



New Hampshire

Department of Education Technical Advisory

Serving New Hampshire's Education Community

Manifest Educational Hardship

Ed 320

This Technical Advisory provides information pertaining to Ed 320, Manifest Educational Hardship

The rules regarding Manifest Educational Hardship, Ed 320, expired as of May of 2016. Prior to its expiration, an interim rule for Manifest Educational Hardship was adopted which maintained the language of Ed 320 until the interim rule expired in January 2017. During this time period, the Department of Education began work on a new version of the Manifest Educational Hardship Rule. The new version of this rule was set to be heard at the March meeting of the Joint Legislative Committee on Administrative Rules (JLCAR). However, in anticipation of statutory changes resulting from the current legislative session, the Department of Education withdrew the Manifest Educational Hardship rule from the Committee's consideration. Therefore, at the current time, Ed 320, Manifest Education Hardship, is expired. The Department will begin work on writing a new version of Ed 320 once legislative activity in this area of the law is finalized. Until rules in this area are adopted, school districts should utilize the language of the prevailing statute, RSA 193:3, and any local policy, which is in compliance with the law, that has previously been adopted. The relevant provisions of RSA 193:3 are set forth below for convenience.

RSA 193:3 Change of School Assignment

- I. Any person having custody of a child may apply to the school board for relief if the person thinks the attendance of the child at the school to which such child has been assigned will result in a manifest educational hardship to the child. If the person having custody of the child is aggrieved by the decision of the school board, the person may appeal to the state board of education, and the state board of education, after investigating the case and giving notice to the school board, may order such child to attend another school in the same district, if such school is available, or to attend school in another district. In case the child is assigned to attend school in another district, the district in which such child resides shall pay tuition computed as provided in RSA 193:4 to the district in which such child attends. The state board of education may also permit such child to withdraw from school attendance for such time as it may deem necessary or proper or may make such other orders with respect to the attendance of such child at school as in its judgment the circumstances require. Children with disabilities as defined in RSA 186-C:2 shall be accorded a due process review pursuant to rules adopted under RSA 186-C:16.

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NEW

Page 1 of 2



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- II. The state board of education shall adopt rules pursuant to RSA 541-A, relative to manifest educational hardship and related issues which affect a child's attendance at school. Each school district shall establish a policy, consistent with the state board's rules, which shall allow a school board, with the recommendation of the superintendent, to take appropriate action including, but not limited to, assignment to a public school in another district when manifest educational hardship is shown.

Contact:

Diana E. Fenton, Esq.
New Hampshire Department of Education
Tel. 603-271-3189
Email: diana.fenton@doe.nh.gov

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Page 2 of 2