



New Hampshire

Department of Education

Statutes & Definitions Relative to Nonpublic
Schools

A REFERENCE

INTRODUCTION

The following reference tool, compiled in August 2020, is designed to provide the reader with a consolidated document of key definitions as set forth in the [NH Code of Administrative Rules, Ed 400](#), and statutes relative to the approval of a nonpublic school. Hyperlinks to [The General Court of New Hampshire](#) are listed in the table of contents to ensure that the reader has access to the most up to date version of the rules and statutes.

Pursuant to Ed 403.01, (10), a nonpublic school seeking approval to operate shall submit a statement indicating how the school complies with each of the statutory requirements of nonpublic schools indicated on the next page.

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PART Ed 401 DEFINITIONS AND SCOPE

Ed 401.01 Definitions.

(a) "Accrediting agency" means a business or other organization that evaluates schools against a set of criteria determined by the business or other organization.

(b) "Education program" means a program consisting of subject matter and related learning experiences for the instruction of pupils on a regular or systematic basis, usually for a predetermined length of time which constitutes part of a school's total education curriculum, or serves as the education component of a facility, agency or institution whose primary purpose does not qualify it as a school.

(c) "Nonpublic school advisory council" (NSAC) means the nonpublic school advisory council established by the state board as set forth in Ed 406.

(d) "Nonpublic school" means a school established by an individual or group other than the state, subdivision of the state or federal government and whose operation, or any portion thereof, rests with those officials who have not been publicly elected or appointed. The term includes private school"

(e) "Public school" means a school which is established and operated by a school district, maintained primarily by public funds and which is administered by a school board whose members are elected as provided under the laws of the state of New Hampshire.

(f) "School" means an educational institution whose primary purpose is the development of individual potential by means of a systematic method of instruction of a defined type comprising:

- (1) A single grade or more than one grade group or other identifiable grouping;
- (2) A teacher or more than one teacher(s) who guides and supervises the learning experience of pupils; and
- (3) An education program leading to the awarding of a diploma or appropriate certificate upon completion of the requirements of the program.

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CHAPTER 126-U

LIMITING THE USE OF CHILD RESTRAINT PRACTICES IN SCHOOLS AND TREATMENT FACILITIES

126-U:1 Definitions. –

In this chapter:

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

II. "Director" refers to the program director, school principal, or other official highest in rank and with authority over the activities of a school or facility.

III. "Facility" includes any of the following when used for the placement, custody, or treatment of children:

(a) The youth services center maintained by the department of health and human services, or any other setting established for the commitment or detention of children pursuant to RSA 169-B, RSA 169-C, or RSA 169-D.

(b) Child care agencies regulated by RSA 170-E.

(c) Any foster home, group home, crisis home, or shelter care setting used for the placement of children at any stage of proceedings under RSA 169-B, RSA 169-C, or RSA 169-D or following disposition under those chapters.

(d) Any hospital, building, or other place, whether public or private, which is part of the state services systems established under RSA 135-C:3 and RSA 171-A:4, including but not limited to:

(1) The Anna Philbrook center.

(2) The acute psychiatric services building.

(3) Any designated receiving facility.

(4) A community mental health center as defined in RSA 135-C:7, or any of its subdivisions or contractors.

(5) An area agency as defined in RSA 171-A:2, or any of its subdivisions or contractors.

(e) Any residence, treatment center, or other place used for the voluntary or involuntary custody, treatment or care of children with developmental, intellectual, or other disabilities under RSA 171-A or 171-B.

(f) Community living facilities for persons with developmental disabilities or mental illness as authorized by RSA 126-A:19, when used for the placement of children.

IV. "Restraint" means bodily physical restriction, mechanical devices, or any device that immobilizes a person or restricts the freedom of movement of the torso, head, arms, or legs. It includes mechanical restraint, physical restraint, and medication restraint used to control behavior in an emergency or any involuntary medication. It is limited to actions taken by persons who are school or facility staff members, contractors, or otherwise under the control or direction of a school or facility.

(a) "Medication restraint" occurs when a child is given medication involuntarily for the purpose of immediate control of the child's behavior.

(b) "Mechanical restraint" occurs when a physical device or devices are used to restrict the movement of

a child or the movement or normal function of a portion of his or her body.

(c) "Physical restraint" occurs when a manual method is used to restrict a child's freedom of movement or normal access to his or her body.

(d) Restraint shall not include:

(1) Brief touching or holding to calm, comfort, encourage, or guide a child, so long as limitation of freedom of movement of the child does not occur.

(2) The temporary holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a child to stand, if necessary, and then walk to a safe location, so long as the child is in an upright position and moving toward a safe location.

(3) Physical devices, such as orthopedically prescribed appliances, surgical dressings and bandages, and supportive body bands, or other physical holding when necessary for routine physical examinations and tests or for orthopedic, surgical, and other similar medical treatment purposes, or when used to provide support for the achievement of functional body position or proper balance or to protect a person from falling out of bed, or to permit a child to participate in activities without the risk of physical harm.

(4) The use of seat belts, safety belts, or similar passenger restraints during the transportation of a child in a motor vehicle.

(5) The use of force by a person to defend himself or herself or a third person from what the actor reasonably believes to be the imminent use of unlawful force by a child, when the actor uses a degree of such force which he or she reasonably believes to be necessary for such purpose and the actor does not immobilize a child or restrict the freedom of movement of the torso, head, arms, or legs of any child.

V. "School" means:

(a) A school operated by a school district.

(b) A chartered public school governed by RSA 194-B.

(c) A public academy as defined in RSA 194:23, II.

(d) A nonpublic school subject to the approval authority of the state board of education under RSA 186:11, XXIX.

(e) A private or public provider of any component of a child's individualized education program under RSA 186-C.

V-a. "Seclusion" means the involuntary placement of a child alone in a place where no other person is present and from which the particular child is unable to exit, either due to physical manipulation by a person, a lock, or other mechanical device or barrier. The term shall not include the voluntary separation of a child from a stressful environment for the purpose of allowing the child to regain self-control, when such separation is to an area which a child is able to leave. Seclusion does not include circumstances in which there is no physical barrier between the child and any other person or the child is physically able to leave the place. A circumstance may be considered seclusion even if a window or other device for visual observation is present, if the other elements of this definition are satisfied.

VI. "Serious injury" means any harm to the body which requires hospitalization or results in the fracture of any bone, non-superficial lacerations, injury to any internal organ, second- or third-degree burns, or any severe, permanent, or protracted loss of or impairment to the health or function of any part of the body.

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Section 126-U:2

126-U:2 Written Policies Required. – Each facility and school shall have a written policy and procedures for managing the behavior of children. Such policy shall describe how and under what circumstances seclusion or restraint is used and shall be provided to the parent, guardian, or legal representative of each child at such facility or school.

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Section 126-U:3

126-U:3 Post Admission Planning in Facilities. –

I. As soon as possible after admission to a facility, the treatment staff of the facility, the child, and the child's parent or guardian shall develop a plan to:

- (a) Identify the child's history of physical, sexual, or emotional trauma, if any.
- (b) Identify effective responses to potential behavior or situations which will avoid the use of seclusion and restraint.
- (c) Identify health conditions which may make the child vulnerable to injury while at the facility.

II. The plan described in this section is not required if the child is expected to be at the facility for fewer than 72 hours and, after conducting a reasonable inquiry, the staff of the facility is not informed of any history of the use of seclusion or restraint of the child.

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Section 126-U:4

126-U:4 Prohibition of Dangerous Restraint Techniques. –

No school or facility shall use or threaten to use any of the following restraint and behavior control techniques:

I. Any physical restraint or containment technique that:

- (a) Obstructs a child's respiratory airway or impairs the child's breathing or respiratory capacity or restricts the movement required for normal breathing;
- (b) Places pressure or weight on, or causes the compression of, the chest, lungs, sternum, diaphragm, back, or abdomen of a child;
- (c) Obstructs the circulation of blood;
- (d) Involves pushing on or into the child's mouth, nose, eyes, or any part of the face or involves covering the face or body with anything, including soft objects such as pillows, blankets, or washcloths; or
- (e) Endangers a child's life or significantly exacerbates a child's medical condition.

II. The intentional infliction of pain, including the use of pain inducement to obtain compliance.

III. The intentional release of noxious, toxic, caustic, or otherwise unpleasant substances near a child for the purpose of controlling or modifying the behavior of or punishing the child.

IV. Any technique that unnecessarily subjects the child to ridicule, humiliation, or emotional trauma.

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Section 126-U:5

126-U:5 Limitation of the Use of Restraint to Emergencies Only. –

I. Restraint shall only be used in a school or facility to ensure the immediate physical safety of persons when there is a substantial and imminent risk of serious bodily harm to the child or others. The determination of whether the use of restraint is justified under this section may be made with consideration of all relevant circumstances, including whether continued acts of violence by a child to

inflict damage to property will create a substantial risk of serious bodily harm to the child or others. Restraint shall be used only by trained personnel using extreme caution when all other interventions have failed or have been deemed inappropriate.

II. Restraint shall never be used explicitly or implicitly as punishment for the behavior of a child.

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Section 126-U:5-a

126-U:5-a Limitation on the Use of Seclusion. –

I. Seclusion may not be used as a form of punishment or discipline. It may only be used when a child's behavior poses a substantial and imminent risk of physical harm to the child or to others, and may only continue until that danger has dissipated.

II. Seclusion shall only be used by trained personnel after other approaches to the control of behavior have been attempted and been unsuccessful, or are reasonably concluded to be unlikely to succeed based on the history of actual attempts to control the behavior of a particular child.

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

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Section 126-U:5-b

126-U:5-b Conditions of Seclusion. –

I. When permitted by this chapter, seclusion may only be imposed in rooms which:

(a) Are of a size which is appropriate for the chronological and developmental age, size, and behavior of the children placed in them.

(b) Have a ceiling height that is comparable to the ceiling height of the other rooms in the building in which they are located.

(c) Are equipped with heating, cooling, ventilation, and lighting systems that are comparable to the systems that are in use in the other rooms of the building in which they are located.

(d) Are free of any object that poses a danger to the children being placed in the rooms.

(e) Have doors which are either not equipped with locks, or are equipped with devices that automatically disengage the lock in case of an emergency. For the purposes of this subparagraph, an "emergency" includes, but is not limited to:

(1) The need to provide direct and immediate medical attention to a child;

(2) Fire;

(3) The need to remove a child to a safe location during a building lockdown; or

(4) Other critical situations that may require immediate removal of a child from seclusion to a safe location.

(f) Are equipped with unbreakable observation windows or equivalent devices to allow the safe, direct, and uninterrupted observation of every part of the room.

II. Each use of seclusion shall be directly and continuously visually and auditorially monitored by a person trained in the safe use of seclusion.

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Section 126-U:5-c

126-U:5-c Room Confinement at the Youth Development Center. – Notwithstanding any other provision of this chapter, the youth development center may confine children in their rooms when such

confinement is part of a routine practice applicable to substantial portions of the population at the center and not imposed as a consequence in response to the behavior of one or more children. Such confinement is not subject to the notice and reporting requirements of RSA 126-U:7.

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Section 126-U:6

126-U:6 Schools Limited to Physical Restraint. – Use of restraint in schools shall be limited to physical restraint as permitted by this chapter. Schools shall not use medication restraint and shall not use mechanical restraint except as otherwise permitted in the transportation of children pursuant to RSA 126-U:12.

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Section 126-U:7

126-U:7 Notice and Record-Keeping Requirements. –

I. Unless prohibited by court order, the facility or school shall, make reasonable efforts to verbally notify the child's parent or guardian and guardian ad litem whenever seclusion or restraint has been used on the child. Such notification shall be made as soon as practicable and in no event later than the time of the return of the child to the parent or guardian or the end of the business day, whichever is earlier. Notification shall be made in a manner calculated to give the parent or guardian actual notice of the incident at the earliest practicable time.

II. A facility employee or school employee who uses seclusion or restraint, or if the facility employee or school employee is unavailable, a supervisor of such employee, shall, within 5 business days after the occurrence, submit a written notification containing the following information to the director or his or her designee:

- (a) The date, time, and duration of the use of seclusion or restraint.
- (b) A description of the actions of the child before, during, and after the occurrence.
- (c) A description of any other relevant events preceding the use of seclusion or restraint, including the justification for initiating the use of restraint.
- (d) The names of the persons involved in the occurrence.
- (e) A description of the actions of the facility or school employees involved before, during, and after the occurrence.
- (f) A description of any interventions used prior to the use of the seclusion or restraint.
- (g) A description of the seclusion or restraint used, including any hold used and the reason the hold was necessary.
- (h) A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during, or after the use of seclusion or restraint.
- (i) A description of any property damage associated with the occurrence.
- (j) A description of actions taken to address the emotional needs of the child during and following the incident.
- (k) A description of future actions to be taken to control the child's problem behaviors.
- (l) The name and position of the employee completing the notification.
- (m) The anticipated date of the final report.

III. Unless prohibited by court order, the director or his or her designee shall, within 2 business days of receipt of the notification required in paragraph II, send or transmit by first class mail or electronic transmission to the child's parent or guardian and the guardian ad litem the information contained in

the notification. Each notification prepared under this section shall be retained by the school or facility for review in accordance with rules adopted under RSA 541-A by the state board of education and the department of health and human services.

IV. Whenever a facility or school employee has intentional physical contact with a child which is in response to a child's aggression, misconduct, or disruptive behavior, a representative of the school or facility shall make reasonable efforts to promptly notify the child's parent or guardian. Such notification shall be made no later than the time of the return of the child to the parent or guardian or the end of the business day, whichever is earlier. Notification shall be made in a manner calculated to give the parent or guardian actual notice of the incident at the earliest practicable time.

V. In any case requiring notification under paragraph IV, the school or facility shall, within 5 business days of the occurrence, prepare a written description of the incident. Such description shall include at least the following information:

- (a) The date and time of the incident.
- (b) A brief description of the actions of the child before, during, and after the occurrence.
- (c) The names of the persons involved in the occurrence.
- (d) A brief description of the actions of the facility or school employees involved before, during, and after the occurrence.
- (e) A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during, or after the incident.

VI. The notification and record-keeping requirements of paragraphs IV and V shall not apply in the following circumstances:

- (a) When a child is escorted from an area by way of holding of the hand, wrist, arm, shoulder, or back to induce the child to walk to a safe location. However, if the child is actively combative, assaultive, or self-injurious while being escorted, the requirements of paragraphs IV and V shall apply.
- (b) When actions are taken such as separating children from each other, inducing a child to stand, or otherwise physically preparing a child to be escorted.
- (c) When the contact with the child is incidental or minor, such as for the purpose of gaining a misbehaving child's attention. However, blocking of a blow, forcible release from a grasp, or other significant and intentional physical contact with a disruptive or assaultive child shall be subject to the requirements.
- (d) When an incident is subject to the requirements of paragraphs I-III.

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Section 126-U:7-a

126-U:7-a Notice and Record-Keeping Requirements for Foster Family Homes. – Notwithstanding RSA 126-U:7, foster family homes, as defined in RSA 170-E:25, shall keep records and provide notice of incidents involving seclusion or restraint, according to rules adopted pursuant to RSA 541-A by the commissioner of the department of human services. The rules shall provide for timely notice to parents or guardians, which may be provided through the department. In cases involving serious injury or death to a child subject to seclusion or restraint in a foster home, the rules shall provide for timely notification to the commissioner of the department of health and human services, the attorney general, and the state's federally-designated protection and advocacy agency for individuals with disabilities.

Source. 2014, 324:7, eff. Sept. 30, 2014.

Section 126-U:8

126-U:8 Review of Restraint Records by Department of Education. –

I. The state board of education shall adopt rules, pursuant to RSA 541-A, relative to:

(a) Periodic, regular review by the department of education of records maintained by schools relative to the use of seclusion and restraint.

(b) A process for the department of education's receipt of complaints and its conduct of investigations of improper use of seclusion and restraint in schools. The process shall provide for:

(1) Investigation of complaints regarding any violation of this chapter, regardless of whether injury results.

(2) Investigation by persons not affiliated with the school district which is the subject of the complaint.

(3) Resolution of complaints and completion of investigations within 30 days, with provision for limited extensions for good cause.

(4) Protection of children before and after completion of the investigation.

(5) Appropriate remedial measures to address physical and other injuries, protect against retaliation, and reduce the incidence of violations of this chapter.

II. Beginning November 1, 2010, and each November 1 thereafter, the state board of education shall provide an annual report to the chairpersons of the education committees of the senate and house of representatives regarding the use of seclusion and restraint in schools. The annual report shall be prepared from the periodic, regular review of such records, and shall include the number and location of reported incidents and the status of any outstanding investigations.

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Section 126-U:9

126-U:9 Review of Restraint Records by Department of Health and Human Services. –

I. The commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, relative to:

(a) Periodic, regular review by the department of health and human services of records maintained by facilities regarding the use of seclusion and restraint.

(b) A process for the department's receipt of complaints and its conduct of investigations of reports of improper use of seclusion and restraint in facilities, which may be through the department of health and human services, office of the ombudsman, or otherwise. The process shall provide for:

(1) Investigation of complaints regarding any violation of this chapter, regardless of whether injury results.

(2) Investigation by persons not affiliated with the facility which is the subject of the complaint.

(3) Resolution of complaints and completion of investigations within 30 days, with provision for limited extensions for good cause.

(4) Protection of children before and after completion of the investigation.

(5) Appropriate remedial measures to address physical and other injuries, protect against retaliation, and reduce the incidence of violations of this chapter.

II. Beginning November 1, 2010, and each November 1 thereafter, the commissioner of the department of health and human services shall provide an annual report to the committees of the house of representatives and the senate with jurisdiction over health and human services and over children and family law, regarding the use of seclusion and restraint in facilities. The annual report shall be based on the periodic, regular review of such records and shall include the number and location of reported incidents and the status of any outstanding investigations.

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Section 126-U:10

126-U:10 Injury or Death During Incidents of Restraint or Seclusion. –

I. In cases involving serious injury or death to a child subject to restraint or seclusion in a facility, the facility shall, in addition to the provisions of RSA 126-U:7, notify the commissioner of the department of health and human services, the attorney general, and the state's federally-designated protection and advocacy agency for individuals with disabilities. Such notice shall include the notification required in RSA 126-U:7, II. The department of health and human services shall annually notify facilities of their responsibilities under this section and provide contact information for the persons to be notified.

II. In cases involving serious injury or death to a child subject to restraint or seclusion in a school, the school shall, in addition to the provisions of RSA 126-U:7, notify the commissioner of the department of education, the attorney general, and the state's federally-designated protection and advocacy agency for individuals with disabilities. Such notice shall include the written notification required in RSA 126-U:7, II. The department of education shall annually notify schools of their responsibilities under this section and provide contact information for the persons to be notified.

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Section 126-U:11

126-U:11 Authorization and Monitoring of Extended Restraint. –

In a school or facility:

I. Restraint shall not be imposed for longer than is necessary to protect the child or others from the substantial and imminent risk of serious bodily harm.

II. Children in restraint shall be the subject of continuous direct observation by personnel trained in the safe use of restraint.

III. No period of restraint of a child may exceed 15 minutes without the approval of the director or a supervisory employee designated by the director to provide such approval.

IV. No period of restraint of a child may exceed 30 minutes unless a face-to-face assessment of the mental, emotional, and physical well-being of the child is conducted by the facility or school director or by a supervisory employee designated by the director who is trained to conduct such assessments. The assessment shall also include a determination of whether the restraint is being conducted safely and for a purpose authorized by this chapter. Such assessments shall be repeated at least every 30 minutes during the period of restraint. Each such assessment shall be documented in writing and such records shall be retained by the facility or school as part of the written notification required in RSA 126-U:7, II.

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Section 126-U:12

126-U:12 Restriction of the Use of Mechanical Restraint During the Transport of Children. –

I. A school or facility shall not use mechanical restraints during the transportation of children unless case-specific circumstances dictate that such methods are necessary.

II. Whenever a child is transported to a location outside a school or facility, the director shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort the child in a manner which:

(a) Prevents physical and psychological trauma;

(b) Respects the privacy of the child; and

(c) Represents the least restrictive means necessary for the safety of the child.

III. Whenever a child is transported using mechanical restraints, the director shall document in writing the reasons for the use of mechanical restraints. Such documentation shall be treated as a notification of restraint under RSA 126-U:7.

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Section 126-U:13

126-U:13 Restriction of the Use of Mechanical Restraint in Courtrooms. – At any hearing under RSA 169-B, RSA 169-C, or RSA 169-D, the judge may subject a child to mechanical restraint in the courtroom only when the judge finds the restraint to be reasonably necessary to maintain order, prevent the child's escape, or provide for the safety of the courtroom. Whenever practical, the judge shall provide the child and the child's attorney an opportunity to be heard to contest the use of mechanical restraint before the judge orders its use. If mechanical restraint is ordered, the judge shall make written findings of fact in support of the order.

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Section 126-U:14

126-U:14 School Review Following the Use of Restraint or Seclusion. – Upon information that restraint or seclusion has been used for the first time upon a child with a disability as defined in RSA 186-C:2, I or a child who is receiving services under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. section 701, and its implementing regulations, the school shall review the individual educational program and/or Section 504 plan and make such adjustments as are indicated to eliminate or reduce the future use of restraint or seclusion. A parent or guardian of a child with a disability may request such a review at any time following an instance of restraint or seclusion and such request shall be granted if there have been multiple instances of restraint or seclusion since the last review.

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PUBLIC HEALTH
CHAPTER 141-C
COMMUNICABLE DISEASE

Section 141-C:20-a

141-C:20-a Immunization. –

I. All parents or legal guardians shall have their children who are residing in this state immunized against certain diseases. These diseases shall include, but not be limited to, diphtheria, mumps, pertussis, poliomyelitis, rubella, rubeola, and tetanus. The commissioner shall adopt rules under RSA 541-A relative to other diseases which require immunization.

II. No child shall be admitted or enrolled in any school or child care agency, public or private, unless the following is demonstrated:

(a) Immunization under paragraph I;

(b) Partial immunization relative to the age of the child as specified in rules adopted by the commissioner; or

(c) Exemption under RSA 141-C:20-c.

III. Nothing in this section shall require an immunization/vaccination requirement for diseases that are noncommunicable. Noncommunicable disease means a disease that is not infectious or transmissible from person-to-person.

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CHAPTER 189

SCHOOL BOARDS, SUPERINTENDENTS, TEACHERS, AND TRUANT OFFICERS

School Boards, Transportation and Instruction of Pupils

Section 189:11

189:11 Instruction in National and State History and Government. –

I. In all public and private schools in the state there shall be given regular courses of instruction in the history, government and constitutions of the United States and New Hampshire, including the organization and operation of New Hampshire municipal, county and state government and of the federal government. Such instruction shall begin not later than the beginning of the eighth grade and shall continue in all high schools as a component of a one credit course of instruction required for high school graduation in United States and New Hampshire history and a one-half credit course of instruction required for high school graduation in United States and New Hampshire government/civics. A school district shall develop and offer the United States and New Hampshire government/civics course and at a minimum, the course shall include instruction in the following areas:

- (a) Opportunities and responsibilities for civic involvement.
- (b) Skills to effectively participate in civic affairs.
- (c) The U.S. Constitution and the principles stated in the Articles and Amendments of the U.S. Constitution that provide the foundation for the democratic government of the United States.
- (d) The New Hampshire constitution and the principles stated in the articles of the New Hampshire constitution that provide the foundation for the democratic government of New Hampshire.
- (e) The structure and functions of the 3 branches comprising federal and state governments: legislative, judicial, and executive.
- (f) The role, opportunities, and responsibilities of a citizen to engage in civic activity.
- (g) The role and interactions of the state of New Hampshire and local governments within the framework of the U.S. Constitution and of extended powers and functions provided to local governments.
- (h) How federal, state, and local governments address problems and issues by making decisions, creating laws, enforcing regulations, and taking action.
- (i) The role and actions of government in the flow of economic activity and the regulation of monetary policy.

II. As a component of instruction under paragraph I, a locally developed competency assessment of United States government and civics that includes, but is not limited to, the nature, purpose, structure, function, and history of the United States government, the rights and responsibilities of citizens, and noteworthy government and civic leaders, shall be administered to students as part of the high school course in history and government of the United States and New Hampshire. Students who attain a passing grade on the competency assessment shall be eligible for a certificate issued by the school district. The United States Citizenship and Immigration Services (USCIS) test may be used to satisfy the requirement of this paragraph. By June 30 of each year, each school district shall submit the results of either the locally developed competency assessment of United States government and civics or the United States Citizenship and Immigration Services (USCIS) test to the department of education.

CHAPTER 189
SCHOOL BOARDS, SUPERINTENDENTS, TEACHERS, AND TRUANT OFFICERS;
SCHOOL CENSUS

School Boards, Transportation and Instruction of Pupils

Section 189:17

189:17 Flags; Penalty. – The school board shall supply a United States and a New Hampshire state flag; the flags shall be made not less than 5 feet in length, with a flagstaff and appliances for displaying the same, for every schoolhouse in the district in which a public school is taught, at the expense of the district. They shall prescribe rules and regulations for the proper custody, care and display of these flags; the regulations shall require that wherever possible, the United States flag and the New Hampshire state flag shall be displayed on separate staffs of equal height. When the flags are displayed on the same staff, the United States flag shall be displayed above the New Hampshire flag. The regulations shall further require that such flags shall be displayed prominently outside of the schoolhouse. When they are otherwise displayed, the flags shall be placed conspicuously in the principal room of assembly of the schoolhouse. The governing board of every private school shall supply a United States flag, such flag to be made not less than 5 feet in length, with a flagstaff and appliances for displaying same. They shall make provisions similar to those required in the public schools for the display of said flag. Any members of a school board or the governing board who shall refuse or neglect to comply with the provisions of this section shall be guilty of a violation.

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Section 189:19

189:19 English Required. – In the instruction of children in all schools, including private schools, in reading, writing, spelling, arithmetic, grammar, geography, physiology, history, civil government, music, and drawing, the English language shall be used exclusively, both for the purposes of instruction therein and for purposes of general administration. Educational programs in the field of bilingual education shall be permitted under the provisions of this section with the approval of the state board of education and the local school district.

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Section 189:20

189:20 Foreign Languages. – A foreign language may be taught in elementary schools; provided, that the course of study (or its equivalent) outlined by the state board in the branches named in RSA 189:19 be not abridged but be taught in compliance with the law of the state.

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Section 189:21

189:21 Language of Devotional Exercises in Private Schools. – The exclusive use of English for purposes of instruction and administration shall not prohibit the conduct of devotional exercises in private schools in a language other than English.

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CHAPTER 189
SCHOOL BOARDS, SUPERINTENDENTS, TEACHERS, AND TRUANT OFFICERS;
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Emergency Response Plans

Section 189:64

189:64 Emergency Response Plans. –

I. Every public, chartered public, and nonpublic school shall develop a site-specific school emergency response plan which is based on and conforms to the Incident Command System and the National Incident Management System and submit such plan to the department of education by September 1 of each year. Upon receiving a school's emergency management plan, the department shall provide a copy of such plan to the director of homeland security and emergency management, department of safety. The plan should be documented at the time of school approval review. The plan shall provide that at least 4 of the currently required number of fire evacuation drills shall be emergency, all-hazard response drills of which at least one shall test emergency response to an armed assailant. The armed assailant drill may be discussion based. The types of all-hazard drills and exercises and the manner and time in which these activities take place shall be determined by the school in collaboration with local public safety, emergency management, and public health officials. The school may include students and first responders in all-hazard response drills or activities, as appropriate. The plan shall address hazards including but not limited to acts of violence, threats, earthquakes, floods, tornadoes, structural fire, wildfire, internal and external hazardous materials releases, medical emergencies, and any other hazard deemed necessary by school officials and local emergency authorities. The first emergency response drill shall be conducted within one year of the completion of the plan. If the school has a building schematic floor plan diagram, the school may, with the approval of the local school board, submit the diagram to the division of homeland security and emergency management, department of safety, in a commonly used digital format. Submission of the diagram will enable the state to better prepare, respond, and mitigate potentially dangerous conditions should the need arise.

II. Each school shall provide the plan to, and coordinate the plan with, local emergency authorities and with the emergency operations plan in the municipality in which the school is located. Each school shall review its plan at least annually and update the plan, as necessary, and shall submit the updated plan to the department of education by September 1. If after review, the plan is unchanged, the school shall notify the department by September 1 that the plan is unchanged. The department shall provide a copy of any updated plan to the director of homeland security and emergency management, department of safety. The director of homeland security and emergency management, department of safety shall assist school districts in conducting training for and providing support to school districts in the development, implementation, and review of an emergency response plan, as may be needed.

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CHAPTER 193
PUPILS
School Attendance

Section 193:1-a

193:1-a Dual Enrollment. –

- I. Notwithstanding any other provision of the law, the full-time attendance requirement may be met by attendance at more than one school provided the total time spent in the schools is equivalent to full-time attendance and further that the attendance at more than one school may include attendance at a nonpublic school provided that the school district and the state board of education have given prior approval to the detailed dual enrollment agreement, which is to be effectuated for this purpose.
- II. [Repealed.]

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CHAPTER 198 SCHOOL MONEY

Miscellaneous Provisions

Section 198:20-a

198:20-a Payment of Governmental Moneys Prohibited in Nonpublic School Without Program Approval by the Board of Education for Disabled Children. – No state moneys or moneys raised and appropriated by any political subdivision of the state or any federal moneys administered by the state or any political subdivision thereof shall be paid or granted to a nonpublic school for the education and training of disabled children as defined by RSA 186-C:2, I which has not been approved by the state board of education pursuant to those policies adopted under the provisions of RSA 186:11, XXIX.

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CHAPTER 485
NEW HAMPSHIRE SAFE DRINKING WATER ACT
Water Pollution Control

Section 485:17-a

[RSA 485:17-a effective July 1, 2019.]

485:17-a Lead in Drinking Water in Schools and Licensed Child Care Facilities. –

I. Upon the effective date of this section, and within every 5-year period thereafter, public and private schools and licensed child care facilities that have not sampled in the prior 2 years shall test for the presence of lead in drinking water at all locations at the facility that is available for consumption by children. Such testing shall be in accordance with guidance from the department of environmental services. If test results demonstrate the presence of lead in a concentration that exceeds the applicable standard established by the Environmental Protection Agency, the school or licensed child care facility shall, within 5 business days, notify parents and guardians and shall, as an interim measure, ensure that the children are provided only drinking water that meets the standard. The school or licensed child care facility shall also implement a remediation plan, as approved by the department, within 30 days of notification of parents or, in consultation with the department, as soon as practicable. The department shall review the plan and any associated submittals within 30 days of receiving them. If 3 consecutive rounds of sampling performed every 5 years are below the standard, further testing shall not be required.

II. Any time the applicable federal standard for lead in drinking water is changed, public and private schools and licensed child care facilities shall within 30 days compare the results of their most recent testing with such new standard and, in the event any such results exceed the new standard, proceed with the requirements of paragraph I relative to notice, remediation, and interim measures.

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