**New Hampshire Department of Education**

**Bureau of Special Education**

**Private Provider Special Education Procedures**

**Self-Assessment Review**

**2018 – 2019**

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| **Private Provider:** |  | **Date Submitted:** |  |

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| **Area of Compliance** | **Documentation Provided &**  **Verifies Compliance**  Provide the specific page number(s) where the evidence can be found. | | **Verified by NHDOE & Status** (NHDOE use only) | |
| **New Hampshire Standards for the Education of Children with Disabilities adopted March 23, 2017, NH State Statutes & IDEA 2004** |  | Yes  No | Yes  No |  |
| **Administration** | | | | |
| **Ed 1114.04(b)**  Each private provider of special education or other non-LEA program shall have written policies which comply with the provisions of the IDEA and RSA 186-C. |  | Yes  No | Yes  No |  |
| **Ed 1114.04(e)**  Each private provider of special education or other non-LEA program shall have a written statement specifying its philosophy, purposes, and program orientation and describing both short and long term aims. The statement shall identify the types of services provided and the characteristics of the children to be served by the program. The statement of purpose shall be available to the public on request. |  | Yes  No | Yes  No |  |
| **Confidentiality; Confidentiality of Information**  **Ed 1126.02(b)(3)a. Procedures for handling confidential information;** | | | | |
| **Ed 1114.04(c)**  Each private provider of special education or other non-LEA program shall have written policies and procedures for the protection of confidential information, in accordance with Ed 1119 including:  (1) The release of information to other persons and/or agencies; and |  | Yes  No | Yes  No |  |
| (2) Written procedures and schedules for destruction of outdated files and records. |  | Yes  No | Yes  No |  |
| **Ed 1119.01(a)**  Each participating agency shall comply with 34 CFR 300.610-300.627, relative to confidentiality  of information, including compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232G, (FERPA) and its implementing regulations in 34 CFR Part 99. |  | Yes  No | Yes  No |  |
| **34 CFR 300.613 Access Rights**  (a) Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to §300.507 or §§300.530 through 300.532, or resolution session pursuant to §300.510, and in no case more than 45 days after the request has been made. |  | Yes  No | Yes  No |  |
| (b) The right to inspect and review education records under this section includes—  (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records; |  | Yes  No | Yes  No |  |
| (2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and |  | Yes  No | Yes  No |  |
| (3) The right to have a representative of the parent inspect and review the records. |  | Yes  No | Yes  No |  |
| (c) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce. |  | Yes  No | Yes  No |  |
| **34 CFR 300.614 Record of Access**  Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the Act (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records. |  | Yes  No | Yes  No |  |
| **34 CRF 300.615 Record on More than One Child**  If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information. |  | Yes  No | Yes  No |  |
| **34 CFR 300.622 Consent**  (a) Parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with paragraph (b)(1) of this section, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 CFR part 99. |  | Yes  No | Yes  No |  |
| (b)(1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this part. |  | Yes  No | Yes  No |  |
| (2) Parental consent, or the consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with §300.321(b)(3). |  | Yes  No | Yes  No |  |
| **34 CFR 300.623 Safeguards**  (a) Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. |  | Yes  No | Yes  No |  |
| (b) One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information. |  | Yes  No | Yes  No |  |
| (c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under §300.123 and 34 CFR part 99. |  | Yes  No | Yes  No |  |
| (d) Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information. |  | Yes  No | Yes  No |  |
| **34 CFR 300.624 Destruction of Information**  (a) The public agency must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child. |  | Yes  No | Yes  No |  |
| (b) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation. |  | Yes  No | Yes  No |  |
| **Ed 1119.01(b)**  Each LEA and private provider of special education shall adopt a policy regarding the retention and destruction of special education records and shall comply with the following requirements:  **RSA 186-C:10-3, Effective July 24, 2018**  I. Upon a student's graduation from high school, his or her parents may request the local education agency, in writing, to have the student's records and final individualized education program destroyed at that time or request that the records be retained until the student's twenty-sixth birthday. The parents may, at any time prior to the student's twenty-sixth birthday, request, in writing, that the records be retained until the student's thirtieth birthday. II. Absent any request by a student's parents at the time of graduation, the local education agency shall destroy a student's records and final individualized education program within a reasonable time after the student's twenty-sixth birthday, provided that all such records be destroyed by the student's thirtieth birthday.  **Ed 1119.01(b)(2)**  A private provider of special education may destroy a student’s special education records prior to the student’s ~~25~~~~th~~  26th birthday if the private provider of special education has sent all of the student’s records or copies of such records to the most recent LEA of record. A private provider of special education may retain and store the student’s special education records in electronic form or any other form. A private provider of special education shall provide a parent or adult student a copy of its document destruction policy upon the student’s discharge from the private provider of special education. |  | Yes  No | Yes  No |  |
| **Program Requirements** | | | | |
| **Ed 1114.05(a)**  Each private provider of special education or other non-LEA program shall have a written description of admissions policies and criteria which it shall provide to all placing agencies and shall make available to the parent of any child referred for placement. |  | Yes  No | Yes  No |  |
| **Ed 1114.05(b)** The written admission policies and criteria required in Ed 1114.05(a) shall include:  (1) Policies and procedures related to intake; |  | Yes  No | Yes  No |  |
| (2) The age and sex of children in care; |  | Yes  No | Yes  No |  |
| (3) The needs, problems, situations, or patterns best addressed by the program; |  | Yes  No | Yes  No |  |
| (4) Any other criteria for admission; |  | Yes  No | Yes  No |  |
| (5) Criteria for discharge; and |  | Yes  No | Yes  No |  |
| (6) Any preplacement requirements for the child, the parent, and/or the placing agency. |  | Yes  No | Yes  No |  |
| (7) Accessibility to educational materials. |  | Yes  No | Yes  No |  |
| **Responsibilities of Private Providers of Special Education** | | | | |
| **Ed 1114.06(a)**  Each private provider of special education or other non-LEA program shall, in all matters concerning possible changes and/or modifications in the identification, evaluation, development and/or revision of an IEP, or changes in placement of a child with a disability, contact the sending school district for the purpose of initiating the process for changing any of the above in compliance with Ed 1109.05. |  | Yes  No | Yes  No |  |
| **Ed 1114.06(c)**  Each private facility or other non-district program shall provide all transportation required for the implementation of any IEP, or portion of any IEP, which the program has agreed to implement. |  | Yes  No | Yes  No |  |
| **Ed 1114.06(f)**  Daily lesson plans shall be clear, concise, and reflective of the IEP goals for each child. They shall reflect any staff input and related reports and evaluations provided by the agencies responsible for the student’s education and welfare. |  | Yes  No | Yes  No |  |
| **Ed 1114.06(h)**  If a private provider of special education or other non-LEA program determines that any child with a disability placed at the facility or program is not making progress toward meeting his or her IEP goals at the rate anticipated, the facility or program shall immediately contact the LEA for the purpose of reviewing the IEP and considering modifications. |  | Yes  No | Yes  No |  |
| **Behavioral Interventions** | | | | |
| **Ed 1114.07(b)**  Each private facility or other non-district program shall have a written statement of the policies and procedures followed by the program in managing student behavior. This statement shall be provided to the sending LEA and the parent at the time each child with a disability becomes enrolled in the program, at the time of the annual review of the child’s educational progress, and any time the facility or non-district program’s policies and procedures for managing behavior are revised. |  | Yes  No | Yes  No |  |
| **Ed 1114.07(c)**  A private facility or other non-district program shall not employ any measure which is  aversive or depriving in nature or which subjects a child with a disability enrolled in that program to humiliation or unsupervised confinement or to abuse or neglect as defined in RSA 169-C, the Child Protection Act, or which deprives the child of basic necessities such as nutrition, clothing, communication, or contact with parents, so as to endanger the child's mental, emotional, or physical health consistent with Ed. 1114.07. |  | Yes  No | Yes  No |  |
| **Ed 1114.07(e)**  Each private facility or other non-district program shall have a written procedure based on state and federal law concerning the reporting of suspected instances of child abuse.  **RSA 169-C:29 Reporting of Child Abuse** |  | Yes  No | Yes  No |  |
| **Ed 1114.07(f)**  An LEA, other public agency, private provider of special education or other non-LEA program shall not employ any of the following aversive and deprivation behavioral interventions:  (1) Any procedure intended to cause physical pain; |  | Yes  No | Yes  No |  |
| (2) Aversive mists, noxious odors, and unpleasant tastes applied by spray or other means to cause an aversive physical sensation; |  | Yes  No | Yes  No |  |
| (3) Any non-medical mechanical restraint that physically restricts a student’s movement; |  | Yes  No | Yes  No |  |
| (4) Contingent food/drink programs; |  | Yes  No | Yes  No |  |
| (5) Electrical stimulation; |  | Yes  No | Yes  No |  |
| (6) Placement of a child in an unsupervised or unobserved room from which the child can not exit without assistance; and |  | Yes  No | Yes  No |  |
| (7) Physical restraint, unless in response to a threat of imminent, serious, physical harm,  pursuant to RSA 126-U. |  | Yes  No | Yes  No |  |
| **Ed 1114.08**  All crisis or emergency intervention procedures shall be included in the student’s IEP and shall comply with Ed 1114.07 and RSA 126-U:5. |  | Yes  No | Yes  No |  |
| **Ed 1114.21(e)**  Each private provider or other non-LEA program shall have written procedures for behavioral interventions that outline staff responsibilities with regard to procedures for personnel who are qualified and trained in behavioral crisis intervention response so that quick, organized responses can occur. |  | Yes  No | Yes  No |  |

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| **New Hampshire Education Laws RSA 126-U Limiting the Use of Child Restrain Practices in Schools and Treatment Centers** | | | | |
| **RSA 126-U:2**  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. |  | Yes  No | Yes  No |  |
| **Qualifications and Requirements for Instructional, Administrative and Support Personnel** | | | | |
| **Ed 1114.10(c)**  Each provider of special education or other non-LEA program shall have written procedures for supervising and evaluating the performance of all staff members. |  | Yes  No | Yes  No |  |
| **Ed 1114.10(d)**  Each private provider of special education or other non-LEA program shall have a written plan for in-service and pre-service training of staff, in accordance with Ed 500 certification standards for educational personnel in New Hampshire. |  | Yes  No | Yes  No |  |
| **Ed 1114.11(a)**  Each private provider of special education or other non-LEA program, including any individual providing direct services to the student pursuant to Ed 1126.05, shall complete a background investigation, consistent with the provisions of RSA 189:13-a, prior to a final offer of employment. |  | Yes  No | Yes  No |  |
| **Change in Placement or Termination of Enrollment** | | | | |
| **Ed 1114.12(a)**  A private provider of special education or other non-LEA program which believes it can no longer implement a child’s IEP or provide FAPE shall immediately convene or request the convening of the IEP team to review the facility’s or program’s concerns and to amend the IEP and placement, if necessary. |  | Yes  No | Yes  No |  |
| **Ed 1114.12(b)**  An IEP meeting convened under Ed 1114.12 shall:  (1) Review the child’s needs; |  | Yes  No | Yes  No |  |
| (2) Determine whether the current IEP meets the needs of the child and, if appropriate, propose changes to the IEP; |  | Yes  No | Yes  No |  |
| (3) Review the child’s current placement; and |  | Yes  No | Yes  No |  |
| (4) Determine whether the placement can fully implement the child’s IEP and provide FAPE. |  | Yes  No | Yes  No |  |
| **Ed 1114.12(d)**  If a private provider of special education or other non-LEA program wishes to suspend or expel a child, it shall immediately inform the LEA. The LEA shall comply with the disciplinary procedures in 34 CFR 300.530- 34 CFR 300.536. |  | Yes  No | Yes  No |  |
| **Physical Facilities** | | | | |
| **Ed 1114.16(b)**  Each private provider of special education or other non-LEA program shall develop a written  schedule of maintenance and housekeeping activities to ensure that the grounds and facilities are safe and promote the health of children enrolled in the program. |  |  |  |  |
| **Ed 1114.16(d)**  Each private provider of special education or other non-LEA program shall have written procedures to protect children from hazards such as:  (1) The presence of asbestos; |  | Yes  No | Yes  No |  |
| (2) The presence of lead paint; |  | Yes  No | Yes  No |  |
| (3) Storage of hazardous materials; |  | Yes  No | Yes  No |  |
| (4) Garbage disposal; |  | Yes  No | Yes  No |  |
| (5) Vermin infestation; |  | Yes  No | Yes  No |  |
| (6) Storage of food; |  | Yes  No | Yes  No |  |
| (7) Storage of medicines; and |  | Yes  No | Yes  No |  |
| (8) Any unsafe access to electrical, plumbing, and heating systems. |  | Yes  No | Yes  No |  |
| **Ed 1114.16(e)**  A private facility or other non-LEA program shall have a policy that ensures that bathrooms, classrooms, and other areas where children spend time at the facility, are regularly cleaned to maintain health and sanitation. |  | Yes  No | Yes  No |  |
| **Health and Medical Care** | | | | |
| **Ed 1114.18(a)**  Each private provider of special education or other non-LEA program shall have written procedures to ensure that children with disabilities receive prompt and competent medical attention in the event of injury or illness while at the program or while participating in any program or activity while in the custody of the program. |  | Yes  No | Yes  No |  |
| **Ed 1114.18(b)**  Each private provider of special education shall provide staff training in first aid, including training in the administration of CPR. |  | Yes  No | Yes  No |  |
| **Ed 1114.18(c)**  Each private provider of special education or other non-LEA program shall have formulated written policies and procedures regarding the use and administration of medicine to children in compliance with state law and rules. Medication shall be dispensed only under medical order. |  | Yes  No | Yes  No |  |
| **Ed 1114.18(d)**  Each private provider of special education or other non-LEA program shall maintain locked storage space for prescription drugs which shall only be accessible to persons authorized to dispense them. |  | Yes  No | Yes  No |  |
| **Ed 1114.18(e)**  When a child has an illness that is contagious or poses a health threat to other children enrolled in a private provider of special education or other non-LEA program, the program shall immediately notify the child’s parent(s), the sending LEA, the department, and the bureau of communicable disease control of the department of health and human services. |  | Yes  No | Yes  No |  |
| **Ed 1114.18(f)**  In the case of an accident injuring a child, a private provider of special education or other non-LEA program shall immediately notify the child’s parent(s), the sending LEA, the department, and the local law enforcement agency. |  | Yes  No | Yes  No |  |
| **Ed 1114.18(g)**  In the case of the death of a child, a private provider of special education or other non-LEA program shall immediately notify the child’s parent(s), the sending LEA, the department, and the local law enforcement agency. |  | Yes  No | Yes  No |  |
| **Photography and Audio or Audio-Visual Recording** | | | | |
| **Ed 1114.20(a)**  Each private provider of special education or other non-LEA program shall have written policies and procedures regarding the photographing and audio or audio-visual recordings of children in care. |  | Yes  No | Yes  No |  |

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| **Emergency Planning and Preparedness** | | | | |
| **Ed 1114.21(b)**  At least quarterly each private provider of special education or other non-LEA program shall conduct emergency drills which shall include actual evacuation of children to safe areas. The program shall ensure that all personnel on all shifts are trained to perform assigned tasks during emergencies and ensure that all personnel on all shifts are familiar with the use of the fire-fighting equipment available at the program. |  | Yes  No | Yes  No |  |
| **Ed 1114.21(c)**  The following conditions shall apply to each such emergency drill:  (1) A record of such emergency drills shall be maintained; |  | Yes  No | Yes  No |  |
| (2) All persons in the building shall participate in emergency drills; |  | Yes  No | Yes  No |  |
| (3) Emergency drills shall be held at unexpected times and under varying conditions to prepare  children for evacuation in case of fire or other emergencies; |  | Yes  No | Yes  No |  |
| (4) The program shall make provisions to ensure that all children with disabilities are  evacuated safely; and |  | Yes  No | Yes  No |  |
| (5) The program shall establish procedures to help children with disabilities understand the nature of such drills. |  | Yes  No | Yes  No |  |