

Readopt with amendment Ed 1400, effective 6-10-22 (Document #13393), to read as follows:

CHAPTER Ed 1400 LEARN EVERYWHERE PROGRAM FOR HIGH SCHOOL GRADUATION CREDIT

PART Ed 1401 PURPOSE AND SCOPE

Ed 1401.01 Purpose. Part Ed 1401 through Part Ed 1407 provide rules of procedure to ensure uniform application of RSA 193-E:2-a, V(b), relative to the approval of alternative programs for granting credit leading to graduation, referred to as learn everywhere programs. The department will develop and implement this program in conjunction with the state board of education.

Ed 1401.02 Scope.

(a) These rules shall apply to any for-profit or non-profit entity applying to offer an educational program, consistent with these rules, that meets the minimum standards for approval to grant credit leading to graduation.

(b) These rules shall apply to students, emancipated minors, or students with disabilities in accordance with their individualized education program (IEP) as determined by the IEP team.

(c) Successful completion of approved learn everywhere programs shall result in a certificate award by the learn everywhere program redeemable for high school credit leading to graduation in the approved subject matter pursuant to Ed 306.27(v) table 306-2.

(d) These rules shall apply to all school districts, chartered public schools, public academies, or local education agencies (LEAs).

PART Ed 1402 DEFINITIONS

Ed 1402.01 Definitions.

(a) "Administrator" means the administrator of the learn everywhere program.

(b) "Alternative" means a choice of one or more opportunities.

(c) "Alternative program" means a learn everywhere program as defined in Ed 1402.01(j).

(d) "Applicant" means any for-profit or non-profit entity applying to offer an educational program consistent with these rules.

(e) "Commissioner" means the commissioner of the department of education.

(f) "Competency" means "state competency" as defined in Ed 1402.01(o).

(g) "Department" means the department of education.

(h) "Individualized education program (IEP)" means "individualized education program" as defined in 34 CFR 300.22 and which meets the requirements in Ed 1109.

(i) "Instructor" means an individual who is employed, a volunteer, or contracted by and provides instruction in a learn everywhere program.

(j) "Learn everywhere program" means a state board approved alternative program for granting credit leading to graduation.

(k) "Local education agency (LEA)" means "local education agency" as defined in 34 CFR 300.28.

(l) "Sponsor organization" means an entity that submits an application for a learn everywhere program that is approved by the state board of education.

(m) "Program" means a sequence of instruction over a period of time, which meets the state competencies of a subject or subjects listed in Ed 306.27(v) resulting in a granting of credit leading to high school graduation.

(n) "School" means a New Hampshire public school, public academy, or chartered public school that contains any of the grades 9 through 12.

(o) "State competency" means the expected content, concepts, and skills to be mastered in a course deemed equivalent to graduation competencies in accordance with Ed 306.02(j) solely for the purpose of granting credit in the areas enumerated in Ed 306.27(v) table 306-2.

(p) "State board" means the New Hampshire state board of education.

PART Ed 1403 PROGRAM APPROVAL

Ed 1403.01 Initial Application Requirements.

(a) An applicant, as described in Ed 1401.02(a), seeking state board approval for a learn everywhere program shall submit to the department the information in (b) below in any format.

(b) The information submitted by the applicant shall include the following items:

(1) The sponsoring organization's purpose, mission statement, or both;

(2) The name and contact information of the individual responsible for oversight and administration of the program for which approval is sought;

(3) A description of demonstrated qualifications and a statement assuring that the instructors satisfy those qualifications, which shall not be construed to imply that instructors require an educator credential; and

(4) In the area of criminal records check policy, either:

a. A criminal history records check policy that provides for an annually recurring records check or a one-time records check upon employment and includes a statement affirming that the sponsoring entity shall not allow instruction or student contact by a person who has been charged pending disposition for, or convicted of, any violation or attempted violation of any of the offenses outlined in RSA 189:13-a, V; or

b. A statement that a criminal history records check policy is not included in the applicant's learn everywhere program.

(c) The applicant shall notify the parents, in writing, regarding its criminal records check policy prior to the enrollment of a student in the learn everywhere program.

(d) The applicant's criminal records check policy shall be included with the learn everywhere program information on the department's website as described in Ed 1404.01(f).

(e) In addition to the requirements outlined in (b) above, an applicant shall also submit:

(1) In the area of instructional program:

a. Identification of the required subject from Ed 306.27(v) for which students completing the learn everywhere program shall receive high school credit(s);

- b. An outline of each program for which approval is sought, which includes goals, competencies, a detailed description of the course of instruction, and a description of expected student outcomes;
 - c. A plan for recording student progress in meeting expected student outcomes;
 - d. A description of assessments of student learning outcomes, including, but not limited to:
 - 1. Instructor observation of project-based learning, including off-site learning projects;
 - 2. Competency-based or performance-based assessments;
 - 3. Instructor observations of student performance;
 - 4. Project evaluation rubrics used to evaluate program proficiencies; and
 - 5. Other assessment approaches as determined by the applicant's learn everywhere program;
 - e. The number of credits the program will fulfill; and
 - f. A description of the competency-based grading system;
- (2) In the area of admission:
- a. A description of methods for admission which shall not be designed, intended, or used to discriminate or violate individual civil rights in any manner prohibited by law;
 - b. A description of how the program will liaison with the LEA for students with an education plan pursuant to section 504 of the Rehabilitation Act;
 - c. A description of how the program will liaison with the LEA for a student with disabilities, consistent with the student's IEP to include, but not be limited to coordinating:
 - 1. Required special education programs;
 - 2. Support services; and
 - 3. Least restrictive environment; and
 - d. A statement that the applicant understands that it has certain responsibilities, pursuant to Section 504 of the Rehabilitation Act, if it receives federal funds, or the Americans with Disabilities Act, as amended, to provide students with disabilities with equal access and equal opportunities to participate in the learn everywhere program, including by providing the student with reasonable accommodations;
- (3) In the area of facilities:
- a. A description of facilities to be used for educational instruction and a description of how the facilities will meet the priorities of the program; and
 - b. A statement affirming that the facilities shall comply with all applicable federal and state health and safety laws, rules, and regulations, including, but not limited to the following:
 - 1. Fire safety; and

2. Barrier-free access under Abfd 300, code for barrier-free design, and the Americans with Disabilities Act of 1990 (ADA), as amended by the ADA Amendments Act of 2008; and

(4) Disclosure of insurance, if any, which would cover the participants in the learn everywhere program.

Ed 1403.02 Review by Department of Application for State Board Approval.

(a) Upon receipt of an application, the department shall form a learn everywhere program application evaluation team comprised of the following members appointed by the commissioner or designee:

(1) From the department:

- a. The administrator or designee; and
- b. Department representatives with content area expertise, curriculum competency expertise, or both; and

(2) Additional members, whose availability shall not interfere with the timely review of the application, including:

- a. An extended learning opportunity representative; and
- b. No less than one and no more than 2 New Hampshire state board licensed educators licensed in the content area enumerated on the application, where at least one shall be currently teaching in that content area in a school, as defined in Ed 1402.01(n).

(b) If the proposed program is not directly related to a licensed content area, the administrator shall determine the closely related content area license.

(c) The department shall review the application submitted for state board approval within 30 business days of receiving the application to verify completeness and:

- (1) If the application is incomplete, shall notify the applicant by email of the requirements for completion; and
- (2) If the application is complete, shall notify the applicant by email that the application is received and complete.

(d) The department shall provide support to the applicant during the application process, which may include but not be limited to:

- (1) Providing example applications for guidance;
- (2) Meeting either in person or remotely to review and discuss the application; and
- (3) Offering feedback to ensure completeness of the application.

(e) The learn everywhere program evaluation team shall review the completed application for submission to the board using the following criteria:

- (1) The purpose or mission statement expresses a clear and focused purpose for the program that supports student learning;

- (2) The description of the facilities includes sufficient detail to indicate that priorities will focus on a facility that is appropriate for the activities and students to be served, and that facilities need not comply with any state or federal law specifically applicable to a school that the facility does not otherwise have to satisfy;
 - (3) The program outline being proposed aligns with the selected Ed 306.27(v) subject;
 - (4) The educational goals, competencies, and methods for assessment that will be used to measure student progress toward meeting program goals and competencies;
 - (5) An adequate description is provided for staff member qualifications;
 - (6) Verification of a criminal background check policy pursuant to Ed 1403.01(a)(4) and an assurance that it will be disclosed to parents in writing upon enrollment; and
 - (7) The program description includes how coordination with LEAs will take place to address student needs and to ensure that the program meets the requirements of Ed 1403.01(e)(2)b. and c.
- (e) Within 30 days of the notification of a completed application, the department shall notify the applicant in writing of the date and time of the meeting where the application will be discussed and voted on by the state board.
- (f) The administrator shall submit the evaluation report to the commissioner, who shall submit such report and a recommendation to the state board along with the application materials for review.

Ed 1403.03 State Board Approval.

- (a) The review of applications shall be an item on the agenda of a regularly scheduled state board meeting, not to exceed 60 days after receipt of a completed application.
- (b) The state board shall approve, conditionally approve, or deny the application and notify the applicant in writing of its decision.
- (c) The state board shall approve the application, after reviewing the application and the department's evaluation under Ed 1403.02, if it determines the application is in compliance with Ed 1403.01.
- (d) If the application is not in compliance with the standards set forth in Ed 1403.01, the application shall be conditionally approved if the state board determines that the remaining issues can be addressed in a time frame not to exceed 90 days, otherwise the application shall be denied.
- (e) If the state board conditionally approves an application, the state board shall include in the notification:
- (1) A written explanation of the reasons for conditional approval;
 - (2) The conditions the applicant shall meet for final approval;
 - (3) Whether students are awarded completion certificates during the conditional approval period;
 - (4) The deadline for submission of the conditional approval response; and
 - (5) The consequence for failure to comply with the conditional approval requirements.
- (f) If the state board denies an application, the state board shall include in the notification:
- (1) A written explanation of the reasons for the denial;

- (2) The areas deemed deficient by the state board; and
- (3) An explanation that the applicant may reapply for approval at any time.

(g) When the state board receives a timely response to a conditional approval from an applicant, the state board shall review the response at the next regularly scheduled state board meeting for discussion and vote and shall notify the applicant in writing of either a final approval or a denial of the application.

(h) The applicant may appeal a denial or conditional approval by the state board in accordance with Ed 213.

Ed 1403.04 Renewal of an Alternative Program for High School Graduation Credit.

(a) Ninety days prior to the expiration of a program approval, pursuant to Ed 1403.03(c), an applicant seeking renewal of a learn everywhere program approval shall submit the following to the department:

- (1) A statement signed by the sponsor entity stating that there have been no changes to any of the programs or documentation required, as outlined in Ed 1403.01, since the previous application period; or
- (2) A statement signed by the sponsor entity stating there have been changes to one or more approved programs, a list of the changes, and supporting documentation as outlined in Ed 1403.01.

(b) Upon receipt of a request for renewal and a statement provided in accordance with (a)(1) above, the administrator shall provide the application and related documentation to the commissioner for a recommendation to the state board, in accordance with Ed 1403.03.

(c) Upon receipt of a renewal application and a statement provided in accordance with (a)(2) above, the department shall follow the review procedures as outlined in Ed 1403.02.

(d) The state board shall consider renewal applications following the procedures outlined in Ed 1403.03.

(e) The state board shall not issue a renewal of a 3-year approval without reviewing all student program evaluations received pursuant to Ed 1407.01 and any written monitoring reports prepared pursuant to Ed 1408.01.

Ed 1403.05 Changes to Application Information. Any changes to any of the information enumerated in Ed 1403.01 during either the 3-year approval period or any subsequent 5-year renewal periods shall be submitted in writing to the department for review and submitted to the state board following the procedures enumerated in Ed 1403.03.

PART Ed 1404 PROGRAM APPROVAL, REVOCATION, AND WITHDRAWAL

Ed 1404.01 State Board Approval.

(a) If the state board approves an initial application or a conditional approval of an initial application for a learn everywhere program, the state board shall issue a 3-year approval, which can be renewed following the procedures outlined in Ed 1403.04.

(b) If the state board approves a renewal application, the state board shall issue a 5-year approval, which may be renewed every 5 years following the procedures outlined in Ed 1403.04.

(c) If the state board conditionally approves a renewal application for a learn everywhere program, the applicant shall have no more than 180 days to satisfy the conditions of the conditional approval. The renewal

applicant shall provide a response to the state board before the deadline demonstrating satisfaction of the conditions for approval.

(d) When the state board receives the conditional approval response from the renewal applicant, the state board shall review the response at the next regularly scheduled state board meeting for discussion and vote and shall notify the applicant in writing of either a 5-year program approval or the denial of the renewal application.

(e) If the renewal applicant fails to provide a response to the state board before the deadline demonstrating satisfaction of the conditions for approval, the conditional approval shall expire and the program shall terminate. The program shall not be authorized to issue completion certificates after the termination of the program approval.

(f) A list of approved learn everywhere programs and their approval status shall be maintained on the department's website.

PART Ed 1405 REPORTING REQUIREMENTS

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Ed 1405.01 Alternative Program for High School Graduation Credit Reporting Requirements. Each approved program shall annually, in October, submit to the state board a report including, at a minimum, the following:

- (a) A brief statement explaining how the program is meeting the goals of its mission statement; and
- (b) The number of students enrolled in the program and the number of students awarded certificates leading to high school credits for the previous school year.

PART Ed 1406 STUDENT ENROLLMENT REQUIREMENTS

Ed 1406.01 Responsibility of the LEA.

(a) If a child with an IEP notifies the school of his or her intent to participate in a learn everywhere program, the LEA shall:

- (1) Follow the procedures enumerated in Ed 1109.03(h) and 34 CFR 300.324 to schedule an IEP team meeting; and
- (2) If requested by the child's parent or member of the IEP team, invite a representative from the learn everywhere program to attend the IEP team meeting.

(b) If the IEP team decides to redraft, revise, amend, or modify the IEP, the IEP team shall:

- (1) Determine what, if any, special education, related services, supplementary aids and services, accommodations, and modifications the student needs to participate in the program; and
- (2) Be responsible for providing the student with the special education, related services, supplementary aids and services, accommodations, and modifications the IEP team has determined the student needs pursuant to (1) above.

(c) The IEP team ~~may~~ shall decide not to redraft, revise, amend, or modify the IEP for reasons including, but not limited to:

- (1) The program would not assist the student in making progress towards one or more of the student's annual goals or appropriate measurable post-secondary goals in the student's IEP, regardless of whether the program will result in the student earning a high school credit;

(2) The program is not necessary for the student to receive a free appropriate public education (FAPE); or

(3) The program is not safe for the student, even if the student were provided with special education, related services, accommodations, and other supports and services.

(d) If a student's parent disagrees with the determination of the IEP team regarding the student's placement in a learn everywhere program, the parent may follow the procedures outlined in Ed 1121 through Ed 1123 regarding complaints, alternative resolutions, and due process hearings.

PART Ed 1407 PROGRAM COMPLETION CERTIFICATES AND ISSUING CREDIT

Ed 1407.01 Program Completion Certificates.

(a) Within 30 days of a student's successful completion of a program and submission of a learn everywhere program evaluation, a completion certificate shall be issued to the student.

(b) Certificates shall be signed by the person designated in Ed 1403.01(b)(2) and the instructor(s) of the program.

(c) Certificates shall contain course identification and credit information, including, but not limited to:

(1) Course title;

(2) Course minimum standard alignment as indicated in Ed 1403.01(e)(1)a.;

(3) Number of credits awarded; and

(4) Either:

a. "Mastery" to indicate completion of the program having met or substantially met all state competencies which results in a granting of credit; or

b. "Participate" to indicate the program was completed without having met or substantially met all state competencies.

(d) An IEP team may conclude that participation shows growth toward one or more of a student's annual or appropriate measurable post-secondary goals.

Ed 1407.02 Issuing Credit for Graduation.

(a) Notwithstanding Ed 306, schools shall accept at least 1/3, and may accept as much as 100 percent if approved by the superintendent, of the total number of credits required for high school graduation, if requested by a student pursuant to (c) below.

(b) Schools shall grant students with valid completion certificates from approved learn everywhere programs high school credit, leading to graduation in the area enumerated on the certificate. Credits earned from learn everywhere programs shall appear on high school transcripts but shall not negatively affect the student's grade point average.

(c) The student shall submit the completion certificate to the high school where they wish to be granted credit, or they shall not receive credit.

(d) Students applying more than the required credit leading to graduation may petition the school to allow that credit to count toward another required subject enumerated in Ed 306.27(v). If that petition is denied,

the credit shall be applied to the designated credit area and the student will have accumulated excess credits in that credit area.

PART Ed 1408 DEPARTMENT MONITORING OF APPROVED LEARN EVERYWHERE PROGRAMS

Ed 1408.01 Monitoring.

(a) To determine if all standards are met as specified in the application and approval and as specified in Ed 1403.01, each approved learn everywhere program shall be reviewed and have an on-site monitoring visit conducted by the administrator as follows:

- (1) One on-site visit during the 3-year provisional approval; and
- (2) At the discretion of the department any time during any approval period.

(b) The administrator shall issue a written report of findings related to the learn everywhere program's compliance with these rules to the commissioner.

(c) The commissioner shall submit the report of findings to the state board no later than 30 days after receiving the report.

(d) If the state board determines from the report that an approved program is not being implemented as approved, the department shall initiate an investigation as outlined in Ed 1409.

PART Ed 1409 COMPLAINTS, REVOCATION, AND WITHDRAWAL

Ed 1409.01 Complaints and Investigations.

(a) Complaints shall be submitted in writing to the department identifying one or more of, but not limited to, the following circumstances which the complainant alleges:

- (1) The sponsor organization committed a material violation of any of the conditions, standards, or procedures set forth in its application;
- (2) The sponsor organization failed to disclose or violated its disclosed criminal history records check policy;
- (3) The sponsor organization made a material misrepresentation in its application;
- (4) The sponsor organization became insolvent; or
- (5) The sponsor organization violates a law and the violation undermines the purpose of the program.

(b) All complaints shall be investigated, and, upon receipt of the complaint, the department shall notify the sponsor organization within 15 days of receipt of the complaint that an investigation has been opened.

(c) After completion of an investigation, the department shall present its findings to the state board at the next regularly scheduled state board meeting.

(d) If the board determines that the sponsor organization has not met one or more of the circumstances enumerated in (a) above, the sponsor organization shall be notified in writing within 10 days of the board's finding.

Ed 1409.02 Suspension, Revocation, and Withdrawal.

(a) The department shall immediately suspend a program’s approval if the department finds that public health, safety, or welfare requires emergency action and incorporates a finding to that effect.

(b) The state board shall revoke a program’s approval prior to the expiration of its term if the state board finds any of the circumstances outlined in Ed 1409.01(a) and notify the sponsor organization in writing within 10 days of the state board’s determination.

(c) A sponsor organization may appeal the board’s decision pursuant to Ed 213.

Appendix I

Rule	Statute
Ed 1401-1402	RSA 193-E:2-a, V(b)
Ed 1403.01	RSA 193-E:2-a, V(b)
Ed 1403.02-Ed 1403.04	RSA 193-E:2-a, V(b); RSA 541-A:29
Ed 1404-Ed 1405	RSA 193-E:2-a, V(b)
Ed 1406	RSA 186-C:7; RSA 193-E:2-a, V(b)
Ed 1407.01	RSA 186-C:7; RSA 193-E:2-a, V(b)
Ed 1407.02	RSA 193-E:2-a, V(b)
Ed 1408	RSA 193-E:2-a, V(b)
Ed 1409	RSA 193-E:2-a, V(b); RSA 541-A:29; RSA 51-A:30-a, I