

**CANDIA SCHOOL DISTRICT
CHANGE OF SCHOOL OR ASSIGNMENT**

Resident students of the Candia School District shall be assigned to a public school within the District by the Superintendent or designee. The Board recognizes that in unusual and extraordinary circumstances, parents or guardians may wish to request a change of assignment to another public school, public academy, or approved private school within the District. When the parents or guardians believe that the student's assignment is not in the student's best interests or will result in a manifest educational hardship to the student, the District will consider requests for reassignment in accordance with this Policy and the most restrictive provisions of law.

A. Best Interest Reassignment – Determination by Superintendent.

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

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

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

1. Procedure:

- a. In order to initiate consideration of a reassignment based upon the child's best interests, the parent/guardian shall submit to the Superintendent a written request stating why and/or how the student's best interests warrant reassignment. In order to facilitate a determination, the application may also include any additional information described in Section 1(d) below. The written request should be mailed or delivered to the SAU office, or emailed to the Superintendent at the email address provided on the District's website.
- b. Upon receipt of the request, the Superintendent shall schedule a meeting (the "reassignment meeting") with the parent or guardian, to be held within ten (10) days of receiving the request.
- c. Prior to or at the reassignment meeting, the parent or guardian shall make a specific request that the student be re-assigned to another public school, public academy, or approved private school..
- d. At the reassignment meeting, the parent or guardian may present documents, witnesses, or other relevant evidence supporting the parent's belief that reassignment is in the best interest of the student.
- e. The Superintendent may present such information as he or she deems appropriate.

- f. In determining whether reassignment is in the student's best interest the Superintendent shall consider the student's academic, physical, personal, or social needs.
2. Finding Reassignment is or is not in the Student's Best Interest.
- a. Within five (5) school days of the reassignment meeting, the Superintendent shall deliver to the parent/guardian a written determination as to whether or not reassignment is in the child's best interest. Delivery of the written determination should be done in a manner to produce evidence of the delivery (e.g., hand delivery, email, fax, certified or registered mail).
 - b. If the Superintendent finds it is in the best of the interest of the student to change the student's school or assignment, the Superintendent shall initiate:
 - i. A change of assignment within the student's current assigned school;
 - ii. The student's transfer to another public school, public academy, or approved private school within the District; or
 - iii. The student's transfer to a public school, public academy, or approved private school in another district.
 - c. If the Superintendent does not find that it is in the best interest of the student to change the student's school or assignment, the parent or guardian may request a manifest educational hardship hearing before the School Board as provided in Section B of this Policy.
3. Reassignment Based on Best Interest.
- a. If a student is reassigned as a result of a best interest determination, the Superintendent shall work with the Superintendent of the receiving district/school to determine whether the district/school to which the student is to be assigned will accept the student and to establish a tuition rate for such student.
 - b. The Superintendent's reassignment of a student based on a finding that it is in the student's best interest is not binding on the receiving district or school. Students who are reassigned must be accepted for attendance at the school/district to which they are reassigned and their continued attendance will be determined by the receiving school/district.
 - c. Any reassignment to a public school or public academy in another district as a result of a best interest determination will be conditioned on the Superintendent and the Superintendent/Administrator of the receiving district/school reaching an agreement on the tuition to be charged to the student's resident district. For a reassignment to an approved private school, the private school may charge tuition to the parent or enter an agreement for payment of tuition with the District.
 - d. Pursuant to RSA 193:3, I (g), if the Superintendent has made a finding that it is in the best interest of the student to be reassigned, tuition has been established, and the student is accepted, then the School Board shall approve the tuition payment.

- e. Transportation for a student reassigned under this Section A (best interest) shall be the responsibility of the parent or legal guardian.
 - f. Unless otherwise stated by the Superintendent, all reassignments based on best interest shall be limited to one (1) school year.
4. Other In-District Assignments. Nothing in this Policy is intended to limit authority otherwise extended to the Superintendent to make assignments or reassignments to District Schools or schools with which the District contracts according to the policies, regulations, and ordinary practices of the District.

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

If, after following the procedure outlined in Section A of this Policy, the Superintendent found that it was not in the best interest of the student to be reassigned as requested by the student's parent or guardian, then the parent or guardian may request a manifest educational hardship hearing before the School Board within thirty (30) days of receipt of the Superintendent's written decision denying the best interest reassignment.

1. "Manifest Educational Hardship" Defined. As provided in RSA 193:3, II (a), "manifest educational hardship" means that a student has a documented hardship in the student's current educational placement; and that such hardship has a detrimental or negative impact on the student's academic achievement or growth, physical safety, or social and emotional well-being. Such hardship must be so severe, pervasive, or persistent that it interferes with or limits the ability of the student to receive an education.
2. Procedure for Determination of Manifest Educational Hardship.
 - a. The Superintendent shall duly notify the School Board that the parent or guardian has requested a manifest educational hardship hearing, and the School Board shall schedule a hearing to be held no more than fifteen (15) days after the request has been received by the Superintendent. The Board shall provide at least two (2) full days notice of the hearing. The Board will conduct the hearing in non-public session, unless the parent or guardian requests the hearing be held in public session, under RSA 91-A:3, II(c).
 - b. Prior to or at such hearing, the parent or guardian shall provide to the Superintendent a specific request in writing to be reassigned to a particular school and the reasons for the request. The Superintendent shall provide such request to the School Board at the hearing. Although not required, the parent or guardian may include the written request and reasons as part of the original hearing request.
 - c. At such hearing, the parent or guardian may present documents, witnesses, or other relevant evidence supporting the parent's or guardian's belief that the student is experiencing a manifest educational hardship. The Superintendent may present such information as he or she may deem appropriate to assist the School Board in reaching its decision. The parties (or their appointed designee) shall have the right to examine all evidence and witnesses. The formal rules of evidence shall not apply. The Board shall record the hearing.
 - d. **The parent or guardian shall have the burden of establishing a manifest educational hardship by clear and convincing evidence**, which means that the evidence is highly and substantially more likely to be true than untrue, and the Board must be convinced that the existence of a manifest educational hardship is highly probable.

- e. The Board will render its decision in writing within seven (7) days after the hearing, and will forward its written decision to the parents or guardians via means producing proof of delivery (e.g., hand deliver, email, fax, or certified or registered mail). The decision will conform to the requirements of NH Dept. of Education Rule Ed. 320.
3. Finding of Manifest Educational Hardship.
- a. If the School Board finds that the student has a manifest educational hardship, the School Board shall grant the parent's or guardian's request to re-assign the student to another public school or public academy in the District.
 - b. The School Board's reassignment of a student based on a finding of manifest educational hardship is not binding on the receiving district or school. Students who are reassigned must be accepted for attendance at the school/district to which they are reassigned and their continued attendance will be determined by the receiving school/district.
 - c. If the student is assigned to a public school or public academy in another district because of a manifest educational hardship, tuition shall be determined according to RSA 193:4.
 - d. If a student is assigned to an approved private school because of manifest educational hardship determination and the school agrees to enroll the student, it may charge tuition to the parent or guardian or may enter into an agreement for payment of tuition with the District.
 - e. Unless otherwise stated by the School Board, all manifest educational hardship reassignments shall be limited to one (1) school year.
4. Finding that Manifest Educational Hardship was not Established – Appeal to the New Hampshire State Board of Education. If the School Board finds that the parent or guardian has not met their burden of proof, the parent or guardian may appeal the School Board's decision to the New Hampshire State Board of Education ("SBOE"), within thirty (30) days of receipt of the Board's written decision in accordance with NH Dept. of Ed. Rule Ed. 204.01 (g).
- C. Admission Requirements.** Students reassigned under this Policy shall meet the admission requirements of the school to which the student is to be reassigned.
- D. Statutory Reassignment Limit.** The total reassignments or transfers made under this Policy in any one school year will not exceed one (1) percent of the average daily membership in residence of the District, or five (5) percent of the average daily membership in residence of any single school, whichever is greater, unless the School Board votes to exceed this limit.
- E. Count of Reassigned Pupils.** Students reassigned under this Policy will be counted in the average daily membership in residence of the student's resident school district.
- F. Notice to the Department of Education.** The Superintendent will notify the Department of Education within thirty (30) days of any reassignment made under this Policy.
- G. Special Education Placements.** Students with disabilities as defined in RSA 186-C:2 shall be accorded a due process review and shall be assigned pursuant to rules adopted under RSA 186-C:16.

Legal References:

RSA 193:3, III, Change of School Assignment, RSA 193:14-a, Change of School Assignment; Duties of State Board of Education, N.H. Dept. of Education Administrative Rule Ed. 320

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