

**New Hampshire State Board of Education**  
White Mountain Regional High School  
Media Center  
127 Regional Road  
Whitefield, NH 03598

**Thursday, October 4, 2018**



## **AGENDA**

*ALL TIMES ARE APPROXIMATE*

- I. **CALL TO ORDER - 9:30 AM**
- II. **PLEDGE OF ALLEGIANCE, STUDENT LED TOUR & PRESENTATIONS - 9:35-10:35 AM**
- III. **PUBLIC COMMENT** (*LIMITED TO 5 MINUTES, BOARD WILL ASK CLARIFYING QUESTIONS ONLY, OTHERWISE NO FEEDBACK PROVIDED*)
- IV. **CONSENT AGENDA**
  - A. Meeting Minutes of September 13, 2018
- V. **SPECIAL PRESENTATIONS**
- VI. **LEGISLATIVE ISSUES/RULES**
  - A. **10:45 AM** - Update on Preliminary Objection – Certification Standards for Educators on Code of Conduct, Investigations, and Disciplinary Proceeding and Denial of Certification (Ed 501.01; Ed 501.02; Ed 502.01; Ed 510; Ed 511 and Ed 512)
- VII. **REPORTS, NEW BUSINESS and/or DEPARTMENT UPDATE**
  - A. **11:15 AM** - Council for Teacher Education's recommendation to extend approval of New England College's Professional Educator Preparation Programs - *MICHAEL SIEDEL, Director, Division of Educator Support & Higher Education*
  - B. **11:45 AM** - Update on Approval of Plymouth State University's Professional Educator Preparation Programs – *RICHARD SALA, Attorney, NHDOE*
  - C. **12:15 PM** – Charter School Update – *KATE CASSADY*
- VIII. **BOARD LUNCH – 12:30 PM** - *Created and served by the students of the WMRHS Spartan Culinary & Hospitality Program*
- IX. **OPEN BOARD DISCUSSIONS**
- X. **OLD BUSINESS**
- XI. **TABLED ITEMS**
  - A. Heartwood Public Charter School Charter Application
- XII. **NONPUBLIC SESSION**
- XIII. **ADJOURNMENT – 2:00 PM**

New Hampshire  
**State Board of Education**  
Department of Education  
Londergan Hall, Room 100F  
101 Pleasant Street  
Concord, NH 03301

Minutes of the Thursday, September 13, 2018 Meeting

**AGENDA ITEM I. CALL TO ORDER**

The regular meeting of the State Board of Education was convened at 9:50 a.m. at the State Department of Education, Londergan Hall, Room 100F, 101 Pleasant Street, Concord, NH. Drew Cline presided as Chairman.

Members present: Kate Cassady, Cindy C. Chagnon, Drew Cline, Sally Griffin, Helen G. Honorow, and Ann Lane. Frank Edelblut, Commissioner of Education, and Christine Brennan, Deputy Commissioner of Education, were also present. Phil Nazzaro was unable to attend due to another commitment.

**AGENDA ITEM II. PLEDGE OF ALLEGIANCE**

Cindy Chagnon led the pledge of allegiance.

**AGENDA ITEM III. PUBLIC COMMENT**

Ann Marie Banfield, Cornerstone NH, asked the Board if an independent study could be conducted on the effectiveness of competency-based education in New Hampshire schools. She noted that studies done in Maine showed evidence that success was lacking and lower academic performance. She provided handouts to the Board regarding these studies. Ms. Banfield also raised concerns regarding socio-emotional learning being conducted in New Hampshire schools. Some New Hampshire teachers had reached out to her voicing their concern of being asked to make student mental health assessments with little training and being uncomfortable because the assessments are so subjective and felt the assessments should only be done by mental health professionals. There is also concern that informed consent is not being obtained from parents prior to the assessments being given to students.

Moira Ryan, a parent and registered nurse, echoed Ms. Banfield's concerns regarding socio-emotional learning. She spoke to the Board about her own personal experiences and read off a list of statistics regarding special education. She will email Ms. Adams the statistical information to share with the Board. Ms. Ryan agreed that student health assessments need to be conducted by medical doctors and health professionals, not educators, and asked that this process be reviewed.

#### **AGENDA ITEM IV. CONSENT AGENDA**

A. Minutes of November 3, 2016

MOTION: Ann Lane made the following motion, seconded by Sally Griffin with Cindy Chagnon and Kate Cassady abstaining, to approve the Minutes of August 8, 2018 as presented.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman voting.

B. Commissioner's Non-Public School Approval Designation Report - Cedarcrest

MOTION: Cindy Chagnon made the following motion, seconded by Ann Lane to accept and approve the Commissioner's Non-Public School Approval Designation Report for Cedarcrest.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

**AGENDA ITEM V. SPECIAL PRESENTATIONS**

A. Student/Grantham School Board - SB-FY-18-12-015 – Request for rehearing/reconsideration.

MOTION: Cindy Chagnon made the following motion seconded by Ann Lane, to deny the request for rehearing/reconsideration.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

B. Student/Merrimack School Board - SB-FY-18-04-008 – Request for rehearing/reconsideration.

MOTION: Ann Lane made the following motion, seconded by Cindy Chagnon, to deny the request for rehearing/reconsideration.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

C. Student/Grantham School Board - SB-FY-18-01-010 – Withdrawal

MOTION: Ann Lane made the following motion, seconded by Cindy Chagnon, to accept the Hearing Officer's Report and adopt the Hearing Officer's recommendation thereby closing the matter.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

D. Student/Conway School Board - SB-FY-18-04-017.

Cherise Sullivan, the mother of the student, chose to have the hearing heard in public and was sworn in by Chairman Cline. No attorney was present.

Ms. Sullivan provided the Board with a history of her case. She is requesting that the Board look into the nursing practices at her daughter's high school after an administrator acted against policy. She stated that she made numerous attempts to be heard by the administration and school board and received different recommendations from different sources which created confusion regarding the correct process. Ms. Sullivan noted that the school board attorney also dismissed her request to be heard and asked the Board to look into this as well. She noted that parents have very little guidance to help them through these situations.

Attorney Erin Feltes, representing the Conway school board and Superintendent Kevin Richard were present. Attorney Feltes noted that a formal Office of Civil Rights (OCR) investigation was conducted and concluded that there was no negative impact to the student's 504 Plan before it was changed. Also, Ms. Sullivan's motion to appear before the school board was dismissed

because they felt the parents' complaint was an issue with school staff and the superintendent, and the school board does not have authority to hear personnel complaints. She is requesting that the Board accept the Hearing Officer's recommendation and grant the Conway School District's motion to dismiss.

MOTION: Helen Honorow made the following motion, seconded by Cindy Chagnon, to accept the Hearing Officer's report and adopt the Hearing Office's recommendation thereby dismissing this matter and under the State Board's authority to consider complaints regarding the operation of school districts under its general supervisory authority set forth in RSA 186:5, refers Ms. Sullivan's complaint to the Department for further review and investigation.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

It was noted that the State Board is looking to make this process easier for parents.

#### E. Professional Standards Board Annual Report

Anne Wallace, Vice Chair, Professional Standards Board (PSB) presented the report. The PSB began last year with three vacancies and four new members. Two new members were nominated and accepted in November; however, the category III, qualified lay person seat remains vacant. She noted that 30% of the members were new and that nine meetings were held in 2017-2018.

In the area of educator credential standards, the PSB had 5 active subcommittees, some of which are still active, throughout the calendar year and each reported progress at the monthly PSB meetings. The subcommittees were:

1. Mathematics teacher, mathematics teacher middle level, and mathematics teacher upper level, chaired by herself and adopted by the State Board on August 8, 2018.
2. Digital learning specialist chaired by Kimberly Yarlott, Principal at Reeds Ferry School in Merrimack and is before the State Board today as a final proposal.
3. General special education teacher, early childhood special education teacher, and all special education categorical endorsements co-chaired by Cynthia Lucero, Professor of Education & Coordinator of Field Experience at New Hampshire Technology Institute (NHTI) and Joann Misra, Special Education educator in Windham. This is an active

committee that is planning full-day retreats for each separate rule and will tackle them one at a time until completed.

4. Comprehensive technology education teacher chaired by Kurt Beitler, Superintendent at SAU 73. This is an active committee that includes new member, Jack Grube, former Director of the Career and Technical Education Center at Pinkerton Academy. This committee is just starting the revision work to the rule.
5. Qualifying methods for obtaining teaching credentials chaired by Page Thompkins, Executive Director, Upper Valley Educators Institute in Lebanon. This is an active committee that recommends using a two track process to the rule revisions. 1) The Department would identify and bring to the subcommittee suggest changes and areas of priority (i.e., rule changes and proposed policy changes) and to the full PSB by the January 2019 meeting. 2) The subcommittee will continue to work on recommendations to the Board and the Department on a process for reconsidering the broader qualifying methods, which would go before the PSB at the same time as the rule changes.

One of the first steps is to define who will be credentialed and what options there are for credentialing and to describe learning-to-teach experiences, especially on the job; what constitutes good teacher readiness; and develop learner-responsive teachers (as defined by Network for Transforming Educator Preparation) through multiple

pathways. Most schools in the state try to have a mentoring program for learning procedures, etc. It may be possible to condense the five pathways into fewer, but in doing so, need to ensure teachers continue to get the necessary experiences.

The PSB will continue to create or update educator credential standards that reflect educator excellence and high performance.

### **AGENDA ITEM VII. LEGISLATIVE ISSUES/RULES**

A. Final Proposal - Non-Public School Approval (Ed 403.03; Ed 405.01; Ed 407.01)

MOTION: Cindy Chagnon made the following motion, seconded by Ann Lane, to approve the final proposal for Ed 403.03, 405.01, and 407.01 Non-Public School rules.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

Minor changes were made in response to legislative changes and to the practices of the Department.

B. Final Proposal - Digital Learning Specialist (Ed 507.22 and Ed 612.19)

MOTION: Cindy Chagnon made the following motion, seconded by Ann Lane, to approve the final proposal for Ed 507.22 and Ed 612.19 Digital Learning Specialist.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

C. Preliminary Objection - Certification Standards for Educators on Code of Conduct Investigations, and Disciplinary Proceedings and Denial of Certification (Ed 501.01; Ed 501.02; Ed 502.01; Ed 510; Ed 511 and Ed 512)

Amanda Phelps, NHDOE, Administrative Rules Coordinator, explained that by accepting the preliminary objection it allows the Board more time to be thoughtful about changes. She will request a waiver extending the response deadline giving the Board more time for review.

Ms. Phelps noted that because the Code of Ethics cannot be incorporated into rules, an option would be to have an outside agency take ownership of the Code of Ethics document to allow it to be incorporated by reference. The Board decided they prefer to keep ownership.

Changes to specific conduct expectations of teachers and educators, credentialing issues, and clarification of language used in the code of ethics document were also reviewed page by page. The Board will vote on the changes at their October meeting.

MOTION: Ann Lane made the following motion, seconded by Kate Cassady, authorizing Ms. Phelps to request a waiver to extend the 45-day response deadline to the Joint Legislative Committee on Administrative Rules.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

#### **AGENDA ITEM VII. OPEN BOARD DISCUSSIONS**

A. Discussion of Educational Interpreter/Transliterators for Children and Youth ages 3 to 21 (Ed 507.35 and Ed 612.36)

Mary Steady, Manchester School District's Director of Student Services, read a letter from Superintendent Vargas which expressed concern about proposed changes to credentialing requirements for sign language interpreters to include a Bachelor's degree, and noted the requirement will make it more difficult for the school district to recruit and hire sign language interpreters. The school

district is concerned the change would exacerbate the national interpreter shortage and create gaps in services.

Chairman Cline explained the difficulty in gathering information on this matter from the field and opened the discussion to the public.

Laurie Shaffer, Interim Director of ASL/English Interpreting program at the University of New Hampshire - Manchester, spoke in support of requiring a Bachelor's degree to credential interpreters. She explained that the Educator Interpreter Proficiency Assessment (EIPA) is the assessment tool used for educational interpreters that examines a number of linguistic capacities that are needed to interpret properly. EIPA currently requires kindergarten through twelfth grade (K-12) interpreters to have a minimum score of 3.5, and noted that without an educational background with a Bachelor's degree as a foundation, achieving the minimum score would be difficult. A score less than the minimum would indicate a lack of reading and language skills. A lengthy discussion ensued regarding interpreter experience, education, and EIPA score requirements; and how they relate to student learning outcomes. Ms. Shaffer will provide research on interpreter K-12 requirements to the Board.

Susan Wolf-Downes from Northeast Deaf and Hard of Hearing Services spoke to the Board in support of requiring a Bachelor's degree and noted that she has a master's degree and that an interpreter with a 2-year degree would not

have been able to keep up with her while she was pursuing her degree. She has seen first-hand interpreters with only an Associate's degree having a hard time passing the EIPA with a 3.5 or above. She thanked the Board for taking the time and listening to more feedback and gathering more information on this matter.

Laura Gilbert from the Nashua school district spoke to the Board in support of requiring a Bachelor's degree. The Nashua school district currently employs seven of the seventeen certified interpreters in New Hampshire and that three are currently on alt plans. The alt plan requires candidates to have passed state screening with minimum of an Associate's Degree and have three years to score 3.5 or above on the EIPA (*which was lowered to 3.4 this year*).

It was asked why it was so difficult to find interpreters who have obtained a 3.5 or above on the EIP. Ms. Gilbert explained that it is another language and noted how unlikely it would be to find someone that has mastered a foreign language, such as French, after two years of study to then be qualified to teach French. She explained that she has honor students that she cannot pair with interpreters with only two years of sign language. She has to be thoughtful and selective when placing interpreters with students. Nashua is fully staffed with interpreters and it was noted that the primary factor is Nashua's salary is double that of Manchester's. Ms. Gilbert's concern is for the students state-wide, especially those in remote areas, and that state regulations should be looked at with them in mind and not through the lens of only Manchester and Nashua.

It was asked if technology has developed a virtual reality interpreter. Ms. Gilbert responded that remote video interpreting is available, but it is not very effective because interpreting is a three dimensional language and video is a two dimensional platform.

Chairman Cline noted that this was a helpful and productive discussion. He noted that more information needs to be gathered and it is important to take the time to make sure the Board gets it right.

Ms. Gilbert offered to resend the national studying information she provided to the Board in July and will email the report to Ms. Adams.

B. Review Draft Agenda for Wednesday, September 26, 2018, Retreat

The retreat will be open to the public and is scheduled from 8 a.m. to 4 p.m. Issues to be focused on will be: clarifying the role of hearing officers and the hearing process, such as when parents go to a hearing versus going to complaints, and what the hearing officers do; a holistic look at teacher and educator rules to see how to make them more consistent, clear, and more user friendly, and the role of the Board in relation to the Department and Commissioner. Credentialing requirements and charter schools were also

discussed as possible topics. The chairman is finalizing the agenda and will distribute to the Board once it is finalized.

**AGENDA ITEM VIII. REPORTS, NEW BUSINESS and/or DEPARTMENT UPDATE**

A. Nominations for Professional Standards Board

MOTION: Ann Lane made the following motion, seconded by Sally Griffin to reappoint Joanne Goelzer and David Webster to Category I – Teachers and Education Specialist and appoint Beth McClure to the Category II – Higher Education and Education Administration vacancy.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

An invitation will be extended to Marion Anastasia, Superintendent at SAU 36 to consider applying next year when there will be a superintendent opening on the PSB.

**AGENDA ITEM IX. OLD BUSINESS**

It was asked that an update be provided to the Board regarding the status of Plymouth State University's Professional Educator Preparation programs.

**AGENDA ITEM X. TABLED ITEMS**

A. Final Proposal - Non-Public School Approval (Ed403.03; Ed 405.01; Ed 407.01)

MOTION: Cindy Chagnon made the following motion, seconded by Ann Lane to remove item from the table.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

B. Nominations for Professional Standards Board

MOTION: Ann Lane made the following motion, seconded by Helen Honorow to remove item from the table.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

**AGENDA ITEM XI. ADJOURNMENT**

MOTION: Sally Griffin made the motion, seconded by Ann Lane, to adjourn the meeting at 2:20 p.m.

VOTE: The motion was approved by unanimous vote of the Board with the Chairman abstaining.

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Secretary

DRAFT



## OFFICE OF LEGISLATIVE SERVICES

STATE HOUSE  
107 NORTH MAIN STREET, ROOM 109  
CONCORD, NEW HAMPSHIRE 03301-4951

September 19, 2018

N. H. Board of Education  
c/o Department of Education  
101 Pleasant Street  
Concord, NH 03301

**Re: Waiver of 45-Day Deadline for Filing Objection Response 2018-35**

Dear Board Members:

In a letter dated September 18, 2018, Amanda Phelps, Administrative Rules Coordinator for the Department of Education, requested, on behalf of the N. H. Board of Education (Board), a waiver pursuant to RSA 541-A:40, IV of the 45-day deadline for filing the Board's response to the preliminary objection of the Joint Legislative Committee on Administrative Rules (JLCAR) to Final Proposal 2018-35. This Final Proposal contained Ed 501.01, Ed 501.02, Ed 502.01, and Ed 510-512 relative to certification standards for educators on a code of conduct, investigations and disciplinary proceedings, and denial of certification. Since the preliminary objection had been made on August 16, 2018, the deadline to file a response pursuant to RSA 541-A:13, V(c) and RSA 541-A:16, IV is October 1, 2018.

As provided by RSA 541-A:40, IV, as the Director of the Office of Legislative Services (OLS) I have the authority to waive, for good cause shown, any deadline contained in RSA 541-A after consultation with the Chair and Vice-Chair of the JLCAR. In her letter Ms. Phelps indicated that the Board met on September 13, 2018 to discuss the bases for objection, but that the amended text would not be ready for a vote by the Board until its next meeting on October 4. The request letter states that the Board will be prepared to file the Objection Response on Friday, October 5, 2018. However, absent a waiver, the Board's rulemaking proceeding would be deemed terminated after October 1 pursuant to RSA 541-A:13, V(c), and the Board would have to begin rulemaking again.

I have consulted with the JLCAR Chair and Vice-Chair. Under the circumstances, and in light of Ms. Phelps's letter, I agree that good cause exists for waiving the 45-day filing deadline. I hereby grant the waiver, with a new deadline of Monday, October 8, 2018. If filed by that date, the Objection Response could be an item on the agenda for the JLCAR at its regular meeting on October 18, 2018.

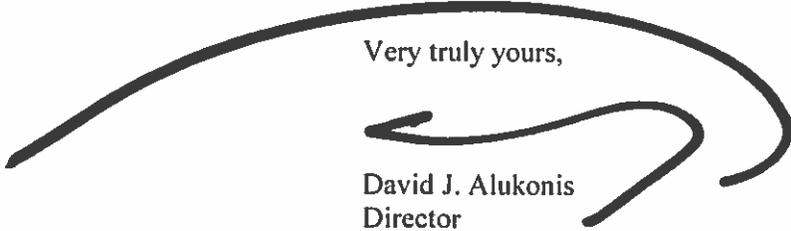
The Committee may then take further action ranging from approval of the objection response to voting to support the sponsorship of a joint resolution to address the issues remaining with the proposal. Pursuant to RSA 541-A:13, VII(b), the Committee will have up to 50 days after the end of your response period to take action concerning a joint resolution, although the Committee can take action prior to that date. With the new response deadline being October 8, 2018, the 50<sup>th</sup> day is November 27, 2018. Please note that there is no deadline by which the Committee must act to approve the rules or to

enter final objections, and the Committee may do so even after the adoption of the rules by the Department.

Please be advised that, pursuant to RSA 541-A:14, I, you may not adopt the rules until one of the following has occurred: 1) the expiration of the objection response review period without the Committee having taken action with respect to voting to support the sponsorship of a joint resolution; or 2) the Committee has taken action that is specifically in lieu of voting to support the sponsorship of a joint resolution.

If you have any questions in this regard, please contact legal staff in Administrative Rules at 271-3680.

Very truly yours,



David J. Alukonis  
Director

DJA/SFE

cc: Scott F. Eaton, Administrative Rules Director  
Amanda Phelps, Administrative Rules Coordinator, Dept. of Education

Readopt with amendment Ed 501.01, effective 3-27-14 (Doc #10558), to read as follows:

Ed 501.01 Purpose. The rules of this part implement the statutory responsibilities of the New Hampshire board of education to:

- (a) Develop and administer credential standards for educational personnel;
- (b) Develop continuing professional education requirements and prerequisites for the renewal or reinstatement of credential holders;
- (c) Develop and administer a code of ~~ethics~~ **conduct** for all credential holders and to inform members of the public of the ~~code of ethics and~~ code of conduct applicable to credential holders;
- (d) ~~Define~~ **Specify** unprofessional conduct which justifies disciplinary sanctions against credential holders; and
- (e) Provide oversight of adjudicatory proceedings required for discipline of credential holders while providing such with fair hearing practices and rights of appeal.

Readopt with amendment Ed 501.02, effective 3-27-14 (Doc #10558), to read as follows:

Ed 501.02 Definitions. Except where the context makes another meaning manifest, the following words **shall** have the meanings indicated when used in this chapter:

- (a) "Administrator" means the administrator of the bureau of credentialing;
- (b) "Authorization" means a document issued by the department giving permission for a person to serve in the role of a licensed educator prior to completing the licensure endorsement requirements for that role, or for a temporary period of time established by the document;
- (c) "Board" means the state board of education created by RSA 21-N:10;
- (d) "Bureau" means the bureau of credentialing, division of program support, department of education;
- (e) "Certificate" means the document issued when a credential holder meets full licensure requirements;
- (f) "Commissioner" means the commissioner, department of education;
- (g) "Credential" means any authorization or license issued by the bureau including, but not limited to, beginning educator license (BEL), experienced educator license (EEL), in process of licensure authorization (IPLA), **intern authorization (IA)**, emergency authorization, statement of eligibility (SOE), paraeducator I & II, school nurse, and master teacher license (MTL);
- (h) "Credential holder" means any individual who holds a credential, as defined in Ed 501.02(g);
- (i) "Denial" means the refusal to grant credential to an applicant;

- (j) "Department" means the New Hampshire department of education;
- (k) "Director" means the director, division of ~~program support~~;
- (l) "Division" means the division of program support;
- (m) "Educator" means any individual employed in a classroom instruction role for which the ~~DOE~~ **department** issues a credential, ~~whether they hold the credential or not~~;
- (n) "Emergency authorization" means the authorization issued by the bureau to a school district or school administrative unit to employ a non-credentialed educator to fill a vacancy as ~~outlined~~ **specified** in Ed 504.04;
- (o) "Endorsement" means the specific subject area for which the credential is issued;
- (p) "Intern authorization" means the authorization granted to applicants pursuant to Ed 505.04, and Ed 505.05 to perform educational services while the plans are being implemented;
- (q) "License" means the document issued when a credential holder meets full licensure requirements;
- (r) "Licensure" means the official recognition by the board that an individual has met minimum requirements and is approved to practice in their endorsement area(s);
- (s) "Mentor" means a person who:
  - (1) Is appointed to provide assistance to an applicant for certification pursuant to Ed 505.04 or Ed 505.05; and
  - (2) Meets at least one of the following qualifications:
    - a. Is a credential holder with 3 years of experience as an educator in the area of endorsement; or
    - b. Has experience equivalent to the experience requirement under a. above such as, but not limited to, involvement in a collegiate teacher preparation program;
- (t) "Professional conduct" means a set of established professional norms and behaviors **as defined in Ed 510.01 through Ed 510.04** which extend beyond the workplace;
- (u) "Reprimand" **means** is a note to file of a credential holder ~~as defined in Ed 501.02(h)~~, for his or her conduct, which does not rise to the level of a suspension or revocation of a credential, which ~~may~~ **can** be used in the event of a subsequent investigation;
- (v) "Revocation" means the department has permanently rescinded a credential from credential holder;

(w) “Statement of eligibility” means a ~~credential~~ **verification** issued by the department of education that indicates that an individual has successfully met the entry requirements of ***an intern authorization for:***

(1) ~~Alternative~~ **Pathway 4** certification ***as specified in Ed 505.04;*** or

(2) ~~Alternative~~ **Pathway 5** certification ***as specified in Ed 505.05;***

(x) “Suspension” means the department has rescinded a credential from credential holder for a specified period of time; ***and***

(y) “Student” means an individual who is enrolled or participating in any class or program from preschool through grade-12, or any “adult student” as specified in Ed 1102.01(f)(1), at any school or education institution except as otherwise noted in these rules.

Readopt with amendment Ed 502.01, effective 3-27-14 (Doc. #10558), to read as follows:

#### PART Ed 502 PUBLIC INFORMATION

##### Ed 502.01 Confidentiality of Credential Holder Certification Records.

(a) Pursuant to RSA 91-A:5, V, the following limited credential status information shall be available to the general public, upon written or verbal request:

(1) The name of the credential holder;

(2) The individual's current credential status, including type of credential, expiration date of credential, and all endorsements;

(3) The individual's suspension, if applicable, including effective dates of each suspension period, reason for the suspension, and revocation, if applicable; and

(4) The school, if known or stated, where the credential holder is currently employed.

(b) The provisions of this section shall not require the release of information related to:

(1) Informal or formal investigations; or

(2) Board or hearing officer records from adjudicatory proceedings involving the credential holder when such adjudicatory proceeding is not open to the public in accordance with Ed 200.

(c) The complete record of a credential holder shall be released by the division upon written request to the following:

(1) A party in an adjudicatory proceeding when:

a. The credential holder is a party to the proceeding; and

- b. The credential holder’s credential record is relevant to the proceeding;
  - (2) A law enforcement agency when the agency is conducting a criminal investigation of the credential holder;
  - (3) A certifying agency of another jurisdiction for:
    - a. Purposes of credentialing the credential holder in the other jurisdiction; or
    - b. An investigation of the credential holder by the other jurisdiction, when:
      - 1. The credential holder was the subject of a formal investigation under Ed 511; or
      - 2. Disciplinary action was taken against the credential holder by the board under Ed 511;
  - (4) Board investigators or prosecutors; or
  - (5) Persons to whom the credential holder has given a release.
- (d) The bureau shall report:
- (1) Any suspension or revocation to the credential holder’s current superintendent of school in N.H. and The National Association of State Directors of Teacher Education and Certification (NASDTEC) educator identification clearing house; and
  - (2) Any reprimand to the credential holder’s current superintendent of school in N.H.;
- (e) The department shall maintain a list of all credential holders whose credentials ~~has~~ **have** been revoked or who are under suspension, and such list shall be published on the department’s website.

Readopt with amendment Ed 504.04, effective 1-17-14 (Doc. #10506), to read as follows:

Ed 504.04 ~~Permission to Employ~~**Emergency Authorization.**

(a) The superintendent of schools shall request ~~permission to employ~~ **emergency authorization** from the bureau, and the ~~permission to employ~~ **emergency authorization** shall be granted provided that the requirements of paragraphs (b) through (e) are met. The applicant for the teaching position shall provide the information and documentation required in (c) and (e) below.

(b) The bureau shall issue ~~an permission to employ~~ **emergency authorization** applied for under (a) above if an emergency situation exists as determined by the local school district and the applicant for the teaching position has:

- (1) Paid the applicable application fee, provided in Ed 508.06(c); and
- (2) Filed with the bureau the information and documentation required in (c) and (e).

(c) An applicant for a teaching position for whom a superintendent is requesting ~~permission to employ~~ **emergency authorization** shall provide the following information or documents, unless it is specified below that the information is optional, on or with the form titled "Application for Emergency ~~Permission to Employ~~**Authorization**":

- (1) Social security number, unless the applicant chooses to have the department supply an alternative number, subject to the provisions of (d) and ~~€(e)~~ below;
- (2) Date of birth;
- (3) Name;
- (4) Address;
- (5) Sex, which may be specified at the option of the applicant;
- (6) Telephone number;
- (7) Date of application;
- (8) Educational information, including the following:
  - a. Degree, if any;
  - b. Major;
  - c. State;
  - d. College or university;
  - e. Date degree granted; and
  - f. Transcript for each degree listed;
- (9) Educational employment record for the last 7 years including:
  - a. Dates;
  - b. State;
  - c. School district;
  - d. Position;
  - e. Assignment/subject;
  - f. Grade level;
  - g. Credential held;
  - h. Number of years of any public school experience;
  - i. Number of years of any non-public school experience; and
  - j. Copy of each teaching credential held in New Hampshire , other state, or both;

- (10) Whether the applicant ever held a New Hampshire credential and, if so, the year it expired and the name under which it was issued;
- (11) Whether the applicant has ever been convicted of a felony and, if so, an explanation;
- (12) Whether the applicant has ever had a teaching credential revoked or suspended and, if so, an explanation;
- (13) Whether the applicant has ever surrendered a teaching credential in any other state, and, if so, an explanation;
- (14) Whether the applicant has ever been subject of a finding of professional misconduct in New Hampshire, another state, or territory of the United States, or foreign country and, if so, an explanation; and
- (15) Identification of ethnic origin, which may be specified at the option of the applicant, including one of the following categories:
  - a. American Indian;
  - b. Asian/Pacific;
  - c. African-American/Non-Hispanic;
  - d. White/Non-Hispanic;
  - e. Hispanic;
  - f. Multi-ethnic; and
  - g. Other/do not wish to specify.

(d) If an applicant provides a social security number under ~~€(c)~~(1) above, the social security number shall be used by the bureau for the purposes of generating data on teacher salaries or such other purposes as authorized by law including but not limited to RSA 161-B:11, VI-a.

(e) If an applicant chooses to have the department supply an alternative number, the department shall use the teacher number generated by the electronic educator information system and it shall be used as specified in (b).

(f) ~~An permission to employ~~ **emergency authorization** shall be issued to the superintendent of schools for up to one school year and shall not be renewable.

Readopt with amendment and renumber Ed 504.041, effective 1-17-14 (Doc. #10506), as Ed 504.05, and renumber the remaining sections in Part Ed 504 so that, for example, Ed 504.05 becomes Ed 504.06, to read as follows:

Ed 504.0415 ~~In Process of Certification (IPC)~~ **Licensure Authorization (IPLA)**.

(a) The applicant who is in process of ~~certification (IPC)~~ **licensure authorization (IPLA)** shall sign the application acknowledging that all information contained on the application is true, accurate and complete to the best of the applicant's knowledge.

(b) If a superintendent files an ~~in-IPC~~ **IPLA** with the bureau, the bureau shall approve such filing, if the bureau finds that the applicant who is the subject of the ~~IPC~~ **IPLA**:

- (1) Is in the process of certification;
- (2) Has submitted a completed application for certification; and
- (3) Has paid any applicable fees.

(c) An approved ~~IPC~~ **IPLA** shall be issued to the superintendent of schools for up to one school year and shall not be renewable.

Adopt Ed 510.01 – 510.04, cited and to read as follows:

#### PART Ed 510 CODE OF CONDUCT

##### Ed 510.01 Principle 1—Responsibility to the Education Profession and Educational Professionals.

(a) In fulfilling this ~~principle~~ **responsibilities to the education profession and educational professionals**, ~~of the code of conduct~~ a credential holder **shall** exemplify honesty and integrity in the course of professional practice.

(b) Unprofessional conduct **shall** include, but ~~it~~ not **be** limited to:

(~~a~~1) Discrimination against a fellow professional as specified in RSA 354-A:1;

(~~b~~2) Failure to self-report, within 25 business days, if he or she has been arrested for any violation of offenses enumerated in RSA 189:13-a, V;

(~~e~~3) Falsifying, fraudulently altering, or deliberately misrepresenting professional qualifications, including, but not limited to, degrees, academic awards, and related employment history; when applying for a credential;

(~~d~~4) Unlawful possession of a drug;

(~~e~~5) Possessing, using, or being under the influence of alcohol or drugs, not prescribed for the use of the credential holder when on school premises or at a school sponsored activity where students are present or may reasonably be expected to be present;

(~~f~~6) Failure to notify the state, at the time of application for credential, of past criminal convictions, or of revocations or suspensions of a credential or license by New Hampshire or any other jurisdiction; **and**

(~~g~~7) Falsifying, or deliberately misrepresenting, information submitted to the department in the course of an official inquiry, investigation, or both.

##### Ed 510.02 Principle 2—Responsibility to Students.

(a) In fulfilling this ~~principle~~ **responsibilities to students** ~~of the code of conduct~~, a credential holder shall maintain a professional relationship with all students, both inside and outside the educational

setting, and make reasonable efforts to protect students from conditions which are harmful to their health and safety.

(b) Unprofessional conduct *shall* include, but is not *be* limited to:

(a1) Discrimination against a student as specified in RSA 354-A:1;

(b2) Failure to provide appropriate supervision of students at school or school-sponsored activities or the failure to ensure the safety and well-being of students;

(c3) Furnishing alcohol or illegal or unauthorized drugs to any students, or allowing or encouraging a student to consume alcohol or illegal or unauthorized drugs;

(d4) Committing any of the following acts to any minor, or any student or prior student up to 10 months after the student's graduation, departure, or departure in cases as specified in Ed 1102.01(f)(1), including, but not limited to:

(1)a. Abuse, including, but not limited to physical and emotional abuse;

(2)b. Cruelty or any act of endangerment;

(3)c. Any sexual act with or from any student; and

(4)d. Harassment as defined by state or federal law or regulations;

(e5) Soliciting, *or* encouraging ~~or participating in~~ *in* a romantic or sexual relationship, whether written, verbal, or physical, with a student the credential holder knows or should know is a student or prior student up to 10 months after the student's graduation, departure, or departure in cases as specified in Ed 1102.01(f)(1);

(f6) Engaging in a sexual relationship, sexual activity, or both, with a student, or prior student up to 10 months after the student's graduation, departure, or departure in cases as specified in Ed 1102.01(f)(1); and

(g6) Soliciting a student, or a former student up to 10 months after the student's graduation, departure, or departure in cases as specified in Ed 1102.01(f)(1), to engage in any illegal activity ~~via electronic media~~.

Ed 510.03 Principle 3—Responsibility to the School Community.

(a) In fulfilling this ~~principle~~ *responsibilities to the school community* of the code of conduct, a credential holder ~~models effective relationships and~~ *shall* communicate responsibly among members of the school community, while maintaining appropriate professional boundaries.

(b) Unprofessional conduct *shall* include, but is not *be* limited to:

(a1) Discrimination against a parent or guardian of a student or other member of the community who is on the school property as specified in RSA 354-A:1;

~~(b2)~~ Accepting or soliciting gratuities, gifts, or favors for personal use or gain where there ~~may~~ **might** be an actual or appearance of a conflict of interest. Gifts of a ~~de minimis~~ **small** amount shall not be deemed a conflict of interest;

~~(e3)~~ Misuse of funds intended for use by the school, to include funds which are collected from parents and students; and

~~(d4)~~ Intentionally altering or misrepresenting student assessments, assessment results, or official school records.

Ed 510.04 Principle 4—Responsible and Ethical Use of Technology

~~(a)~~ In fulfilling this principle **responsibilities and ethical use of technology** of the code of conduct a credential holder **shall** consider the impact of consuming, creating, distributing, and communicating information through the use of any and all types of technology.

~~(b)~~ Unprofessional conduct **shall** include, but is not **be** limited to:

~~(a1)~~ Engaging in any activities as ~~outlined in~~ Ed 510.02~~(db)(4)-(7), Ed 510.02(e), Ed 510.02(f), or Ed 510.02(g)~~ via electronic media with a student; or former student up to 10 months after the student's graduation, departure, or departure as specified in Ed 1102.01(f)(1); and

~~(b2)~~ Engaging in inappropriate communication with a student; or former student up to 10 months after the student's graduation, departure, or departure as specified in Ed 1102.01(f)(1) via electronic media.

~~(c)~~ For the purposes of this section, inappropriate communication shall be determined by considering:

(1) The intent, timing, subject matter, and amount of communication; and

(2) ~~Is defined to include, but not be limited to w~~Whether:

*a.* The communication made was covert in nature;

*b.* The communication could reasonably be interpreted as solicitous, sexually explicit, or romantic in nature; and

*c.* The communication involved discussion(s) of the physical or sexual attractiveness or the sexual activities or fantasies of either the credential holder or the student.

Readopt with amendment and renumber Ed 510.01, effective 2-23-12 (Doc #10089), as Ed 510.05 to read as follows:

Ed 510.05 Duty to Report.

(a) Any credential holder shall ~~have a duty to~~ report any suspected violation of the code of conduct following the school, school district, or SAU reporting procedures.

(b) Each principal shall ~~have a duty to~~ report to the superintendent of the school district or SAU where the principal is employed, *the* chief executive officer of a chartered public school or public academy, or *the* headmaster of a nonpublic school, if the principal has been notified of, or is personally aware that *a* credential holder has violated any of the rules of professional conduct as enumerated in Ed 510, which occurred on or off duty.

(c) The superintendent, chief executive officer of a chartered public school or public academy, or headmaster of a nonpublic school, shall report any of the following to the office of credentialing:-

(1) When a superintendent has knowledge that an ~~educator~~ *credential holder*, as defined in Ed 501.02(km), has been arrested and charged with an offense enumerated in RSA 189:13-a, V; and

(2) *When a superintendent has knowledge that a credential holder has* ~~violated~~ *of* the code of conduct as ~~outlined~~ *specified* in Ed 510.01 through Ed 510.04 ~~by a credential holder.~~

(d) If a credential holder suspects that a superintendent has violated the code of conduct, as ~~outlined~~ *specified* in Ed 510.01 through Ed 510.04, or if a credential holder has made a report and believes the local reporting procedures have not been followed, the reporting credential holder shall notify the department directly.

(e) Credential holders who have reason to suspect that a student has been, or is being, abused or neglected, shall report the same to:

(1) His or her immediate supervisor, superintendent, or both; and

(2) The department of health and human services, pursuant to RSA 169-C:29.

(f) ~~Should~~ *If* the department ~~have~~ *has* reason to suspect *that* any violation of the code of conduct enumerated in Ed 510.01 through Ed 510.04 was known by a credential holder and not reported, the department shall undertake an investigation, as enumerated in Ed 511.01, against that credential holder as required by Ed 510.05(a), (b), or (c).

(g) The office of credentialing shall open a case, as enumerated in Ed 511.01, in response to a report made pursuant to Ed 510.05(a), (b), (c), or (d) above.

Adopt Ed 511.01, cited and to read as follows:

## PART Ed 511 INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS

### Ed 511.01 Complaints, Cases and Investigations.

(a) A case shall be opened when a complaint of possible misconduct against a credential holder has come to the attention of the department either through direct reporting or other means.

(b) *After an initial review, ~~When if~~ the department determines that **a possible violation of the code of conduct, as specified in Ed 510.01 through 510.04, has occurred**, ~~a case merits an investigation,~~ an investigation shall be opened.*

(c) Investigations into allegations of unprofessional conduct, as ~~outlined~~ **specified** in Ed 510.01 to Ed 510.04, shall not constitute a disciplinary hearing and shall not constitute a finding of misconduct against a credential holder.

(d) Credential holders shall be notified in writing, via certified mail, that an investigation has been opened and the nature of the investigation and the status of the credential holder's credential pending the investigation.

(e) The credential holder's current superintendent shall be notified in writing by the department that an investigation has been opened, unless the notification compromises, or has the appearance of compromising, the investigation.

(f) Investigations shall be handled by the department.

(g) The department shall make every attempt to interview all people, including the credential holder, who might have information which might be relevant to the investigation.

(h) Investigations, including those based upon allegations in a complaint, shall be conducted on an ex parte basis.

(i) The department shall make every attempt to obtain any and all documentation which might be relevant to the investigation;

(j) Once the investigation is complete, the following procedures shall apply:

(1) The department shall create a report which documents the results of the investigation;

***(2) If the investigation finds a credential holder in violation of a rule of the code of conduct as specified in Ed 510.01 through Ed 510.04, the department shall propose a form of discipline as follows:***

***a. Suspension;***

***b. Revocation; or***

***c. Reprimand; and***

***(3) The department shall determine the sanctions to be imposed after considering the presence of aggravating or mitigating circumstances as specified in Ed 511.01(j)(4)-(5);***

***(4) The following shall be considered aggravating circumstances:***

***a. The seriousness of the offense;***

***b. The credential holder's prior disciplinary record;***

*c. The credential holder's lack of willingness to cooperate with the department during an investigation;*

*d. Potential harm to public health and safety; and*

*e. The purpose of the rule violated;*

**(5) The following shall be considered mitigating circumstances:**

*a. Absence of a prior disciplinary record;*

*b. The credential holder's willingness to cooperate with the department during an investigation;*

*c. The credential holder's acknowledgment of his or her wrongdoing; and*

*e. The purpose of the rule or statute violated;*

~~(26) The credential holder shall be notified in writing of any proposed discipline and the specific grounds upon which the discipline is based in accordance with RSA 541-A:30 as follows:~~

~~\_\_\_\_\_ a. Suspension;~~

~~\_\_\_\_\_ b. Revocation; or~~

~~\_\_\_\_\_ c. Reprimand;~~

(37) If no disciplinary sanction is proposed, the department shall notify the credential holder in writing that the investigation is closed.

(k) Investigatory reports and all information gathered during the course of an investigation shall be confidential, with the following exceptions:

(1) The report shall be made available to the parties in any adjudicatory proceedings resulting therefrom; and

(2) If further disciplinary proceedings are to be conducted as a result of the investigation, the department shall provide information gathered in the disciplinary investigation to the following:

a. A law enforcement agency when the agency is conducting a criminal investigation of the credential holder;

b. A certifying agency of another jurisdiction for:

1. Purposes of certification of the credential holder in the other jurisdiction; or

2. An investigation of the credential holder by the other jurisdiction when:

(i) The credential holder was the subject of a formal investigation under Ed 5101; or

(ii) Disciplinary action was taken against the credential holder by the board pursuant to Ed 5101;

c. Other states' licensing board investigators or prosecutors; and

d. Expert witnesses or assistants retained by a prosecutor or investigator in the same related disciplinary matters.

Readopt with amendment and renumber Ed 510.03, effective 2-23-12 (Doc #10089), as Ed 511.02 to read as follows:

Ed 511.02 ~~Voluntary~~ ***Reprimand, Suspension, or Revocation.***

(a) If the department determines that a credential holder has violated the code of conduct as ~~outlined~~ ***specified*** in Ed 510.01 through Ed 510.04, and the credential holder agrees to the ***proposed*** disciplinary finding, the credential holder ~~may~~ ***shall*** agree to a ~~voluntary~~ ***reprimand***, suspension, or revocation.

(b) All ~~voluntary~~ ***reprimands***, suspensions, or revocations shall be documented in writing, and shall set out the terms of the discipline. The credential holder shall receive a copy of the discipline in writing and a copy shall be placed in the credential holder's electronic credentialing file at the department once it is signed by all required parties, to include the credential holder.

(c) Any credential holder whose credential is revoked or who voluntarily agrees to a revocation shall be prohibited from applying or reapplying for any other credential ~~in~~ ***issued by the*** New Hampshire ***state board of education.***

Readopt with amendment and renumber Ed 510.02, effective 2-23-12 (Doc #10089), as Ed 511.03 to read as follows:

Ed 511.03 ***Disciplinary Hearings.***

(a) If a credential holder does not agree with the ***proposed*** disciplinary finding as a result of an investigation as ~~outlined~~ ***specified*** in Ed 511.01, a credential holder may request an adjudicatory hearing which shall commence pursuant to Ed 200 after the following:

(1) Completion of an informal or formal investigation; and

(2) Filing of a written report and recommendation pursuant to Ed 511.01(h);

(b) The provisions of Ed 200 shall apply to all disciplinary hearings and ***such hearings*** shall commence not more than 15 days after the disciplinary finding.

Readopt with amendment and renumber Ed 510.04, effective 2-23-12 (Doc #10089), as Ed 511.04 to read as follows:

Ed 511.04 Status of a Credential Pending Completion of Disciplinary Proceeding.

(a) When the department receives information indicating that a credential holder has been arrested for one of the offenses enumerated in RSA 189:13-a, V, the credential holder's credential and any and all endorsements shall be immediately suspended pursuant to RSA 541-A:30, III.

(b) The department shall notify the credential holder and the employing school district that the credential holder's credential has been suspended pending an investigation by the department.

(c) In accordance with RSA 541-A:30, *III*, unless waived, an adjudicatory hearing shall commence within 10 working days after the suspension of the credential. Such hearings shall be governed by the process set forth in Ed 200. ~~A request for an adjudicative proceeding shall be made in writing.~~

Repeal Ed 510.05, effective 2-23-12 (Doc #10089), as follows:

~~Ed 510.05 Voluntary Surrender of a Credential.~~

~~———(a) If a certified educator offers to surrender his/her credential voluntarily, the bureau shall automatically revoke the credential.~~

~~———(b) A statement indicating the educator's request to surrender his/her credential voluntarily and the reason surrounding the circumstances of the request shall be made a part of the educator's certification record with the bureau.~~

~~———(c) The rules of confidentiality of Ed 502 shall apply to the maintenance and release of information concerning voluntary surrender of a teaching credential.~~

Readopt with amendment and renumber Ed 511.03, effective 2-23-12 (Doc #10089), as Ed 511.05 to read as follows:

Ed 511.05 Grounds for Reinstatement After Suspension.

(a) A ~~certificate or endorsement~~ **credential** which has been suspended shall be reinstated for one of the following reasons:

(1) The period of the suspension has passed and any and all terms and conditions regarding possible reinstatement have been satisfied; and

(2) A credential holder whose credential has been suspended demonstrates by clear and convincing evidence that he or she has corrected the deficiencies or conduct which led to the original suspension.

(b) Upon reinstatement, the department may issue a ~~certificate or endorsement~~ **credential** which is limited in time, level, or scope or subject to other terms as the department deems necessary to include a reinstatement fee. If the ~~certificate or endorsement~~ **credential** is so limited, then the credential holder may appeal that decision using the process ~~outlined~~ **specified** in Ed 200.

Change the Part heading and renumber Part Ed 511 as Part Ed 512 to read as follows:

PART Ed 512 DENIAL OF CERTIFICATION

Readopt with amendment and renumber Ed 508.07, effective 6-15-13 (Doc. #10362) as Ed 512.01, and renumber the existing Ed 512 and Ed 513 as Ed 513 and Ed 514, so that Ed 512.01 reads as follows:

Ed 512.01 Denial of Credential.

~~(a) For the purposes of this section, a credential means a credential as defined in Ed to include adding an endorsement, renewing a credential and reinstating a license from suspension.~~

(~~b~~a) A credential application shall be denied by the board based on the following grounds:

- (1) Failure to meet the conditions for issuance of the license, endorsement, renewal, or reinstatement;
- (2) The applicant has been charged pending disposition for, or convicted of any violation or attempted violation of any of the crimes enumerated in RSA 189:13-a, or has been convicted of any felony in any other state, territory, or country;
- (4) The applicant is under investigation for, under suspension for, or has been revoked for a violation of the principles of professional conduct enumerated in Ed 510.01 through Ed 510.04; or
- (5) The applicant is under investigation, under suspension, or has been revoked in any other state, jurisdiction, territory, or country.

(~~e~~b) An applicant aggrieved by the decision of the bureau to deny an application may file a petition for reconsideration along with supporting documentation to the director within 20 days after receipt of the denial decision. If the petition for reconsideration is denied, the applicant may appeal the director's decision pursuant to RSA 21-N:11, III, and Ed 200.

Repeal Ed 511.01, effective 2-23-12 (Doc. #10089), to read as follows:

~~Ed 512.02511.01 Grounds For Denial of Endorsement, Renewal, or Reinstatement.~~

~~— (a) A license for educator certification or an endorsement, or renewal or reinstatement shall be denied by the board based on the following grounds:~~

- ~~(1) Failure to meet the conditions for issuance of the certificate or endorsement or renewal or reinstatement;~~
- ~~(2) If the applicant has been charged pending disposition for, or convicted of any violation or attempted violation of any of the crimes enumerated in RSA 189:13-a, or has been convicted of any felony in any other state, territory or country;~~

~~— (3) Incompetence;~~

~~(4) If the applicant is under investigation for, under suspension for, or has been revoked for a violation of the principles of professional conduct enumerated in Ed 510.01 through Ed 510.04; or~~

~~(5) Falsification or misrepresentation of information provided in connection with an application for licensure for certified personnel or endorsement, renewal or reinstatement.~~

Repeal Ed 511.02 – 511.06, effective 2-23-12 (Doc. #10089), as follows:

~~Ed 511.02 Grounds for Suspension or Revocation of Educator's Certification.~~

~~— (a) A certificate for an educator or an endorsement shall be suspended or revoked based on the following grounds:~~

~~(1) Incompetence;~~

~~(2) Conviction of a felony:~~

~~a. That would potentially place a student or students in physical or emotional jeopardy;~~

~~b. When the board determines that either the nature or circumstances of the crime, or the moral turpitude associated with the crime render the individual unfit for continued certification; and~~

~~c. When the underlying behavior or circumstances of the offense render the educator unfit for continued certification based on the educator's inability to perform assigned duties;~~

~~(3) Misconduct or unprofessional conduct, on or off duty:~~

~~a. That would potentially place a student or students in physical or emotional jeopardy;~~

~~b. Where the nature or circumstances of the conduct so detract from the educator's professional standing as to render the educator unfit for continued certification based on the educator's inability to perform assigned duties; and~~

~~c. Where there is a nexus between the off duty misconduct or unprofessional conduct of the educator and the educator's ability to carry out assigned duties;~~

~~(4) Falsification or misrepresentation of information provided in connection with an application for certification or endorsement or renewal or reinstatement discovered subsequent to issuance of the certificate;~~

~~(5) If the individual is a superintendent, assignment of duties by the superintendent to an individual who does not hold the appropriate certificate or endorsement for the duties assigned, except as otherwise provided in RSA 189:39 b;~~

~~(6) If the individual is a principal, to report to the superintendent any allegations or conduct by an educator for which there is credible evidence of a potential professional conduct~~

~~violation that might constitute ground for suspension or revocation of an educator's certificate or endorsement; or~~

~~(7) If the individual is a superintendent, failure to report to the director or designee any allegations or conduct by an educator for which there is credible evidence of a professional conduct violation that might constitute grounds for suspension or revocation of an educator's certificate or endorsement.~~

~~— Ed 511.04 Effects of Certificate Surrender.~~

~~— (a) A licensee may surrender the license at any time.~~

~~— (b) Surrender or nonrenewal of a certificate shall not preclude the board from investigating or completing a disciplinary proceeding based upon the licensee's conduct while the certificate was still in effect. Such investigations and proceedings shall be handled in the same manner as other disciplinary investigations and proceedings.~~

~~— (c) An educator who surrenders a certificate shall have no right or privilege in New Hampshire. An educator who reapplies for a certificate in New Hampshire after surrender shall meet all the requirements in effect for new applicants as set forth in statute or rules at that time.~~

~~— (d) An educator who surrenders a license as part of a settlement of pending misconduct allegations shall make a written settlement offer to the board before the close of the record in a disciplinary hearing.~~

~~— (e) Any settlement agreement reached under (d), above, shall include the following concessions:~~

~~(1) That certificate surrender has occurred in settlement of pending disciplinary allegations;~~

~~(2) That the facts or conduct upon which the surrender is based is not contested; and~~

~~(3) That the pending allegations shall be issues to be resolved in any future application the educator submits in New Hampshire.~~

~~— Ed 511.05 Investigations.~~

~~— (a) The department shall conduct such investigations as it deems necessary to examine acts of possible misconduct that come to its attention through complaints or other means.~~

~~— (b) The director or designee shall appoint a member of the department, or other knowledgeable persons to conduct the investigation.~~

~~— (c) The director or designee shall provide the following information to the person conducting the investigation:~~

~~(1) The statutory or regulatory authority for the investigation;~~

~~(2) Any statutes or rules believed to have been, or about to be, violated;~~

~~(3) The identity of the persons, or class of persons, that are subject of the investigation;~~

~~(4) The general nature of the conduct being investigated; and~~

~~(5) The date upon which the investigating officer shall report his or her findings and recommendations to the board.~~

~~—— (d) Investigations shall not constitute a disciplinary hearing and shall not constitute an allegation of misconduct against a licensee.~~

~~—— (e) When an investigation occurs, an investigator designated by the director or designee shall contact such persons and examine such records and other documents as are reasonably necessary to make a recommendation as to whether further board action should be taken on the allegations in question.~~

~~—— (f) Investigations, including those based upon allegations in a complaint shall be conducted on an ex parte basis.~~

~~—— (g) Once the investigator completes the investigation, the following procedures shall apply:~~

~~(1) The investigator shall file a written report with the director or designee including:~~

~~—— a. A recommendation for action by the board; and~~

~~—— b. The specific grounds listed in Ed 511.02 upon which the recommendation is based;~~

~~(2) The director or designee shall review the investigator's report and recommendation based on a review of the case in relation to the grounds listed in Ed 511.02 to:~~

~~a. Confirm, deny, or amend the investigator's recommendation and report; and~~

~~b. Provide a written recommendation and report;~~

~~(3) If the director determines that disciplinary proceedings are warranted, the director shall notify the educator, and initiate a disciplinary hearing before the board under the procedures established in Ed 200; and~~

~~(4) The board shall not be consulted regarding the director's decision to hold a disciplinary hearing.~~

~~—— (h) Investigatory reports and all information gathered by an investigator shall be confidential, with the following exceptions:~~

~~(1) The investigator's report shall be made available to the parties in any adjudicatory proceeding resulting therefrom;~~

~~(2) If further disciplinary proceedings are to be conducted as a result of the investigation, the board shall provide information gathered in disciplinary investigations to:~~

~~a. A law enforcement agency when the agency is conducting a criminal investigation of the credential holder;~~

~~b. A certifying agency of another jurisdiction for:~~

~~1. Purposes of certification of the credential holder in the other jurisdiction; or~~

~~2. An investigation of the credential holder by the other jurisdiction, when:~~

~~(i) The credential holder was the subject of a formal investigation under Ed 510; or~~

~~(ii) Disciplinary action was taken against the credential holder by the state board of education under Ed 510.03;~~

~~c. Board investigators or prosecutors; and~~

~~d. Expert witnesses or assistants retained by board prosecutor or investigators in the same or related disciplinary matters; and~~

~~(3) Whether or not further disciplinary proceedings are to be conducted as a result of the investigation, the board shall provide information gathered in disciplinary investigations to persons to whom the licensee has given a release.~~

~~—— (i) The educator shall be notified promptly of the nature of any allegations that result in an investigation pursuant to (c) above.~~

~~—— (j) If further disciplinary proceedings are to be conducted as a result of an investigation, the licensee shall be given the opportunity to respond, in writing, to the investigator prior to the initiation of disciplinary proceedings.~~

~~—— Ed 511.06 Due Process for Denial of Licensure for an Educator or Endorsement or Renewal or Reinstatement.~~

~~—— (a) If, after written application for certification, the department concludes that an applicant should be denied a license or endorsement or renewal or reinstatement the department shall notify the applicant in writing of the grounds for the denial.~~

~~—— (b) The department shall provide an applicant with a description of the procedures for appeal of a denial of a license for an educator or endorsement and shall explain that the applicant may appeal the denial to the board in accordance with the procedures established in Ed 200.~~

~~—— (c) An applicant shall file an appeal in writing within 10 days of receipt of the denial in order for an appeal to be accepted by the board.~~

## APPENDIX I

<b>RULE</b>	<b>STATUTE</b>
Ed 501	RSA 186:8, II; RSA 189:39
Ed 502	RSA 186:11, X(a)

Ed 510	RSA 186:11, X(a)
Ed 511	RSA 186:11, X(a); RSA 189:14-a, (b) and (c)
Ed 512	RSA 186:11, X(a)



**Frank Edelblut**  
Commissioner

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**MEMO TO:** State Board of Education

**FROM:** Michael Seidel, Director, Division of Educator Support and Higher Education, on behalf of the Council for Teacher Education

**DATE:** September 27, 2018

**RE:** New England College Professional Educator Preparation Program extension request

The Council for Teacher Education (CTE) and Department of Education (DOE) are requesting an extension of New England College's (NEC) Professional Educator Preparation Program approval. Their approval currently expires in January 2019 and the Council's unanimous request is for an extension until August 2020.

NEC was initially pursuing an extension due to their planned merger with NHIA, but NEC has withdrawn this request and is ready to be reviewed. The extension will provide the DOE and the CTE with the time needed to assemble and train reviewers of NEC's programs. The DOE has been without a key person (for the past 9 months) whose role has been to manage/facilitate the review process for all institutes of higher education in the state and provide necessary training. At this time, several key factors that need to be provided as a part of the review process by the DOE are not in place. Therefore, the DOE and the CTE review team is not prepared to undertake the review of NEC scheduled for this November. This extension will provide the DOE, working with the CTE, the time needed to ensure a review that meets the requirements as stated in the governing rules.

Thank you in advance for your consideration.