other costs, all receipts and other invoice materials shall be retained, along with any documentation identifying the need and purpose for such expenditure if not otherwise clear.

B. Selected Items of Cost: The District shall follow the rules for selected items of cost at 2 C.F.R. Part 200, Subpart E when charging these specific expenditures to a Federal grant. When applicable, District staff shall check costs against the selected items of cost requirements to ensure the cost is allowable. In addition, State, District and program-specific rules, including the terms and conditions of the award, may deem a cost as unallowable and District personnel shall follow those rules as well.

C. Cost Compliance: The Superintendent shall require that grant program funds are expended and are accounted for consistent with the requirements of the specific program and as identified in the grant application. Compliance monitoring includes accounting for direct or indirect costs and reporting them as permitted or required by each grant.

D. Determining Whether A Cost is Direct or Indirect

1. "Direct costs" are those costs that can be identified specifically with a particular final cost objective, such as a Federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

These costs may include: salaries and fringe benefits of employees working directly on a grant-funded project; purchased services contracted for performance under the grant; travel of employees working directly on a grant-funded project; materials, supplies, and equipment purchased for use on a specific grant; and infrastructure costs directly attributable to the program (such as long distance telephone calls specific to the program, etc.).

2. "Indirect costs" are those that have been incurred for a common or joint purpose benefitting more than one (1) cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. Costs incurred for the same purpose in like circumstances shall be treated consistently as either direct or indirect costs.

These costs may include: general data processing, human resources, utility costs, maintenance, accounting, etc.

Federal education programs with supplement not supplant provisions must use a restricted indirect cost rate. In a restricted rate, indirect costs are limited to general management costs. General management costs do not include divisional administration that is limited to one (1) component of the District, the governing body of the District, compensation of the Superintendent, compensation of the chief executive officer of any component of the District, and operation of the immediate offices of these officers.

The salaries of administrative and clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate only if **all** the following conditions are met:

- a. Administrative or clerical services are integral to a project or activity.
- b. Individuals involved can be specifically identified with the project or activity.
- c. Such costs are explicitly included in the budget or have the prior written approval of the Federal awarding agency.
- d. The costs are not also recovered as indirect costs.

Where a Federal program has a specific cap on the percentage of administrative costs that may be charged to a grant, that cap shall include all direct administrative charges as well as any recovered indirect charges.

Effort should be given to identify costs as direct costs whenever practical, but allocation of indirect costs may be used where not prohibited and where indirect cost allocation is approved ahead of time by NHDOE or the pass-through entity (Federal funds subject to 2 C.F.R Part 200 pertaining to determining indirect cost allocation).

- E. Timely Obligation of Funds:** Obligations are orders placed for property and services, contracts and sub awards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period.

The following are examples of when funds are determined to be “obligated” under applicable regulation of the U.S. Department of Education:

When the obligation is for:

1. Acquisition of property – on the date which the District makes a binding written commitment to acquire the property.
2. Personal services by an employee of the District – when the services are performed.
3. Personal services by a contractor who is not an employee of the District – on the date which the District makes a binding written commitment to obtain the services.
4. Public utility services – when the District received the services.
5. Travel – when the travel is taken.
6. Rental of property – when the District uses the property.
7. A pre-agreement cost that was properly approved by the Secretary under the cost principles in 2 C.F.R. Part 200, Subpart E – Cost Principles – on the first day of the project period.

- F. Period of Performance:** All obligations must occur on or between the beginning and ending dates of the grant project. This period of time is known as the period of performance. The period of performance is dictated by statute and will be indicated in the Grant Award Notification

("GAN"). As a general rule, State-administered Federal funds are available for obligation within the year that Congress appropriates the funds for. However, given the unique nature of educational institutions, for many Federal education grants, the period of performance is twenty-seven (27) months. This maximum period includes a fifteen (15) month period of initial availability, plus a twelve (12) month period of carry over. For direct grants, the period of performance is generally identified in the GAN.

In the case of a State-administered grant, obligations under a grant may not be made until the grant funding period begins or all necessary materials are submitted to the granting agency, whichever is later. In the case of a direct grant, obligations may begin when the grant is substantially approved, unless an agreement exists with NHDOE or the pass-through entity to reimburse for pre-approval expenses.

For both State-administered and direct grants, regardless of the period of availability, the District shall liquidate all obligations incurred under the award not later than forty-five (45) days after the end of the funding period unless an extension is authorized. Any funds not obligated within the period of performance or liquidated within the appropriate timeframe are said to lapse and shall be returned to the awarding agency. Consistently, the District shall closely monitor grant spending throughout the grant cycle.

DAF-2 CASH MANAGEMENT AND FUND CONTROL

Payment methods must be established in writing that minimize the time elapsed between the drawdown of federal funds and the disbursement of those funds. Standards for funds control and accountability must be met as required by the Uniform Guidance for advance payments and in accordance with the requirements of NHDOE or other applicable pass-through-entity.

In order to provide reasonable assurance that all assets, including Federal, State, and local funds, are safeguarded against waste, loss, unauthorized use, or misappropriation, the Superintendent shall implement internal controls in the area of cash management.

The District's payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury or the NHDOE (pass-through entity) and disbursement by the District, regardless of whether the payment is made by electronic fund transfer, or issuance or redemption of checks, warrants, or payment by other means.

The District shall use forms and procedures required by the NHDOE, grantor agency or other pass-through entity to request payment. The District shall request grant fund payments in accordance with the provisions of the grant. Additionally, the District's financial management systems shall meet the standards for fund control and accountability as established by the awarding agency.

The Superintendent and/or designees are authorized to submit requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as deemed appropriate when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act (15 U.S.C. 1693-1693r).

When the District uses a cash advance payment method, the following standards shall apply:

- A. The timing and amount of the advance payment requested will be as close as is administratively feasible to the actual disbursement for direct program or project costs and the proportionate share of any allowable indirect costs.

- B. The District shall make timely payment to contractors in accordance with contract provisions.
- C. To the extent available, the District shall disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.
- D. The District shall account for the receipt, obligation and expenditure of funds.
- E. Advance payments shall be deposited and maintained in insured accounts whenever possible.
- F. Advance payments will be maintained in interest bearing accounts unless the following apply:
 - 1. The District receives less than \$120,000 in Federal awards per year.
 - 2. The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
 - 3. The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
 - 4. A foreign government or banking system prohibits or precludes interest bearing accounts.
- G. Pursuant to Federal law and regulations, the District may retain interest earned in an amount up to \$500 per year for administrative costs. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System ("PMS") through an electronic medium using either Automated Clearing House ("ACH") network or a Fedwire Funds Service payment. Remittances shall include pertinent information of the payee and nature of payment in the memo area (often referred to as "addenda records" by Financial Institutions) as that will assist in the timely posting of interest earned on Federal funds.

DAF-3 PROCUREMENT

All purchases for property and services made using federal funds must be conducted in accordance with all applicable Federal, State and local laws and regulations, the Uniform Guidance, and the District's written policies and procedures.

Procurement of all supplies, materials equipment, and services paid for from Federal funds or District matching funds shall be made in accordance with all applicable Federal, State, and local statutes and/or regulations, the terms and conditions of the Federal grant, District policies and procedures.

The Superintendent shall maintain a procurement and contract administration system in accordance with the USDOE requirements (2 CFR 200.317-.326) for the administration and management of Federal grants and Federally-funded programs. The District shall maintain a contract administration system that requires contractors to perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Except as otherwise noted, procurement transactions shall also conform to the provisions of the District's documented policy, ***DJB Purchasing Procedure***.

The District avoids situations that unnecessarily restrict competition and avoids acquisition of unnecessary or duplicative items. Individuals or organizations that develop or draft specifications, requirements, statements of work, and/or invitations for bids, requests for proposals, or invitations to

negotiate, are excluded from competing for such purchases. Additionally, consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, an analysis shall be made to lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. These considerations are given as part of the process to determine the allowability of each purchase made with Federal funds.

Contracts are awarded only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration is given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. No contract is awarded to a contractor who is suspended or debarred from eligibility for participation in federal assistance programs or activities.

Purchasing records are sufficiently maintained to detail the history of all procurements and must include at least the rationale for the method of procurement, selection of contract type, and contractor selection or rejection; the basis for the contract price; and verification that the contractor is not suspended or debarred.

To foster greater economy and efficiency, the District may enter into State and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services.

- A. **Competition:** All procurement transactions shall be conducted in a manner that encourages full and open competition and that is in accordance with good administrative practice and sound business judgement. In order to promote objective contractor performance and eliminate unfair competitive advantage, the District shall exclude any contractor that has developed or drafted specifications, requirements, statements of work, or invitations for bids or requests for proposals from competition for such procurements.

Some of the situations considered to be restrictive of competition include, but are not limited to, the following:

1. unreasonable requirements on firms in order for them to qualify to do business;
2. unnecessary experience and excessive bonding requirements;
3. noncompetitive contracts to consultants that are on retainer contracts;
4. organizational conflicts of interest;
5. specification of only a "brand name" product instead of allowing for an "or equal" product to be offered and describing the performance or other relevant requirements of the procurement; and/or
6. any arbitrary action in the procurement process.

Further, the District does not use statutorily or administratively imposed State, local, or tribal geographical preferences in the evaluation of bids or proposals, unless (1) an applicable Federal statute expressly mandates or encourages a geographic preference; (2) the District is contracting for architectural and engineering services, in which case geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

To the extent that the District uses a pre-qualified list of persons, firms or products to acquire goods and services, the pre-qualified list must include enough qualified sources as to ensure maximum open and free competition. The District allows vendors to apply for consideration to be placed on the list as requested.

- B. Solicitation Language:** The District shall require that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it shall conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which shall be met by offers shall be clearly stated; and identify all requirements which the offerors shall fulfill and all other factors to be used in evaluating bids or proposals.

The Board will not approve any expenditure for an unauthorized purchase or contract.

- C. Procurement Methods:** The District shall utilize the following methods of procurement:

1. Micro-purchases

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$10,500. To the extent practicable, the District shall distribute micro-purchase equitably among qualified suppliers. Micro-purchases may be made without soliciting competitive quotations if the Superintendent considers the price to be reasonable. The District maintains evidence of this reasonableness in the records of all purchases made by this method.

2. Small Purchases (Simplified Acquisition)

Small purchase procedures provide for relatively simple and informal procurement methods for securing services, supplies, and other property that does not exceed the competitive bid threshold of \$250,000. Small purchase procedures require that price or rate quotations shall be obtained from an adequate number of qualified sources.

3. Sealed Bids

Sealed, competitive bids shall be obtained when the purchase of, and contract for, single items of supplies, materials, or equipment which amounts to \$250,000 and when the Board determines to build, repair, enlarge, improve, or demolish a school building/facility the cost of which will exceed \$250,000.

- a. In order for sealed bidding to be feasible, the following conditions shall be present:
- i. a complete, adequate, and realistic specification or purchase description is available;
 - ii. two (2) or more responsible bidders are willing and able to compete effectively for the business; and
 - iii. the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
- b. When sealed bids are used, the following requirements apply:

- i. Bids shall be solicited in accordance with the provisions of State law and District policy, ***DJE Bidding Policy***. Bids shall be solicited from an adequate number of qualified suppliers, providing sufficient response time prior to the date set for the opening of bids. The invitation to bid shall be publicly advertised.
- ii. The invitation for bids will include product/contract specifications and pertinent attachments and shall define the items and/or services required in order for the bidder to properly respond.
- iii. All bids will be opened at the time and place prescribed in the invitation for bids; bids will be opened publicly.
- iv. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine the low bid when prior experience indicates that such discounts are usually taken.
- v. The Board reserves the right to reject any and all bids for sound documented reason.
- vi. Bid protests shall be handled pursuant to the process set forth in DAF-3, I.

4. Competitive Proposals

Procurement by competitive proposal, normally conducted with more than one sources submitting an offer, is generally used when conditions are not appropriate for the use of sealed bids or in the case of a recognized exception to the sealed bid method.

If this method is used, the following requirements apply:

- a. Requests for proposals shall be publicized and identify all evaluation factors and their relative importance. Any response to the publicized requests for proposals shall be considered to the maximum extent practical.
- b. Proposals shall be solicited from an adequate number of sources.
- c. The District shall use its written method for conducting technical evaluations of the proposals received and for selecting recipients.
- d. Contracts shall be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

The District may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated, and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

5. Noncompetitive Proposals

Procurement by noncompetitive proposals allows for solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- a. the item is available only for a single source;
- b. the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- c. the Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the District; and/or
- d. after solicitation of a number of sources, competition is determined to be inadequate.

D. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms: The District must take necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

E. Contract/Price Analysis: The District shall perform a cost or price analysis in connection with every procurement action in excess of \$250,000 (i.e. the Simplified Acquisition/Small Purchase limit), including contract modifications. (See 2 CFR 200.323(a).) A cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price, without looking at the individual cost elements.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the District shall come to an independent estimate prior to receiving bids or proposals.

When performing a cost analysis, the District shall negotiate profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of

subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

- F. Time and Materials Contracts:** The District shall use a time and materials type contract only (1) after a determination that no other contract is suitable; and (2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to the District is the sum of the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, the District sets a ceiling price for each contract that the contractor exceeds at its own risk. Further, the District shall assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls and otherwise performs in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

- G. Suspension and Disbarment:** The District will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. All purchasing decisions shall be made in the best interests of the District and shall seek to obtain the maximum value for each dollar expended. When making a purchasing decision, the District shall consider such factors as (1) contractor integrity; (2) compliance with public policy; (3) record of past performance/ and (4) financial and technical resources.

The Superintendent shall have the authority to suspend or debar a person/corporation, for cause, from consideration or award of further contracts. The District is subject to and shall abide by the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180.

Suspension is an action taken by the District that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensure. A person so excluded is suspended. (See 2 CFR Part 180 Subpart G.)

Debarment is an action taken by the Superintendent to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred. (See 2 CFR Part 180 Subpart H.)

The District shall not subcontract with or award sub-grants to any person or company who is debarred or suspended. For contracts over \$25,000 the District shall confirm that the vendor is not debarred or suspended by either checking the Federal government's System for Award Management ("SAM"), which maintains a list of such debarred or suspended vendors at www.sam.gov (which replaced the former Excluded Parties List System or EPLS); or collecting a certification from the vendor. (See 2 CFR Part 180 Sub part C.)

Documentation that debarment/suspension was queried must be retained for each covered transaction as part of the documentation required under **DAF-3, paragraph J**. This documentation should include the date(s) queried and copy(ies) of the SAM result report/screen shot, or a copy of the or certification from the vendor. It should be attached to the payment backup and retained for future audit review.

- H. Additional Requirements for Procurement Contracts Using Federal Funds:**

1. For any contract using Federal funds under which the contract amount exceeds the upper limit for Simplified Acquisition/Small Purchases (see DAF-3.C.2), the contract must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and must provide for sanctions and penalties. (See 2 CFR 200, Appendix II(A)).
 2. For any contract using Federal funds under which the contract amount exceeds \$10,000, it must address the District's authority to terminate the contract for cause and for convenience, including the manner by which termination will be effected and the basis for settlement. (See 2 CFR 200, Appendix II(B)).
 3. For any contract using Federal funds under which the contract amount exceeds \$150,000, the contract must include clauses addressing the Clean Air Act and the Federal Water Pollution Control Act. (See 2 CFR 200, Appendix II(G)).
 4. For any contract using Federal funds under which the contract exceeds \$100,000, the contract must include an anti-lobbying clause, and require bidders to submit Anti-Lobbying Certification as required under 2 CFR 200, Appendix II (J).
 5. For each contract using Federal funds and for which there is no price competition, and for each Federal fund contract in which a cost analysis is performed, the District shall negotiate profit as a separate element of the price. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of the contractor's past performance, and industry profit rates in the surrounding geographical area for similar work. (See 2 CFR 200.323(b)).
- I. Bid Protest:** The District maintains the following protest procedures to handle and resolve disputes relating to procurements and, in all instances, discloses information regarding the protest to the awarding agency.
- A bidder who wishes to file a bid protest shall file such notice and follow procedures prescribed by the Request For Proposals (RFPs) or the individual bid specifications package, for resolution. Bid protests shall be filed in writing with the Superintendent within seventy-two (72) hours of the opening of the bids in protest.
- Within five (5) days of receipt of a protest, the Superintendent shall review the protest as submitted and render a decision regarding the merits of the protest and any impact on the acceptance and rejection of bids submitted. Notice of the filing of a bid protest shall be communicated to the Board and shall be so noted in any subsequent recommendation for the acceptance of bids and awarding of contracts.
- Failure to file a notice of intent to protest, or failure to file a formal written protest within the time prescribed, shall constitute a waiver of proceedings.
- J. Maintenance of Procurement Records:** The District shall maintain records sufficient to detail the history of all procurements. These records will include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, the basis for the contract price (including a cost or price analysis) and

records regarding disbarment/suspension queries or actions. Such records shall be retained consistent with district policy *EHB Data Records Retention* and appendix *EHB-R Local Records Retention Schedule*.

DAF-4 PROCUREMENT – ADDITIONAL PROVISIONS PERTINENT TO FOOD SERVICE PROGRAM

The following provisions shall be included in all cost reimbursable contracts for food services purchases, including contracts with cost reimbursable provisions, and in solicitation documents prepared to obtain offers for such contracts: (7 CFR Sec. 210.21, 215.14a, 220.16)

- A. Mandatory Contract Clauses:** The following provisions shall be included in all cost reimbursable contracts for food services purchases, including contracts with cost reimbursable provisions, and in solicitation documents prepared to obtain offers for such contracts:
1. Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school food authority;
 2. The contractor must separately identify for each cost submitted for payment to the school food authority the amount of that cost that is allowable (can be paid from the nonprofit school food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account); or
 3. The contractor must exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification;
 4. The contractor's determination of its allowable costs must be made in compliance with the applicable departmental and program regulations and Office of Management and Budget cost circulars;
 5. The contractor must identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. If approved by the state agency, the school food authority may permit the contractor to report this information on a less frequent basis than monthly, but no less frequently than annually;
 6. The contractor must identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract; and
 7. The contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the school food authority, the state agency, or the department.
- B. Contracts with Food Service Management Companies:** Procedures for selecting and contracting with a food service management company shall comply with guidance provided by

the NHDOE, including standard forms, procedures and timelines for solicitation, selection and approval of proposals and contracts.

DAF-5 CONFLICT OF INTEREST AND MANDATORY DISCLOSURES

The District complies with the requirements of State law and the Uniform Guidance for conflicts of interest and mandatory disclosures for all procurements with federal funds.

Each employee, board member, or agent of the school system who is engaged in the selection, award or administration of a contract supported by a federal grant or award and who has a potential conflict of interest must disclose that conflict in writing to the Superintendent and/or designees, who, in turn, shall disclose in writing any such potential conflict of interest to NHDOE or other applicable pass-through-entity.

A conflict of interest would arise when the covered individual, any member of his/her immediate family, his/her partner, or an organization, which employs or is about to employ any of those parties has a financial or other interest in or received a tangible personal benefit from a firm considered for a contract. A covered individual who is required to disclose a conflict shall not participate in the selection, award, or administration of a contract supported by a federal grant or award.

Covered individuals will not solicit or accept any gratuities, favors, or items from a contractor or a party to a subcontractor for a federal grant or award. Violations of this rule are subject to disciplinary action.

The Superintendent shall timely disclose in writing to NHDOE or other applicable pass-through-entity, all violations of federal criminal law involving fraud, bribery, or gratuities potentially effecting any federal award. The Superintendent shall fully address any such violations promptly and notify the Board with such information as is appropriate under the circumstances (e.g., taking into account applicable disciplinary processes).

DAF-6 INVENTORY MANAGEMENT - EQUIPMENT AND SUPPLIES PURCHASED WITH FEDERAL FUNDS

Equipment and supplies acquired ("property" as used in this policy DAF-6) with federal funds will be used, managed, and disposed of in accordance with applicable state and federal requirements. Property records and inventory systems shall be sufficiently maintained to account for and track equipment that has been acquired with federal funds. In furtherance thereof, the following minimum standards and controls shall apply to any equipment or pilferable items acquired in whole or in part under a Federal award until such property is disposed in accordance with applicable laws, regulations and Board policies:

- A. **"Equipment" and "Pilferable Items" Defined:** For purposes of this policy, "equipment" means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of \$5,000, or the capitalization level established by the District for financial statement purposes. "Pilferable items" are those items, *regardless of cost*, which may be easily lost or stolen, such as cell phones, tablets, graphing calculators, software, projectors, cameras and other video equipment, computer equipment and televisions.

- B. Records:** The Superintendent and/or designees shall maintain records that include a description of the property; a serial number or other identification number; the source of the funding for the property (including the federal award identification number (FAIN)); who holds title; the acquisition date; the cost of the property; the percentage of the federal participation in the project costs for the federal award under which the property was acquired; the location, use, and condition of the property; and any ultimate disposition data, including the date of disposition and sale price of the property.
- C. Inventory:** No less than once every two years, the Superintendent and/or designees shall cause a physical inventory of all equipment and pilferable items must be taken and the results reconciled with the property records at least once every two years. Except as otherwise provided in this policy *DAF Administration of Federal Grant Funds*, inventories shall be conducted consistent with District policy *DID Fixed Asset Policy*.
- D. Control, Maintenance and Disposition:** The Superintendent shall develop administrative procedures relative to property procured in whole or in part with Federal funds to:
1. prevent loss, damage, or theft of the property; Any loss, damage, or theft must be investigated;
 2. to maintain the property and keep it in good condition; and
 3. to ensure the highest possible return through proper sales procedures, in those instances where the District is authorized to sell the property.

DAF-7 TRAVEL REIMBURSEMENT – FEDERAL FUNDS

The Board shall reimburse administrative, professional and support employees, and school officials, for travel costs incurred in the course of performing services related to official business as a federal grant recipient.

For purposes of this policy, “travel costs” shall mean the expenses for transportation, lodging, subsistence, and related items incurred by employees and school officials who are in travel status on official business as a federal grant recipient.

School officials and district employees shall comply with applicable Board policies and administrative regulations established for reimbursement of travel and other expenses.

The validity of payments for travel costs for all district employees and school officials shall be determined by the Superintendent and/or designees.

Travel costs shall be reimbursed on a mileage basis for travel using an employee’s personal vehicle and on an actual cost basis for meals, lodging and other allowable expenses, consistent with those normally allowed in like circumstances in the district’s non-federally funded activities, and in accordance with the district’s travel reimbursement policies and administrative regulations.

Mileage reimbursements shall be at the rate approved by the Board or Board policy for other district travel reimbursements. Actual costs for meals, lodging and other allowable expenses shall be reimbursed only to the extent they are reasonable and do not exceed the per diem limits established by

Board policy, or, in the absence of such policy, the federal General Services Administration for federal employees for locale where incurred.

All travel costs must be presented with an itemized, verified statement prior to reimbursement.

In addition, for any costs that are charged directly to the federal award, the Superintendent and/or designees shall maintain sufficient records to justify that:

- A. Participation of the individual is necessary to the federal award.
- B. The costs are reasonable and consistent with Board policy.

DAF-8 ACCOUNTABILITY AND CERTIFICATIONS

All fiscal transactions must be approved by the Superintendent and/or designees who can attest that the expenditure is allowable and approved under the federal program. The Superintendent and/or designees submit all required certifications.

DAF-9 TIME-EFFORT REPORTING / OVERSIGHT

The Superintendent will establish sufficient oversight of the operations of federally supported activities to assure compliance with applicable federal requirements and to ensure that program objectives established by the awarding agency are being achieved. The District will submit all reports as required by federal or state authorities.

As a recipient of Federal funds, the District shall comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Section 200.430 of the Code of Federal Regulations requires certification of effort to document salary expenses charged directly or indirectly against Federally-sponsored projects. This process is intended to verify the compensation for employment services, including salaries and wages, is allocable and properly expended, and that any variances from the budget are reconciled.

A. **Compensation:** Compensation for employment services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits, which are addressed in 2 CFR 200.431 Compensation – fringe benefits. Costs of compensation are allowable to the extent that they satisfy the specific requirements of these regulations, and that the total compensation for individual employees:

- 1. is reasonable for the services rendered, conforms to the District's established written policy, and is consistently applied to both Federal and non-Federal activities; and
- 2. follows an appointment made in accordance with the District's written policies and meets the requirements of Federal statute, where applicable.

B. **Time and Effort Reports:** Time and effort reports shall:

1. be supported by a system of internal controls which provide reasonable assurance that the charges are accurate, allowable, and properly allocated;
2. be incorporated into the official records of the District;
3. reasonably reflect the total activity for which the employee is compensated by the District, not exceeding 100% of the compensated activities;
4. encompass both Federally assisted and other activities compensated by the District on an integrated basis;
5. comply with the District's established accounting policies and practices;
6. support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one (1) Federal award, a Federal award and non-Federal award, an indirect cost activity and a direct cost activity, two (2) or more indirect activities which are allocated using different allocation bases, or an unallowable activity and a direct or indirect cost activity.

The District will also follow any time and effort requirements imposed by NHDOE or other pass-through entity as appropriate to the extent that they are more restrictive than the Federal requirements. The Superintendent and/or designees are responsible for the collection and retention of employee time and effort reports. Individually reported data will be made available only to authorized auditors or as required by law.

DAF-10 COMPENSATION Federal Grant Fund Budget Reconciliation

Budget estimates are not used as support for charges to Federal awards. However, the District may use budget estimates for interim accounting purposes. The system used by the District to establish budget estimates produces reasonable approximations of the activity actually performed. Any significant changes in the corresponding work activity are identified by the District and entered into the District's records in a timely manner.

The District's internal controls include a process to review after-the-fact interim charges made to a Federal award based on budget estimates and ensure that all necessary adjustments are made so that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

Legal References:

2 CFR Part 200 - 200.305; 200.313(d); 200.317-.326; 200.403-.406; 200.413(a)-(c); 200.430; 200.431; 200.458; 200.474(b)
7 CFR Part 210 - 210.16; 210.19; 210.21; 215.14a; 220.16

Policy Adoption & Revision History:

Policy Committee Review: 4/16/19

First Reading: 5/6/19

Second Reading: 5/20/19

Final Approval:

New Hampshire Department of Education

FY2020

GENERAL ASSURANCES, REQUIREMENTS AND DEFINITIONS FOR PARTICIPATION IN FEDERAL PROGRAMS

Subrecipients of any Federal grant funds provided through the New Hampshire Department of Education (NHDOE) must submit a signed copy of this document to the NHDOE Bureau of Federal Compliance prior to any grant application being deemed to be “substantially approvable”. Once a grant is deemed to be in substantially approvable form, the subrecipient may begin to obligate funds which will be reimbursed upon final approval of the application by the NHDOE (34 CFR 708).

Any funds obligated by the subrecipient prior to the application being in substantially approvable form will not be reimbursable even upon final approval of the application by the NHDOE.

This FY2020 general assurances document contains some differences from the FY2019 general assurances document. You are encouraged to do a side by side comparison of the two documents so that you thoroughly understand the requirements to which you are agreeing.

Following your review and acceptance of these General Assurances, Requirements and Definitions for Participation in Federal Programs please sign the certification statement on the appropriate page and then initial each of the remaining pages where indicated.

Please note that the practice of the School Board authorizing the Superintendent to sign on behalf of the School Board Chair is not acceptable to the NHDOE in this case and will be considered non-responsive.

Once the document is fully executed, you may either email or mail a copy of the entire document to:

Timothy Carney
New Hampshire Department of Education
Bureau of Federal Compliance
101 Pleasant Street
Concord, NH 03301
Timothy.Carney@doe.nh.gov

Should you have any questions please contact Timothy Carney at 603-271-2634 or Lindsey Scribner at 603-271-3837.

General Assurances, Requirements and Definitions for Participation in Federal Programs

A. General Assurances

Assurance is hereby given by the subrecipient that, to the extent applicable:

- 1) The subrecipient has the legal authority to apply for the federal assistance, and the institutional, managerial, and financial capability (including funds sufficient to pay non-federal share of project costs, as applicable) to ensure proper planning, management, and completion of the project described in all applications submitted.
- 2) The subrecipient will give the awarding agency, the NHDOE, the Comptroller General of the United States and, if appropriate, other State Agencies, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
- 3) The subrecipient will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
- 4) The subrecipient will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
- 5) The subrecipient will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:
 - (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin;
 - (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex;
 - (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps;
 - (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age;
 - (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
 - (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
 - (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
 - (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing;
 - (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and,
 - (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

- 6) The subrecipient will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of federal participation in purchases.
- 7) The subrecipient will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds. The subrecipient further assures that no federally appropriated funds have been paid or will be paid by or on behalf of the subrecipient to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
- 8) The subrecipient will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported in whole or in part with federal funds.
- 9) The subrecipient will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported in whole or in part with federal funds.
- 10) The subrecipient will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
- 11) The subrecipient will comply with all applicable requirements of all other federal laws, executive orders, regulations, and policies governing all program(s).
- 12) The subrecipient will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 CFR 200, Subpart F, "Audit Requirements," as applicable.
- 13) The recipient will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.
- 14) The control of funds provided to the subrecipient under each program, and title to property acquired with those funds, will be in a public agency, and a public agency will administer those funds and property.
- 15) Personnel funded from federal grants and their subcontractors will adhere to the prohibition from text messaging while driving an organization-owned vehicle, or while driving their own privately owned vehicle during official Grant business, or from using organization-supplied electronic equipment to text message or email while driving. Recipients must comply with these conditions under Executive Order 13513, "Federal Leadership On Reducing Text Messaging While Driving," October 1, 2009 (pursuant to provisions attached to federal grants funded by the US Department of Education).

- 16) The subrecipient assures that is will adhere to the Pro-Children Act of 2001, which states that no person shall permit smoking within any indoor facility owned or leased or contracted and utilized for the provision of routine or regular kindergarten, elementary, or secondary education or library services to children (P.L. 107-110, section 4303[a]). In addition, no person shall permit smoking within any indoor facility (or portion of such a facility) owned or leased or contracted and utilized for the provision of regular or routine health care or day care or early childhood development (Head Start) services (P.L. 107-110, Section 4303[b][1]). Any failure to comply with a prohibition in this Act shall be considered to be a violation of this Act and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty, as determined by the Secretary of Education (P.L. 107-110, section 4303[e][1]).
- 17) The subrecipient will comply with the Stevens Amendment.
- 18) The subrecipient will submit such reports to the NHDOE and to U.S. governmental agencies as may reasonably be required to enable the NHDOE and U.S. governmental agencies to perform their duties. The recipient will maintain such fiscal and programmatic records, including those required under 20 U.S.C. 1234f, and will provide access to those records, as necessary, for those Departments/agencies to perform their duties.
- 19) The subrecipient will assure that all applications submitted for project/grant funding are proper and in accordance with the terms and conditions of the applications, the official who is authorized to legally bind the recipient agency/organization agrees to the following certification.

"By signing this General Assurances, Requirements and Definitions for Participation in Federal Programs Document, I certify to the best of my knowledge and belief that all applications submitted are true, complete, and accurate, for the purposes and objectives set forth in the application, I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal or administrative penalties for false statements, false claims or otherwise."

- 20) The subrecipient will assure that expenditures reported are proper and in accordance with the terms and conditions of any project/grant funding, the official who is authorized to legally bind the agency/organization agrees to the following certification for all fiscal reports and/or vouchers requesting payment.

"By signing this General Assurances, Requirements and Definitions for Participation in Federal Programs Document, I certify to the best of my knowledge and belief that the reports submitted are true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purpose and objectives set forth in the terms and conditions of the Project Award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise."

- 21) The subrecipient will provide reasonable opportunities for systematic consultation with and participation of teachers, parents, and other interested agencies, organizations, and individuals, including education-related community groups and non-profit organizations, in the planning for and operation of each program.
- 22) The subrecipient shall assure that any application, evaluation, periodic program plan, or report relating to each program will be made readily available to parents and other members of the general public upon request.

- 23) The subrecipient has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program, significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects. Such procedures shall ensure compliance with applicable federal laws and requirements.
- 24) The subrecipient will comply with the requirements of the Gun-Free Schools Act of 1994.
- 25) The subrecipient will submit a fully executed and accurate Single Audit Certification form to the NHDOE not later than March 31, 2020. The worksheet will be provided to each subrecipient by the NHDOE.
- 26) The subrecipient shall comply with the restrictions of New Hampshire RSA 15:5.
- 27) The subrecipient will comply with the requirements in 2 CFR Part 180, Government-wide Debarment and Suspension (Non-procurement).
- 28) The subrecipient certifies that it will maintain a drug-free workplace and will comply with the requirements of the Drug-Free Workplace Act of 1988.
- 29) The recipient will adhere to the requirements of Title 20 USC 7197 relative to the Transfer of Disciplinary Records.

B. Explanation of Grants Management Requirements

The following section elaborate on certain requirements included in legislation or regulations referred to in the "General Assurances" section. This section also explains the broad requirements that apply to federal program funds.

1. Financial Management Systems

Financial management systems, including records documenting compliance with federal statutes, regulations, and the terms and conditions of the federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award.

Specifically, the financial management system must be able to:

- a) Identify, in its accounts, all federal awards received and expended and the federal programs under which they were received. Federal program and federal award identification must include, as applicable, the CFDA title and number, federal award identification number and year, name of the federal agency, and name of the pass-through entity, if any.
- b) Provide accurate, current, and complete disclosure of the financial results of each federal award or program.
- c) Produce records that identify adequately the source and application of funds for federally funded activities.
- d) Maintain effective control over, and accountability for, all funds, property, and other assets. The subrecipient must adequately safeguard all assets and assure that they are used solely for authorized purposes.

- e) Generate comparisons of expenditures with budget amounts for each federal award.

2. Written Policies and Procedures

The subrecipient must have written policies and procedures for:

- a) Cash Management (2 CFR 200.302(b)(6) & 200.305)
- b) Determining the allowability of costs in accordance with 2 CFR 200 Subpart E—Cost Principles and the terms and conditions of the Federal award. (2 CFR 200.302(b)(7))
- c) Conflict of Interest (2 CFR 200.318(c))
- d) Procurement (2 CFR 200.320)
- e) Method for conducting Technical Evaluations of Proposals and Selecting Recipients (2 CFR 200.320(d)(3) and 200.323)
- f) Suspension and Debarment (2 CFR 200.213)
- g) Travel Policy (2 CFR 200.474(b))
- h) Equipment and Supplies (2 CFR 200.313(d), 200.314)
- i) Time and Effort (2 CFR 200.430(i))
- j) Record Keeping (2 CFR 200.333 and 200.335)

3. Internal Controls

The subrecipient must:

- a) Establish and maintain effective internal control over the federal award that provides reasonable assurance that the non-federal entity is managing the federal award in compliance with federal statutes, regulations, and the terms and conditions of the federal award. These internal controls should be in compliance with the guidance outlined in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- b) Comply with federal statutes, regulations, and the terms and conditions of the federal awards.
- c) Take prompt action when instances of noncompliance are identified, including noncompliance identified in audit findings.
- d) Take reasonable measures to safeguard and protect personally identifiable information and other information the federal awarding agency or pass-through entity designates as sensitive or the subrecipient considers sensitive consistent with applicable federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.
- e) Maintain all accounts, records, and other supporting documentation pertaining to all costs incurred and revenues or other applicable credits acquired under each approved project in accordance with 2 CFR 200.333.

4. Allowable Costs

In accounting for and expending project/grant funds, the subrecipient may only charge expenditures to the project award if they are;

- a) in payment of obligations incurred during the approved project period;
- b) in conformance with the approved project;
- c) in compliance with all applicable statutes and regulatory provisions;
- d) costs that are allocable to a particular cost objective;
- e) spent only for reasonable and necessary costs of the program; and
- f) not used for general expenses required to carry out other responsibilities of the subrecipient.

5. Audits

This part is applicable for all non-federal entities as defined in 2 CFR 200, Subpart F.

- a) In the event that the subrecipient expends \$750,000 or more in federal awards in its fiscal year, the subrecipient must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F. In determining the federal awards expended in its fiscal year, the subrecipient shall consider all sources of federal awards, including federal resources received from the NHDOE. The determination of amounts of federal awards expended should be in accordance with the guidelines established by 2 CFR 200, Subpart F.
- b) In connection with the audit requirements, the subrecipient shall also fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200.508.
- c) If the subrecipient expends less than \$750,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F, is not required. In the event that the subrecipient expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from subrecipient resources obtained from non-federal entities).

The subrecipient assures it will implement the following audit responsibilities;

- a) Procure or otherwise arrange for the audit required by this part in accordance with auditor selection regulations (2 CFR 200.509), and ensure it is properly performed and submitted nine months after the close of the fiscal year in accordance with report submission regulations (2 CFR 200.512).
- b) Provide the auditor access to personnel, accounts, books, records, supporting documentation, and other information as needed so that the auditor may perform the audit required by this part.
- c) Prepare appropriate financial statements, including the schedule of expenditures of federal awards in accordance with financial statements regulations (2 CFR 200.510).
- d) Promptly follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with audit findings follow-up regulations (2 CFR 200.511(b-c)).
- e) Upon request by the NHDOE Bureau of Federal Compliance (BFC), promptly submit a corrective action plan using the NHDOE template provided by the BFC for audit findings related to NHDOE funded programs.
- f) For repeat findings not resolved or only partially resolved, the subrecipient must provide explanation for findings not resolved or only partially resolved to the BFC for findings related to all NHDOE funded programs. The BFC will review the subrecipient's submission and issue an appropriate Management Decision in accordance with 2 CFR 200.521.

6. Reports to be Submitted

Audits/Management Decisions

Copies of reporting packages for audits conducted in accordance with 2 CFR 200, Subpart F shall be submitted, by or on behalf of the recipient directly to the following:

- a) The Federal Audit Clearinghouse (FAC) in 2 CFR 200, Subpart F requires the auditee to electronically submit the data collection form described in 200.512(b) and the reporting package described in 200.512(c) to FAC at:
[https://harvester.census.gov/facides/\(S\(mqamohbpfj0hmyh1r45p1po1\)\)/account/login.aspx](https://harvester.census.gov/facides/(S(mqamohbpfj0hmyh1r45p1po1))/account/login.aspx)

Copies of other reports or management decision letter(s) shall be submitted by or on behalf of the subrecipient directly to:

- a) New Hampshire Department of Education
Bureau of Federal Compliance
101 Pleasant Street
Concord, NH 03301
- b) In response to requests by a federal agency, auditees must submit a copy of any management letters issued by the auditor, 2 CFR 200.512(e).

Any other reports, management decision letters, or other information required to be submitted to the NHDOE pursuant to this agreement shall be submitted in a timely manner.

Single Audit Certification

An executed and accurate Single-Audit Certification form shall be submitted to the NHDOE not later than **March 31, 2020**. A copy of the form will be provided to each subrecipient by the NHDOE.

7. Debarment, Suspension, and Other Responsibility Matters

As required by Executive Orders (E.O.) 12549 and 12689, Debarment and Suspension, and implemented at 2 CFR Part 180, for prospective participants in primary covered transactions, as defined in 2 CFR 180.120, 180.125 and 180.200, no contract shall be made to parties identified on the General Services Administration's *Excluded Parties List System* as excluded from Federal Procurement or Non-procurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding their exclusion status and that of their principal employees.

The federal government imposes this requirement in order to protect the public interest, and to ensure that only responsible organizations and individuals do business with the government and receive and spend government grant funds. Failure to adhere to these requirements may have serious consequences – for example, disallowance of cost, termination of project, or debarment.

To assure that this requirement is met, there are four options for obtaining satisfaction that subrecipients and contractors are not suspended, debarred, or disqualified. They are:

The subrecipient certifies that it and its principals:

- a) Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any federal Department or agency.
- b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes; commission of embezzlement; theft, forgery, bribery, falsification, or destruction of records; making false statements; or receiving stolen property.
- c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in this certification.

- d) Have not within a three-year period preceding this application had one or more public transactions (federal, state, or local) terminated for cause or default.

Where the subrecipient is unable to certify to any of the statements in this certification, they shall attach an explanation to this document.

8. Drug-Free Workplace (Grantees Other Than Individual)

As required by the Drug-Free Workplace Act of 1988 and implemented in 34 CFR 84.200 and 84.610, the subrecipient certifies that it will continue to provide a drug-free workplace by:

- a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the subrecipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
- b) Establishing, as required by 34 CFR 84.215, an ongoing drug-free awareness program to inform employees about:
- The dangers of drug abuse in the workplace.
 - The recipient's policy of maintaining a drug-free workplace.
 - Any available drug counseling, rehabilitation, and employee assistance programs.
 - The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- c) Requiring that each employee engaged in the performance of the project is given a copy of this statement.
- d) Notifying the employee in the statement that, as a condition of employment under the project, the employee will:
- Abide by the terms of the statement.
 - Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
- e) Notifying the agency in writing within 10 calendar days after receiving notice of an employee's conviction of a violation of a criminal drug statute in the workplace, as required by 34 CFR 84.205(c)(2), from an employee or otherwise receiving actual notice of employee's conviction. Employers of convicted employees must provide notice, including position title to:

Director, Grants and Contracts Service
U.S. Department of Education
400 Maryland Avenue, S.W. [Room 3124, GSA – Regional Office Building No. 3]
Washington, D.C. 20202-4571

(Notice shall include the identification number[s] of each affected grant).

- f) Taking one of the following actions, as stated in 34 CFR 84.225(b), within 30 calendar days of receiving the required notice with respect to any employee who is convicted of a violation of a criminal drug statute in the workplace.
- Taking appropriate personnel action against such an employee, up to and including

- termination consistent with the requirements of the Rehabilitation Act of 1973, as amended.
- o Requiring such employee to participate satisfactorily in drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

- g) Making a good-faith effort to maintain a drug-free workplace through implementation of the requirements stated above.

9. EDGAR - Education Department General Administrative Regulations

The federal grant administrative regulations for education (Title 34 CFR Parts 75, 76, 77, 79, 81, 82, 84, 86, 97, 98, and 99), was revised on December 26, 2014, with the implementation of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Grants Guidance), and delete 34 CFR Parts 74, 80, and 85 (Part 85 changed to 2 CFR Part 180) and included the deleted regulations into the Uniform Grants Guidance. Both administrative regulations (EDGAR and Uniform Grants Guidance), apply to all federal projects/awards.

10. General Education Provisions Act (GEPA) Requirements - Section 427 (Federal Requirement) Equity for Students, Teachers, and Other Program Beneficiaries

The purpose of Section 427 of GEPA is to ensure equal access to education and to promote educational excellence by ensuring equal opportunities to participate for all eligible students, teachers, and other program beneficiaries in proposed projects, and to promote the ability of such students, teachers, and beneficiaries to meet high standards. Further, when designing their projects, grant applicants must address the special needs and equity concerns that might affect the ability of students, teachers, and other program beneficiaries to participate fully in the proposed project.

Program staff within the NHDOE must ensure that information required by Section 427 of GEPA is included in each application that the Department funds. *(There may be a few cases, such as research grants, in which Section 427 may not be applicable because the projects do not have individual project beneficiaries. Contact the Government Printing Office staff should you believe a situation of this kind exists).*

The statute highlights **six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, and age**. Based on local circumstances, the applicant can determine whether these or other barriers may prevent participants from access and participation in the federally assisted project, and how the applicant would overcome these barriers.

These descriptions may be provided in a single narrative or, if appropriate, may be described in connection with other related topics in the application. Subrecipients should be asked to state in the table of contents where this requirement is met.

NHDOE program staff members are responsible for screening each application to ensure that the requirements of this section are met before making an award. If this condition is not met, after the application has been selected for funding the program staff should contact the subrecipient to find out why this information is missing. Documentation must be in the project file indicating that this review was completed before the award was made. If an oversight occurred, the program staff may give the applicant another opportunity to satisfy this requirement, but must receive the missing information before making the award, 34 CFR 75.231.

All applicants for new awards must satisfy this provision to receive funding. Those seeking *continuation* awards do not need to submit information beyond the descriptions included in their original applications.

11. Gun Possession (Local Education Agencies (LEAs) only)

As required by Title XIV, Part F, and Section 14601 (Gun-Free Schools Act of 1994) of the Improving America's Schools Act:

The LEA assures that it shall comply with the provisions of RSA 193:13 III.

RSA 193:13, III. Any pupil who brings or possesses a firearm as defined in section 921 of Title 18 of the United States Code in a safe school zone as defined in RSA 193-D:1 without written authorization from the Superintendent or designee shall be expelled from school by the local school board for a period of not less than 12 months.

The LEA assures that it has adopted a policy, which allows the Superintendent or Chief Administrative officer to modify the expulsion requirement on a case by case basis. RSA 193:13, IV.

The LEA assures that it shall report to the NHDOE in July of each year, a description of the circumstances surrounding any expulsions imposed under RSA 193:13, III and IV including, but not limited to:

- a) The name of the school concerned;
- b) The grade of the student disciplined;
- c) The type of firearm involved;
- d) Whether or not the expulsion was modified, and
- e) If the student was identified as Educationally Disabled.

The LEA assures that it has in effect a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to school.

Ed 317.03 Standard for Expulsion by Local School Board.

- a) A school board which expels a pupil under RSA 193:13, II or III, shall state in writing its reasons, including the act leading to expulsion, and shall provide a procedure for review as allowed under RSA 193:13, II.
- b) School boards shall make certain that the pupil has received notice of the requirements of RSA 193-D and RSA 193:13 through announced, posted, or printed school rules.
- c) If a student is subject to expulsion and a firearm is involved, the Superintendent shall contact local law enforcement officials whenever there is any doubt concerning:
 - 1) Whether a firearm is legally licensed under RSA 159; or
 - 2) Whether the firearm is lawfully possessed, as opposed to unlawfully possessed, under the legal definitions of RSA 159.
- d) If a pupil brings or possesses a firearm in a safe school zone without written authorization from the Superintendent, the following shall apply:
 - 1) The Superintendent shall suspend the pupil for a period not to exceed 10 days, pending a hearing by the local board; and
 - 2) The school board shall hold a hearing within 10 days to determine whether the student was in violation of RSA 103:13, III and therefore is subject to expulsion.

12. Lobbying

As required by Section 1352, Title 31, of the U.S. Code, and implemented in 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined in 34 CFR 82.105 and 82.110,

the applicant certifies that:

- a) No federally appropriated funds have been paid or will be paid by or on behalf of the subrecipient to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
- b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal grants or cooperative agreements, the subrecipient shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c) The subrecipient shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, contracts under grants, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

New Hampshire RSA 15:5 - Prohibited Activities.

- I. Except as provided in paragraph II, no recipient of a grant or appropriation of state funds may use the state funds to lobby or attempt to influence legislation, participate in political activity, or contribute funds to any entity engaged in these activities.
- II. Any recipient of a grant or appropriation of state funds that wishes to engage in any of the activities prohibited in paragraph I, or contribute funds to any entity engaged in these activities, shall segregate the state funds in such a manner that such funds are physically and financially separate from any non-state funds that may be used for any of these purposes. Mere bookkeeping separation of the state funds from other moneys shall not be sufficient.

13. Subrecipient Monitoring

In addition to reviews of audits conducted in accordance with 2 CFR 200, Subpart F, subrecipient[ient monitoring procedures may include, but not be limited to, on-site visits by NHDOE staff, limited scope audits, and/or other procedures. By signing this document, the subrecipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the NHDOE. In the event the NHDOE determines that a limited scope audit of the project recipient is appropriate, the subrecipient agrees to comply with any additional instructions provided by NHDOE staff to the subrecipient regarding such audit.

14. More Restrictive Conditions

Subrecipients found to be in noncompliance with program and/or fund source requirements or determined to be "high risk" shall be subject to the imposition of more restrictive conditions as determined by the NHDOE.

15. Obligations by Subrecipients

Obligations will be considered to have been incurred by subrecipients on the basis of documentary evidence of binding commitments for the acquisition of goods or property or for the performance of work, except that funds for personal services, for services performed by public utilities, for travel, and for the rental of facilities shall be considered to have been obligated at the time such services were rendered, such travel was performed, and/or when facilities are used (see 34 CFR 76.707).

16. Participation of Private School Students and Staff in Federal Grants

Students and staff of nonpublic schools shall be given an opportunity for equitable participation in activities or services conducted by school districts using federal funds. Appropriate personnel must be aware of, and consult, program-specific guidelines discussed in the applicable program statute, regulations, and guidance documents.

17. Personnel Costs – Time Distribution

Charges to federal projects for personnel costs, whether treated as direct or indirect costs, are allowable to the extent that they satisfy the specific requirements of 2 CFR 200.430, and will be based on payrolls documented in accordance with generally accepted practices of the subrecipient and approved by a responsible official(s) of the subrecipient.

When employees work solely on a single federal award or cost objective, charges for their salaries and wages must be supported by personnel activity reports (PARs), which are periodic certifications (at least semi-annually) that the employees worked solely on that program for the period covered by the certification. These certifications must be signed by the employee or a supervisory official having firsthand knowledge of the work performed by the employee.

When employees work on multiple activities or cost objectives (e.g., more than one federal project, a federal project and a non-federal project, an indirect cost activity and a direct cost activity, two or more indirect activities which are allocated using different allocation bases, or an unallowable activity and a direct or indirect cost activity), the distribution of their salaries or wages will be supported by personnel activity reports or equivalent documents that meet the following standards:

- a) Reflect an after-the-fact distribution of the actual activity of each employee
- b) Account for the total activity for which each employee is compensated
- c) Prepared at least monthly and must coincide with one or more pay period
- d) Signed and dated by the employee

18. Project Effective Dates

For federal programs, funds shall be obligated no earlier than the date the project application was received by the NHDOE and determined to be in substantially approvable form or the effective date of the federal grant award, whichever is later.

All Project/Grant Award Notifications reflect the beginning and ending dates of the project period and the date for submission of the final expenditure report. All conditions stated in the award notification are considered binding on the subrecipient.

19. Protected Prayer in Public Elementary and Secondary Schools

As required in Section 9524 of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the No Child Left Behind Act of 2001, LEAs must certify annually that they have no policy that prevents or otherwise denies participation in constitutionally protected prayer in public elementary

and secondary schools.

20. Purchasing

All subrecipients must have documented procurement policies and procedures that meet the minimum requirements of federal and state statutes, rules, and regulations. Under the Uniform Administrative Requirements, the procurement standards are located at 2 CFR 200.317 – 200.326.

22. Retention and Access to Records

Requirements related to retention and access to project/grant records, are determined by federal rules and regulations. Federal regulation 2 CFR 200.333, addresses the retention requirements for records that applies to all financial and programmatic records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal or Project award. If any litigation, claim, or audit is started before the expiration date of the retention period, the records must be maintained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

Access to records of the subrecipient and the expiration of the right of access is found at 2 CFR 200.336 (a) and (c), which states:

- a) Records of non-Federal entities. The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives [including but not limited to the NHDOE] must have the right of access to any documents, papers, or other records of non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.
- c) Expiration of right of access. The rights of access in this section are not limited to the required retention period but last as long as the records are retained.

23. The Stevens Amendment

All federally funded projects must comply with the Stevens Amendment of the Department of Defense Appropriation Act, found in Section 8136, which provides:

When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with federal money, all grantees receiving federal funds, including but not limited to state and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with federal money, (2) the dollar amount of federal funds for the project or program, and (3) the percentage and dollar amount of the total costs of the project or program that will be funded by non-governmental sources.

24. Transfer of Disciplinary Records

Title 20 USC 7197 requires that the State have a procedure to assure that a student's disciplinary records, with respect to suspensions and expulsions, are transferred by the project recipient to any public or private elementary or secondary school where the student is required or chooses to enroll. In New Hampshire, that assurance is statutory and found at RSA 193-D:8.

The relevant portions of the federal and state law appear below.

- a) **Disciplinary Records** - In accordance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), not later than 2 years after the date of enactment of this part, each State receiving Federal funds under this Act shall provide an assurance to the Secretary that the State has a procedure in place to facilitate the transfer of disciplinary records, with respect to a suspension or expulsion, by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school.
- b) **193-D:8 Transfer Records; Notice** – All elementary and secondary educational institutions, including academies, private schools, and public schools, shall upon request of the parent, pupil, or former pupil, furnish a complete school record for the pupil transferring into a new school system. Such record shall include, but not be limited to, records relating to any incidents involving suspension or expulsion, or delinquent or criminal acts, or any incident reports in which the pupil was charged with any act of theft, destruction, or violence in a safe school zone.

B. Definitions

- 1) **Audit finding** - *Audit finding* means deficiencies which the auditor is required by 2 CFR 200.516 Audit findings, paragraph (a) to report in the schedule of findings and questioned costs (2 CFR 200.5).
- 2) **Management decision** - *Management decision* means the evaluation by the Federal awarding agency or pass-through entity of the audit findings and corrective action plan and the issuance of a written decision to the auditee as to what corrective action is necessary (2 CFR 200.66).
- 3) **Obligations** - When used in connection with a non-Federal entity's utilization of funds under a Federal award, *obligations* means orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period (2 CFR 200.71).
- 4) **Pass-through entity** - *Pass-through entity* means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 CFR 200.74).
- 5) **Period of performance** - *Period of performance* means the time during which the non-Federal entity may incur new obligations to carry out the work authorized under the Federal award. The Federal awarding agency or pass-through entity must include start and end dates of the period of performance in the Federal award.
- 6) **Subaward** - *Subaward* means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. (2 CFR 200.92).
- 7) **Subrecipient** - *Subrecipient* means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency (2 CFR 200.93).

CERTIFICATION

Instructions: The Superintendent, or other Qualifying Administrator, if the School District does not have a Superintendent, (*See* RSA 194-C:5, II) **must** consult with the School Board for the School District by informing said School Board about the District's participation in Federal Programs and the terms and conditions of the General Assurances, Requirements and Definitions for Participation in Federal Programs. The Superintendent or other Qualifying Administrator and the Chair of the School Board **must** sign this certification page (and initial the remaining pages) as described below and return it to the NHDOE. **No payment for project/grant awards will be made by the NHDOE without a fully executed copy of this General Assurances, Requirements and Definitions for Participation in Federal Programs on file.** For further information, contact the NHDOE Bureau of Federal Compliance at (603) 271-2634.

Superintendent or other Qualifying Administrator Certification:

We the undersigned acknowledge that [a] person is guilty of a violation of R.S.A. § 641:3 if [h]e or she makes a written or electronic false statement which he or she does not believe to be true, on or pursuant to a form bearing a notification authorized by law to the effect that false statements made therein are punishable; or (b) With a purpose to deceive a public servant in the performance of his or her official function, he or she: (1) Makes any written or electronic false statement which he or she does not believe to be true; or (2) Knowingly creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading; or (3) Submits or invites reliance on any writing which he or she knows to be lacking in authenticity; or (4) Submits or invites reliance on any sample, specimen, map, boundary mark, or other object which he or she knows to be false.

Accordingly, I, the undersigned official legally authorized to bind the named School District hereby apply for participation in federally funded education programs on behalf of the School District named below. I certify, to the best of my knowledge, that the below School District will adhere to and comply with these General Assurances, Requirements and Definitions for Participation in Federal Programs (pages 1 through 16 inclusive). I further certify, as is evidenced by the Minutes of the School Board/School Administrative Unit Meeting of _____, _____, that I have informed all members of the School Board of the federal funds the District will be receiving and of these General Assurances, Requirements and Definitions for the District's participation in said programs.

SAU Number: _____ School District: _____

Typed Name of Superintendent
Or other Qualifying Administrator

Signature

Date

School Board Certification:

I, the undersigned official representing the School Board, acknowledge that the Superintendent, or other Qualifying Administrator, as identified above, has consulted with all members of the School Board, in furtherance of the School Board's obligations, including those enumerated in RSA 189:1-a, and pursuant to the School Board's oversight of federal funds the District will be receiving and of the General Assurances, Requirements and Definitions for Participation in Federal in said programs.

Typed Name of School Board
Chair (on behalf of the School Board)

Signature

Date

Please email or mail a copy of the entire document to:

Timothy Carney
New Hampshire Department of Education
Bureau of Federal Compliance
101 Pleasant Street
Concord, NH 03301

Timothy.Carney@doe.nh.gov

P. O. Box 2190
Hillsboro, NH
03244-2190

SAU #34

603-464-4466
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Soaring to Excellence

*Robert A. Hassett, M.Ed.
Superintendent of Schools*

*Patricia M. Parenteau, MS, CAGS
Assistant Superintendent*

*Jennifer L. Crawford, Ed.D.
Director of Curriculum, Instruction and Assessment*

*Loreal R. Schmidt, M.S.T.
Business Administrator*

To: Members, Hillsboro-Deering School Board
From: Mr. Robert A. Hassett, Superintendent of Schools
Date: June 3, 2019
Re: Appointments, Leaves and Resignations - Teachers & Administrators

The following resignations, leaves, and appointments of teachers have occurred since the May 20, 2019 School Board meeting:

RESIGNATIONS: None

LEAVES: None

TRANSFERS/CHANGE OF ASSIGNMENTS:

Michael Redmond – Assignment change from HDSD PC/LAN Analyst to HDSD Technology Program Coordinator, \$28.85/hour, 40 hours /week, 260 days/year, effective 7/1/2019

Kate Griffin - Assignment change from HDES Special Education Teacher to HDES Math Specialist, salary track M, step 12, salary \$66,836, effective 7/1/19, NH certification as Math Specialist

Karen Espinoza – Assignment change from HDES Title I Tutor to HDES Classroom Teacher, salary track B, step 3, salary \$43,515, effective 7/1/19, NH certification in Early Childhood Education (PK-2)

APPOINTMENTS:

Alexanter Conway - HDES Classroom Teacher, salary track B, step 3, salary \$43,515, effective 7/1/19, NH certification in Elementary Education (K-6)

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S A U #34

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*Robert A. Hassett, M.Ed.
Superintendent of Schools*

*Patricia M. Parenteau, MS, CAGS
Assistant Superintendent*

*Jennifer L. Crawford, Ed.D.
Director of Curriculum, Instruction and Assessment*

*Loreal R. Schmidt, M.S.T.
Business Administrator*

To: Hillsboro-Deering School Board Members
From: Mr. Robert A. Hassett
RE: **For Information Only** – Appointments, Leaves & Resignations of Staff
Date: June 3, 2019

Resignations: None

Leaves: None

Transfers/Change of Assignments:

Rachael Stinson – Transfer from HDES Paraeducator to HDES Special Education Office
Paraprofessional, \$14.12/hour, 6.9 hours/day, 201 days annually, effective 6/19/19

Appointments: None

Makayla Savoy – HDES Paraeducator, column C, step 1, \$12.26/hr., 6 hrs/day, effective 5/23/19