

# Policies for Review - 1<sup>st</sup> Reading

October 7, 2019

*GCG* - Part-time and Substitute Professional Staff Employment

*GCGAA* - Per Diem Rates for Substitute Teachers

*JLF* - Reporting Child Abuse or Neglect

*JBAB* - Transgender and Gender Non-Conforming Students

*DAF* - Administration of Federal Grant Funds

## **PART-TIME AND SUBSTITUTE PROFESSIONAL STAFF EMPLOYMENT**

The Superintendent shall maintain a list of qualified substitute teachers who may be called on to replace regular teachers who are absent. Such a list shall be filed with the principal of each school.

Insofar as possible, the Principal or designee will call teachers on the substitute list for the grades and/or subjects for which they are listed. A teacher whose name does not appear on the substitute list may not be employed in the District except when specifically approved by the Superintendent. Principals will be responsible for seeing that the work of the substitute is as effective as possible and will provide him/her with a planned instructional program. The Superintendent, in conjunction with the principal, will conduct an annual orientation of substitute teachers prior to opening of school.

### **SUBSTITUTES PAY**

The rate of pay for a substitute shall be set by the School Board and be subject to periodic review. All part-time and substitute employees must undergo a Criminal History Records Check prior to any employment at the District's expense.

### **REGULATIONS CONCERNING SUBSTITUTES**

1. Substitute teachers must hold a Bachelor's Degree or equivalent experience. Substitute paraprofessionals must hold a high school diploma or have experience at the college level, or some experience working with children.
  - ◇ Exceptions to the above regulation may be made by the building principal for individual teaching assignments. Such exceptions shall not be construed as grounds for permanent admission to the substitute roster.
2. College undergraduates may be assigned to the substitute list for GES and GMS if they have reached their junior year and have experience working with students. Student teachers assignment in Gilford classrooms may substitute ~~no more than 3 days during their term~~ only in the classroom of their supervising teacher.
3. A student teacher who is substituting will be paid at the regular rate.
4. Substitute teachers must complete a criminal record check, which will be paid for by the Gilford School District.

#### **Legal References:**

*RSA 189:13-a, School Employee and Volunteer Background Investigations*

**(Adopted: 4/4/2011)  
(Revised: 5/6/2013)**

## PER DIEM RATES FOR SUBSTITUTE TEACHERS

The following guidelines will be utilized in the calculation of substitute teacher wage/benefits.

<u>TERM</u>	<u>PER DIEM RATE</u>
Up to ten (10) days in same assignment or any number of days in various assignments	1) District substitute Rate: \$75.00 2) Licensed Nurse substitute Rate: Bachelor entry level per diem.
<b>Long Term Substitute:</b> 11-89 consecutive days in same assignment	1) <del>BA</del> <b>Entry level</b> annual salary divided by 186, to be effective on the 11 <sup>th</sup> consecutive day
<b>Permanent Substitute:</b> 90 Consecutive days or more in the same assignment	1. Actual annual salary that would be earned by the substituting teacher in a contract assignment divided by 186. 2. Five sick days 3. Listed benefits should be consistent with the negotiated agreement. (Pro rate 1/2 time.)

If at the time of the assignment, it is known that it will be eleven (11) days or longer, the higher applicable rate may be paid as of the first day. Given unusual circumstances, modifications may be made at the discretion of the superintendent of schools.

### Additional Information

Certified/~~HQT~~ teachers will be hired as “long term substitutes” or “permanent substitutes.” In cases where teachers are not certified/~~HQT~~, the school district shall request “permission to employ” from the N.H. DOE

Long term and permanent substitutes will receive a letter of understanding regarding their responsibilities.

(Adopted: 9/01/92)  
(Revised 3/13/00, 5/3/2010, 10/6/2014)

(Ref. 4263)

## **REPORTING CHILD ABUSE OR NEGLECT**

Any school employee having reason to suspect that a child is being or has been abused or neglected shall immediately report his/her suspicions to the New Hampshire Division for Children, Youth and Families (DCYF) and the building Principal and or Designee. The Principal and/or Designee shall then immediately notify the Gilford Police Department. The Principal and/or Designee will then notify the Superintendent within twenty-four (24) hours that a report to DCYF has been made.

The reporting employee, within twenty-four hours (24), must follow the oral report with a written report. The report should contain the name and address of the child suspected of being abused or neglected; the person responsible for the child's welfare; the specific information indicating neglect/abuse or the nature and extent of the child's injuries (including any evidence of previous injuries); the identity of the person or persons suspected of being responsible for such neglect or abuse; and any other information that might be helpful in establishing neglect or abuse that may be required by DCYF. The reporting employee shall provide the building Principal and/or Designee a signed copy of the written report. The Principal will submit the written report to the Superintendent or Designee within forty eight (48) hours.

The School Board requires all School District employees receive routine training or information on how to identify child abuse or neglect.

It is not the responsibility of the school employee to investigate whether the child has been abused or neglected.

The Principal and/or Designee of each school shall post a sign in a clearly visible location in a public area within the school that is readily accessible to students, in the form provided by DCYF that contains instructions on how to report child abuse or neglect, including the phone number for filing reports and information on accessing DCYF's website.

### **Legal References:**

*NH Code of Administrative Rules, Section Ed 306.04(a)(10), Reporting of Suspected Abuse or Neglect  
RSA 169-C:29, Persons Required to Report  
RSA 169-C:30, Nature and Content of Report  
RSA 169-C:31, Immunity from Liability  
RSA 169-C:34, III, Duties of the Department of Health and Human Services  
RSA 189:72, Child Abuse or Neglect Information*

**(Adopted: 9/9/1985)**

**(Revised: 11/4/2013, 9/4/2018)**

*NHSBA Sample Policy. Revised to (a) more closely track the requirements RSA 169-C, (b) clarify the participation of the Principal, (c) include reference to the NH Code of Conduct for Educators, and (d) provide a mandate for annual training.*

*Suggest replacing current GSD policy with this sample.*

*9-10-2019 Policy Committee*

*10-7-2019 School Board – first reading*

## **New Hampshire School Boards Association**

## **Sample Policy JLF**

### **REPORTING CHILD ABUSE OR NEGLECT**

*Category: Priority/Required by Law*

*Related Policies: GBEBA, IJOC & JICK*

#### **A. Statutorily Mandated Reporting – All Persons.**

**Under New Hampshire law (RSA 169-C:29), every person who has “reason to suspect” that a child has been abused or neglected is required to report that suspicion to DCYF (Division of Children, Youth and Families of the New Hampshire Department of Health and Human Services) or directly to the police. Under RSA 169-C:30, the initial report “shall be made immediately via telephone or otherwise.”**

The requirement to report is not dependent on whether there is proof of the abuse or neglect, nor is it dependent upon whether the information suggests the abuse or neglect is continuing or happened in the past. Any doubt regarding whether to report should be resolved in favor of reporting. Failure to report may be subject to criminal prosecution, while a report made in good faith is entitled to both civil and criminal immunity. Additionally, a “credential holder”, as defined in New Hampshire Department of Education Rule 501.02(h), who fails to report suspected abuse or neglect risk having action taken by the New Hampshire Department of Education against his/her credential. See N.H. Code of Conduct for Educators, Ed. 510.05 (e).

The report should contain:

- a. the name and address of the child suspected of being abused or neglected,
- b. the person responsible for the child's welfare,
- c. the specific information indicating neglect/abuse or the nature and extent of the child's injuries (including any evidence of previous injuries),
- d. the identity of the person or persons suspected of being responsible for such neglect or abuse; and
- e. any other information that might be helpful in establishing neglect or abuse.

To report child abuse or neglect to **DCYF**, call **24/7 (800) 894-5533** (in-state) or (603) 271-6562. **In cases of current emergency or imminent danger, call 911.**

#### **B. Additional provisions relating to school employees, volunteers and contracted service providers.**

Each school employee, designated volunteer or contracted service provider having reason to suspect that a child is being or has been abused or neglected must also immediately report his/her suspicions to the building Principal or other building supervisor. This initial report may be made orally, but must be supplemented with a written report as soon as practicable after the initial report, but in no event longer than one calendar day.

1. Request for Assistance in Making Initial Report.

The initial report to the Principal/building supervisor may be made prior to the report to DCYF/law enforcement, but only if:

- (a) the initial report is made for the purpose of seeking assistance in making the mandated report to DCYF/law enforcement, **and**
- (b) reporting to the Principal, etc. will not cause any undue delay (measured in minutes) of the required report to DCYF/law enforcement.

When receiving a request for assistance in making a report, the Principal or other person receiving the request is without authority to assess whether the report should be made, nor shall he/she attempt in any way to dissuade the person from making the legally mandated report. Once the Principal/building supervisor receives the information, the law would impose a reporting requirement upon both the original reporter and the Principal.

2. Principal's Action upon Receiving Report.

Upon receiving the report/request from the employee, volunteer or any other person, the Principal/building supervisor shall immediately assure that DCYF/law enforcement is or has been notified, and then notify the Superintendent that such a report to DCYF has been made.

A written report shall be made by the Principal to the Superintendent within twenty-four (24) hours, with a copy provided to DCYF if requested. The report shall include all of the information included in the initial oral report, as well as any other information requested by the Superintendent, law enforcement or DCYF.

3. Requirements for Reporting of Other Acts.

Employees/contract providers are also reminded of the requirements to report any act of "theft, destruction, or violence" as defined under RSA 193-D:4, I (a), incidents of "bullying" per Board Policy *JICK*, and hazing under RSA 671:7. See also Board Policy *GBEBA*. A single act may simultaneously constitute abuse, bullying, hazing, and/or an act of theft, destruction or violence.

**C. Signage and Notification.**

The Superintendent is directed to assure that the Principal or administrator of each school shall post a sign within the school that is readily visible to students, in the form provided by

the, Division for Children, Youth, and Families, that contains instructions on how to report child abuse or neglect, including the phone number for filing reports and information on accessing the Division's website. Additionally, information pertaining to the requirements of section A of this policy shall be included in each student handbook or placed on the district's website.

#### **D. Training Required.**

The Superintendent **or designee** shall assure that all District employees, designated volunteers and contracted service providers receive training (in-person or online) upon beginning service with the District, with annual refreshers thereafter, on the mandatory reporting requirements, including how to identify suspected child abuse or neglect.

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#### **Legal References:**

*NH Code of Administrative Rules, Ed 306.04(a)(10), Reporting of Suspected Abuse or Neglect*  
*NH Code of Administrative Rules, Code of Conduct for NH Educators, Ed 510.05(e), Duty to Report*  
*RSA 169-C, Child Protection Act*  
*RSA 169-C:29-39, Reporting Law*  
*RSA 189:72, Child Abuse or Neglect Information*  
*RSA 193-D:4, Safe School Zones, Written Report Required*

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**NHSBA history:** Revised – July 2019, May 2008, October 2004, November 1999, and July 1998

**NHSBA note, July 2019,** Sample policy JLF was revised to (a) more closely track the requirements RSA 169-C, (b) clarify the participation of the Principal, (c) include reference to the NH Code of Conduct for Educators, and (d) provide a mandate for annual training. See adoption notes above for further information.

w/p-update/2019 Spring/J/JLF Reporting 2019-7 (d)

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*GSD Proposed Policy*  
*11-1-16 Policy Committee*  
*12-6-16 Policy Committee – 2<sup>nd</sup> reading*  
*1-9-17 School Board Meeting – 1<sup>st</sup> reading*  
*1-12-2017 Sent to GEA for feedback*  
*2-6-17 School Board Meeting – 2<sup>nd</sup> reading*  
*2-14-17 Policy Committee – 3<sup>rd</sup> reading*  
*9-10-2019 Policy Committee – 4<sup>th</sup> reading*  
*10-1-2019 Policy Committee – 5<sup>th</sup> reading*  
*10-7-2019 School Board – 1<sup>st</sup> reading*

## **TRANSGENDER AND GENDER NON-CONFORMING STUDENTS**

### **I. PURPOSE**

The Gilford School District policy requires that all programs, activities, and employment practices be free from discrimination based on sex, sexual orientation, or gender identity. This policy is designed in keeping with these mandates to create a safe learning environment for all students and to ensure that every student has equal access to all school programs and activities.

This policy sets out guidelines for schools and district staff to address the needs of transgender and gender non-conforming students and clarifies how state law should be implemented in situations where questions may arise about how to protect the legal rights or safety of such students. This policy does not anticipate every situation that might occur with respect to transgender or gender non-conforming students, and the needs of each transgender or gender non-conforming student must be assessed on a case-by-case basis. In all cases, the goal is to ensure the safety, comfort, and healthy development of the transgender or gender non-conforming student while maximizing the student's social integration and minimizing stigmatization of the student.

**When a student or the student's parent or guardian, as appropriate, notifies the school administration that the student will assert a gender identity that differs from previous representations or records, the school will begin treating the student consistent with the student's gender identity. Under Title IX, there is no medical diagnosis or treatment requirement that students must meet as a prerequisite to being treated consistent with their gender identity. Because Transgender students often are unable to obtain identification documents that reflect their gender identity (e.g., due to restrictions imposed by state or local law in their place of birth or residence). Requiring students to produce such identification documents in order to treat them consistent with their gender identity may violate Title IX when doing so has the practical effect of limiting or denying students equal access to an educational program or activity.**

**This procedure will be used to address needs raised by transgender students and/or their parent(s)/guardian(s).**

- 1. A transgender student and/or their parent(s)/guardian(s) should contact the student's counselor or building administrator. In the case of a student who has not yet enrolled in school, the appropriate building administrator should**



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**be contacted.**

- 2. A meeting should be scheduled to discuss the student’s particular circumstances and needs. In addition to the student, parent(s)/guardian(s) and building administrator, participants may include the school counselor, school nurse, teachers and/or other school staff, and possibly outside providers who can assist in developing a plan for that student.**
- 3. A written plan will be developed by the school, in consultation with the student, parent(s)/guardians(s) and others as appropriate, to address the student’s particular needs. If the student has an IEP or a 504 Plan, the provisions of these plans should be taken into consideration in developing the plan for addressing transgender issues.**
- 4. If the parties cannot reach an agreement about the elements to be included in the plan, the building administrator and/or Superintendent shall be consulted as appropriate.**

## **II. DEFINITIONS**

The definitions provided here are not intended to label students but rather are intended to assist in understanding this policy and the legal obligations of District staff. Students might or might not use these terms to describe themselves.

"Gender identity" is a person's deeply held sense or psychological knowledge of their own gender, regardless of the gender they were assigned at birth. Everyone has a gender identity.

"Transgender" describes people whose gender identity is different from their gender assigned at birth.

"Gender expression" refers to the way a person expresses gender, such as clothing, hairstyles, activities, or mannerisms.

"Gender non-conforming" describes people whose gender expression differs from stereotypical expectations, such as "feminine" boys, "masculine" girls, and those who are perceived as androgynous.

**“Cisgender” refers to a person whose gender identity and expression are aligned with those traditionally associated with their assigned sex at birth.**

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**“Gender non-binary” describes an individual whose gender identity and/or expression does not align with the gender binary of male or female. A gender non-binary person may describe their gender identity and/or expression as androgynous, genderfluid, genderqueer, agender, non-labeling, etc.**

**Genderfluid describes an individual whose gender identity and/or expression may be gender non-conforming or non-binary, who has a wider and more flexible range of gender expression that may even change from day to day. While the gender expression of a student who is genderfluid is flexible or may appear to change with some frequency, their genderfluid identity can be recognized as the “gender which the student consistently asserts at school” in regards to the policy.**

**“Gender Transition” is the process by which a person goes from living and identifying as one gender to living and identifying as another gender. Gender transition is typically prompted by the feeling that an individual’s gender identity does not match the one typically associated with their assigned sex at birth. Examples include: transitioning from a boy to a girl, a girl to a boy, a girl to gender non-binary, or a boy to gender non-binary. For most elementary and secondary students, this involves no or minimal medical interventions. In most cases, transgender students under the age of 18 are in a process of “social transition” from one gender to another.**

**“Sexual Orientation” describes a person’s romantic and/or sexual attraction. Sexual orientation is different and not the same as gender identity or gender expression. In this policy, sexual orientation refers to an individual’s “actual or perceived” sexual orientation.**

### **III. GUIDANCE**

#### **A. Privacy**

The Gilford School Board recognizes a student's right to keep private one's transgender status or gender non-conforming presentation at school. Information about a student's transgender status, legal name, or gender assigned at birth also may constitute confidential information. School personnel should not disclose information that may reveal a student's transgender status or gender non-conforming presentation to others, including parents and other school personnel, unless legally required to do so or unless the student **or parent** has authorized such disclosure. Transgender and gender non-conforming students have the right to discuss and express their gender

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identity and expression openly and to decide when, with whom, and how much to share private information.

When contacting the parent or guardian of a transgender or gender non-conforming student, school personnel should use the student's legal name and the pronoun corresponding to the student's gender assigned at birth unless the student, parent, or guardian has specified otherwise.

#### **B. Official Records**

The District is required to maintain a mandatory permanent pupil record ("official record") that includes a student's legal name and legal gender. However, the District is not required to use a student's legal name and gender on other school records or documents. The District will change a student's official record to reflect a change in legal name or legal gender upon receipt of documentation that such change has been made pursuant to a court order. In situations where school staff or administrators are required by law to use or to report a transgender student's legal name or gender, such as for purposes of standardized testing, school staff and administrators shall adopt practices to avoid the inadvertent disclosure of such confidential information.

#### **C. Names/Pronouns**

A student has the right to be addressed by a name and pronoun that corresponds to the student's gender identity. A court-ordered name or gender change is not required, and the student need not change his or her official records. The intentional or persistent refusal to respect a student's gender identity (for example, intentionally referring to the student by a name or pronoun that does not correspond to the student's gender identity) is a violation of this policy.

#### **D. Gender-Segregated Activities**

To the extent possible, schools should reduce or eliminate the practice of segregating students by gender. In situations where students are segregated by gender, such as for health education classes, students should be included in the group that corresponds to their gender identity **and have the choice; whatever fits the need of the student.**

#### **E. Restroom Accessibility**

Students shall have access to the restroom that corresponds to their gender identity consistently asserted at school. Any student who has a need or desire for increased privacy, regardless of the underlying reason, ~~should~~ **will** be provided access to a

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single stall restroom, but no student shall be required to use such a restroom.

#### **F. Locker Room Accessibility**

The use of locker rooms by transgender students shall be assessed on a case-by-case basis with the goals of maximizing the student's social integration and equal opportunity to participate in physical education classes and sports, ensuring the student's safety and comfort, and minimizing stigmatization of the student. In most cases, transgender students ~~should~~ **will** have access to the locker room that corresponds to their gender identity consistently asserted at school. Any student who has a need or desire for increased privacy, regardless of the underlying reason, ~~should~~ **will** be provided with a reasonable alternative changing area such as the use of a private area (e.g., a nearby restroom stall with a door, an area separated by a curtain, a P.E. instructor's office in the locker room, or a nearby health office restroom), or with a separate changing schedule (e.g., using the locker room that corresponds to their gender identity before or after other students). Any alternative arrangement should be provided in a way that protects the student's ability to keep his or her transgender status confidential. In no case shall a transgender student be required to use a locker room that conflicts with the student's gender identity.

#### **G. Physical Education Classes & Intramural Sports**

Transgender and gender non-conforming students ~~shall~~ **will** be permitted to participate in physical education classes and intramural sports in a manner consistent with their gender identity.

#### **H. Interscholastic Competitive Sports Teams**

Transgender and gender non-conforming students will be permitted to participate in interscholastic athletics in a manner consistent with their gender identity.

**Interscholastic athletic activities should be addressed through the NHIAA participation policy, ~~Article III, Section 5~~ Article II, Section 21.**

#### **I. Dress Codes**

Transgender and gender non-conforming students have the right to dress in a manner consistent with their gender identity or gender expression. In general, schools may not adopt dress codes that restrict students' clothing or appearance on the basis of gender.

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## **J. Discrimination/Harassment**

It is the responsibility of each school and the District to ensure that transgender and gender non-conforming students have a safe school environment. This includes ensuring that any incident of discrimination, harassment, or violence is given immediate attention, including investigating the incident, taking appropriate corrective action, and providing students and staff with appropriate resources, **see Gilford School Board Policy JBAA**. Complaints alleging discrimination or harassment based on a person's actual or perceived transgender status or gender nonconformity are to be handled in the same manner as other discrimination or harassment complaints.

**(Adopted:)**

ADMINISTRATION OF FEDERAL GRANT FUNDS

DAF

Category: Priority/Required by Law

**ADOPTION NOTES –**

**This text box, and all highlights within the policy should be removed prior to adoption.**

***Policy begins on third page.***

- (a) **REVISIONS IN JULY 2019** – July revisions include the addition of a Sub-Recipient Monitoring and Management sub-policy as DAF-11, and the addition of a “buy American” provision in DAF-4 regarding food service procurement. As to the new DAF-11, procedures for oversight of subrecipients is required under the UGG, even if a “policy” is not. **Other than new DAF-11 and the addition of the Buy American provision in DAF-4.C, the only changes to DAF are to formatting, the adoption notes, and the legal references.**
- (b) **{\*\*}** indicates reference to another NHSBA sample policy. A district should check its own current policies and codes to assure internal consistency.
- (c) This sample policy DAF, includes several sub-policies (see page 3, below), and is intended to establish the local board’s expectations and standards for financial management and other internal controls relative to federal grant awards as required by a set of federal regulations commonly known as the Uniform Grant Guidance (“UGG”); 2 CFR Part 200. **This policy is not sufficient, alone, to serve as the written controls required by the UGG. The policy must be supplemented with written procedures** that should be developed under the supervision of the Superintendent and business office. The specific procedures will require tailoring according to the administrative structure, technological capacity and other circumstances or preferences of each district. Written procedures which are required under the policy and the UGG are indicated in the policy, and may be identified searching for the phrase “administrative procedures”. **NHDOE, Bureau of Federal Compliance**, has released several “Fact Sheets” relative to the UGG which include, among other things, a description of some of the specific procedures administrators will need to create and implement:
- <https://www.education.nh.gov/program/federal-compliance/fact-sheets.htm>
- An example of the type of procedures (as opposed to policy) required by the UGG may be found in the NHDOE the sample set of procedures for food service procurement. Note, however, that many of the provisions stated as required in the DOE Fact Sheets, and the food service procedures, are incorporated into sample policy DAF.
- (d) General – As will all sample policies, NHSBA recommends that each district carefully review this sample DAF prior to adoption to assure suitability with the district’s own specific circumstances, organizational structures, etc.. Highlighted language in this sample indicates areas which Boards must change/complete to reflect local personnel titles, policy references, duty assignments etc. **This text box, and all highlights within the policy should be removed prior to adoption.**
- (e) A sampling review of the policy manuals of various school districts, reveals that many districts have adopted some UGG policies or components of policies required by the federal Uniform Grant Guidance (2 CFR 200). In order to avoid redundancy, we recommend that prior to adoption of this sample, Districts review their own policy manuals for related policies, and make such changes as are appropriate.

**ADOPTION NOTES – CONTINUED...**

*(f) Other current existing policies implicated by this sample DAF should be reviewed to help assure continuity of practices within the District. Most significantly:*

- Modify DJ to identify who has authority to approve purchase orders;*
- Modify DJB to outline approved process for purchase order procedures. The policy may instruct the Superintendent to approve and implement written procedures which more specifically spell out the process.*

*(g) The UGG and this policy apply specifically to federal grant funds - whether or not received directly, through NHDOE or through any other pass-through entity, and irrespective of whether the federal moneys are the sole funds used for the particular purpose, program, purchase, etc. Because many of the elements required under the UGG are significantly more restrictive or burdensome than those which may exist under state law, the component “sub-policies” (see page 3 of this packet, page 1 of the policy) are framed to pertain to Federal Fund use only. Boards may choose to extend some of the requirements found in this policy more generally. For instance, the Travel section (DAF-6), or Conflict of Interest (DAF-4), could be extended to district programs which do not rely on Federal grant funds. In those instances, we recommend revising current policies to simply refer to the appropriate section(s) of this policy. E.g., the last two sentences of NHSBA sample policy DKC would be replaced with “Travel reimbursement shall be subject to the same restrictions, procedures and controls as set forth in Board Policy DAF-7 regarding travel relating to federal grant funds.”*

*(h) Because this sample implicates subject matter found in several other NHSBA samples (see related policies section in the headers of pages 1 and 3), districts should review their own companion policies and consider whether to include the following notation:*

**All purchases for property and services made using federal funds are conducted in accordance with all applicable Federal and State laws and regulations, the Uniform Grant Guidance, and the District’s written policies and procedures. See Board Policy DAF.**

*(i) Given the complexity of this sample policy, and relationship to many existing NHSBA samples, NHSBA contemplates further development and revisions relative to the over the next several policy updates.*

***Direct any inquiries to either NHSBA’s Director of Policy Services or local district counsel.***

*NHSBA sample policy. This policy is required by law. We do not have this policy.  
10-1-2019 Policy Committee*



**Category: Priority/Required by Law**

**Related Policies: DI, DID, DJ, DJC, DJE, DJF & DK  
See also: ADB, EFAA, EHB, JICI & JRA**

This Policy includes “sub-policies” relating to specific provisions of the Uniform Administrative Requirements for Federal Awards issued by the U.S. Office of Budget and Management. Those requirements, which are commonly known as Uniform Grant Guidance (“UGG”), are found in Title 2 of the Code of Federal Regulations (“CFR”) part 200. The sub-policies include:

*Please change or delete page numbers according to your own formatting*

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**NOTICE: Notwithstanding any other policy of the District, all funds awarded directly or indirectly through any Federal grant or subsidy programs shall be administered in accordance with this Policy, and any administrative procedures adopted implementing this Policy.**

The Board accepts federal funds, which are available, provided that there is a specific need for them and that the required matching funds are available. The Board intends to administer federal grant awards efficiently, effectively and in compliance with all requirements imposed by law, the awarding agency and the New Hampshire Department of Education (NHDOE) or other applicable pass-through entity.

This policy establishes the minimum standards regarding internal controls and grant management to be used by the District in the administration of any funds received by the District through Federal grant programs as required by applicable NH and Federal laws or regulations, including, without limitation, the UGG.

The Board directs the Superintendent or designee to develop, monitor, and enforce effective administrative procedures and other internal controls over federal awards as necessary in order to provide reasonable assurances that the District is managing the awards in compliance with all requirements for federal grants and awards. Systems and controls must meet all requirements of federal and/or law and regulation and shall be based on best practices.

The Superintendent is directed to assure that all individuals responsible for the administration of a federal grant or award shall be provided sufficient training to carry out their duties in accordance with all applicable requirements for the federal grant or award and this policy.

To the extent not covered by this Policy, the administrative procedures and internal controls must provide for:

1. identification of all federal funds received and expended and their program source;
2. accurate, current, and complete disclosure of financial data in accordance with federal requirements;
3. records sufficient to track the receipt and use of funds;
4. effective control and accountability over assets to assure they are used only for authorized purposes and
5. comparison of expenditures against budget.

#### **DAF-1     ALLOWABILITY**

The Superintendent is responsible for the efficient and effective administration of grant funds through the application of sound management practices. Such funds shall be administered in a manner consistent with all applicable Federal, State and local laws, the associated agreements/assurances, program objectives and the specific terms and conditions of the grant award.

**A. Cost Principles:** Except whether otherwise authorized by statute, costs shall meet the following general criteria in order to be allowable under Federal awards:

1. Be “necessary” and “reasonable” for proper and efficient performance and administration of the Federal award and be allocable thereto under these principles.
  - a. To determine whether a cost is “reasonable”, consideration shall be given to:
    - i. whether a cost is a type generally recognized as ordinary and necessary for the operation of the District or the proper and efficient performance of the Federal award;
    - ii. the restraints or requirements imposed by such factors as sound business practices, arm’s length bargaining, Federal, State, local, tribal and other laws and regulations;
    - iii. market prices for comparable goods or services for the geographic area;

- iv. whether the individuals concerned acted with prudence in the circumstances considering their responsibilities; and
  - v. whether the cost represents any significant deviation from the established practices or Board policy which may increase the expense. While Federal regulations do not provide specific descriptions of what satisfied the “necessary” element beyond its inclusion in the reasonableness analysis above, whether a cost is necessary is determined based on the needs of the program. Specifically, the expenditure must be necessary to achieve an important program objective. A key aspect in determining whether a cost is necessary is whether the District can demonstrate that the cost addresses an existing need and can prove it.
- b. When determining whether a cost is “necessary”, consideration may be given to whether:
- i. the cost is needed for the proper and efficient performance of the grant program;
  - ii. the cost is identified in the approved budget or application;
  - iii. there is an educational benefit associated with the cost;
  - iv. the cost aligns with identified needs based on results and findings from a needs assessment; and/or
  - v. the cost addresses program goals and objectives and is based on program data.
- c. A cost is allocable to the Federal award if the goods or services involved are chargeable or assignable to the Federal award in accordance with the relative benefit received.
2. Conform to any limitations or exclusions set forth as cost principles in Part 200 or in the terms and conditions of the Federal award.
  3. Be consistent with policies and procedures that apply uniformly to both Federally-financed and other activities of the District.
  4. Be afforded consistent treatment. A cost cannot be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been assigned as an indirect cost under another award.
  5. Be determined in accordance with generally accepted accounting principles.
  6. Be representative of actual cost, net of all applicable credits or offsets.

The term “applicable credits” refers to those receipts or reductions of expenditures that operate to offset or reduce expense items allocable to the Federal award. Typical examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits

accruing to/or received by the State relate to the Federal award, they shall be credited to the Federal award, either as a cost reduction or a cash refund, as appropriate.

7. Be not included as a match or cost-share, unless the specific Federal program authorizes Federal costs to be treated as such.
8. Be adequately documented:
  - a. in the case of personal services, the Superintendent shall implement a system for District personnel to account for time and efforts expended on grant funded programs to assure that only permissible personnel expenses are allocated;
  - b. in the case of other costs, all receipts and other invoice materials shall be retained, along with any documentation identifying the need and purpose for such expenditure if not otherwise clear.

**B. Selected Items of Cost:** The District shall follow the rules for selected items of cost at 2 C.F.R. Part 200, Subpart E when charging these specific expenditures to a Federal grant. When applicable, District staff shall check costs against the selected items of cost requirements to ensure the cost is allowable. In addition, State, District and program-specific rules, including the terms and conditions of the award, may deem a cost as unallowable and District personnel shall follow those rules as well.

**C. Cost Compliance:** The Superintendent shall require that grant program funds are expended and are accounted for consistent with the requirements of the specific program and as identified in the grant application. Compliance monitoring includes accounting for direct or indirect costs and reporting them as permitted or required by each grant.

**D. Determining Whether A Cost is Direct or Indirect**

1. “Direct costs” are those costs that can be identified specifically with a particular final cost objective, such as a Federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

These costs may include: salaries and fringe benefits of employees working directly on a grant-funded project; purchased services contracted for performance under the grant; travel of employees working directly on a grant-funded project; materials, supplies, and equipment purchased for use on a specific grant; and infrastructure costs directly attributable to the program (such as long distance telephone calls specific to the program, etc.).

2. “Indirect costs” are those that have been incurred for a common or joint purpose benefitting more than one (1) cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. Costs incurred for the same purpose in like circumstances shall be treated consistently as either direct or indirect costs.

These costs may include: general data processing, human resources, utility costs, maintenance, accounting, etc.

Federal education programs with supplement not supplant provisions must use a restricted indirect cost rate. In a restricted rate, indirect costs are limited to general management costs. General management costs do not include divisional administration that is limited to one (1) component of the District, the governing body of the District, compensation of the Superintendent, compensation of the chief executive officer of any component of the District, and operation of the immediate offices of these officers.

The salaries of administrative and clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate only if **all** the following conditions are met:

- a. Administrative or clerical services are integral to a project or activity.
- b. Individuals involved can be specifically identified with the project or activity.
- c. Such costs are explicitly included in the budget or have the prior written approval of the Federal awarding agency.
- d. The costs are not also recovered as indirect costs.

Where a Federal program has a specific cap on the percentage of administrative costs that may be charged to a grant, that cap shall include all direct administrative charges as well as any recovered indirect charges.

Effort should be given to identify costs as direct costs whenever practical, but allocation of indirect costs may be used where not prohibited and where indirect cost allocation is approved ahead of time by NHDOE or the pass-through entity (Federal funds subject to 2 C.F.R Part 200 pertaining to determining indirect cost allocation).

- E. Timely Obligation of Funds:** Obligations are orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period.

The following are examples of when funds are determined to be “obligated” under applicable regulation of the U.S. Department of Education:

When the obligation is for:

1. Acquisition of property – on the date which the District makes a binding written commitment to acquire the property.
2. Personal services by an employee of the District – when the services are performed.
3. Personal services by a contractor who is not an employee of the District – on the date which the District makes a binding written commitment to obtain the services.
4. Public utility services – when the District received the services.

5. Travel – when the travel is taken.
6. Rental of property – when the District uses the property.
7. A pre-agreement cost that was properly approved by the Secretary under the cost principles in 2 C.F.R. Part 200, Subpart E – Cost Principles – on the first day of the project period.

**F. Period of Performance:** All obligations must occur on or between the beginning and ending dates of the grant project. This period of time is known as the period of performance. The period of performance is dictated by statute and will be indicated in the Grant Award Notification (“GAN”). As a general rule, State-administered Federal funds are available for obligation within the year that Congress appropriates the funds for. However, given the unique nature of educational institutions, for many Federal education grants, the period of performance is twenty-seven (27) months. This maximum period includes a fifteen (15) month period of initial availability, plus a twelve (12) month period of carry over. For direct grants, the period of performance is generally identified in the GAN.

In the case of a State-administered grant, obligations under a grant may not be made until the grant funding period begins or all necessary materials are submitted to the granting agency, whichever is later. In the case of a direct grant, obligations may begin when the grant is substantially approved, unless an agreement exists with NHDOE or the pass-through entity to reimburse for pre-approval expenses.

For both State-administered and direct grants, regardless of the period of availability, the District shall liquidate all obligations incurred under the award not later than forty-five (45) days after the end of the funding period unless an extension is authorized. Any funds not obligated within the period of performance or liquidated within the appropriate timeframe are said to lapse and shall be returned to the awarding agency. Consistently, the District shall closely monitor grant spending throughout the grant cycle.

## **DAF-2      CASH MANAGEMENT AND FUND CONTROL**

Payment methods must be established in writing that minimize the time elapsed between the drawdown of federal funds and the disbursement of those funds. Standards for funds control and accountability must be met as required by the Uniform Guidance for advance payments and in accordance with the requirements of NHDOE or other applicable pass-through-entity.

In order to provide reasonable assurance that all assets, including Federal, State, and local funds, are safeguarded against waste, loss, unauthorized use, or misappropriation, the Superintendent shall implement internal controls in the area of cash management.

The District’s payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury or the NHDOE (pass-through entity) and disbursement by the District, regardless of whether the payment is made by electronic fund transfer, or issuance or redemption of checks, warrants, or payment by other means.

The District shall use forms and procedures required by the NHDOE, grantor agency or other pass-through entity to request payment. The District shall request grant fund payments in accordance with the provisions of the grant. Additionally, the District's financial management systems shall meet the standards for fund control and accountability as established by the awarding agency.

The Superintendent or designee authorized to submit requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as deemed appropriate when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act (15 U.S.C. 1693-1693r).

When the District uses a cash advance payment method, the following standards shall apply:

The timing and amount of the advance payment requested will be as close as is administratively feasible to the actual disbursement for direct program or project costs and the proportionate share of any allowable indirect costs.

- B. The District shall make timely payment to contractors in accordance with contract provisions.
- C. To the extent available, the District shall disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.
- D. The District shall account for the receipt, obligation and expenditure of funds.
- E. Advance payments shall be deposited and maintained in insured accounts whenever possible.
- F. Advance payments will be maintained in interest bearing accounts unless the following apply:
  - 1. The District receives less than \$120,000 in Federal awards per year.
  - 2. The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
  - 3. The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
  - 4. A foreign government or banking system prohibits or precludes interest bearing accounts.
- G. Pursuant to Federal law and regulations, the District may retain interest earned in an amount up to \$500 per year for administrative costs. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System ("PMS") through an electronic medium using either Automated Clearing House ("ACH") network or a Fedwire Funds Service payment. Remittances shall include pertinent information of the payee and nature of payment in the memo area (often referred to as "addenda records" by Financial Institutions) as that will assist in the timely posting of interest earned on Federal funds.

### **DAF-3     PROCUREMENT**

All purchases for property and services made using federal funds must be conducted in accordance with all applicable Federal, State and local laws and regulations, the Uniform Guidance, and the District's written policies and procedures.

Procurement of all supplies, materials equipment, and services paid for from Federal funds or District matching funds shall be made in accordance with all applicable Federal, State, and local statutes and/or regulations, the terms and conditions of the Federal grant, District policies, and procedures.

The Superintendent or designee shall maintain a procurement and contract administration system in accordance with the USDOE requirements (2 CFR 200.317-.326) for the administration and management of Federal grants and Federally-funded programs. The District shall maintain a contract administration system that requires contractors to perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Except as otherwise noted, procurement transactions shall also conform to the provisions of the District's documented general purchase Policy DJB.

The District avoids situations that unnecessarily restrict competition and avoids acquisition of unnecessary or duplicative items. Individuals or organizations that develop or draft specifications, requirements, statements of work, and/or invitations for bids, requests for proposals, or invitations to negotiate, are excluded from competing for such purchases. Additionally, consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, an analysis shall be made to lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. These considerations are given as part of the process to determine the allowability of each purchase made with Federal funds.

Contracts are awarded only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration is given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. No contract is awarded to a contractor who is suspended or debarred from eligibility for participation in federal assistance programs or activities.

Purchasing records are sufficiently maintained to detail the history of all procurements and must include at least the rationale for the method of procurement, selection of contract type, and contractor selection or rejection; the basis for the contract price; and verification that the contractor is not suspended or debarred.

To foster greater economy and efficiency, the District may enter into State and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services.

- A. Competition:** All procurement transactions shall be conducted in a manner that encourages full and open competition and that is in accordance with good administrative practice and sound business judgement. In order to promote objective contractor performance and eliminate unfair competitive advantage, the District shall exclude any contractor that has developed or drafted specifications, requirements, statements of work, or invitations for bids or requests for proposals from competition for such procurements.



Some of the situations considered to be restrictive of competition include, but are not limited to, the following:

1. unreasonable requirements on firms in order for them to qualify to do business;
2. unnecessary experience and excessive bonding requirements;
3. noncompetitive contracts to consultants that are on retainer contracts;
4. organizational conflicts of interest;
5. specification of only a “brand name” product instead of allowing for an “or equal” product to be offered and describing the performance or other relevant requirements of the procurement; and/or
6. any arbitrary action in the procurement process.

Further, the District does not use statutorily or administratively imposed State, local, or tribal geographical preferences in the evaluation of bids or proposals, unless (1) an applicable Federal statute expressly mandates or encourages a geographic preference; (2) the District is contracting for architectural and engineering services, in which case geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

To the extent that the District uses a pre-qualified list of persons, firms or products to acquire goods and services, the pre-qualified list must include enough qualified sources as to ensure maximum open and free competition. The District allows vendors to apply for consideration to be placed on the list as requested.

- B. Solicitation Language:** The District shall require that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it shall conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which shall be met by offers shall be clearly stated; and identify all requirements which the offerors shall fulfill and all other factors to be used in evaluating bids or proposals.

The Board will not approve any expenditure for an unauthorized purchase or contract.

- C. Procurement Methods:** The District shall utilize the following methods of procurement:

1. Micro-purchases

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$10,000. To the extent practicable, the District shall distribute micro-purchase equitably among qualified suppliers. Micro-purchases may be

made without soliciting competitive quotations if the Superintendent considers the price to be reasonable. The District maintains evidence of this reasonableness in the records of all purchases made by this method.

2. Small Purchases (Simplified Acquisition)

Small purchase procedures provide for relatively simple and informal procurement methods for securing services, supplies, and other property that does not exceed the competitive bid threshold of ~~\$7,500~~ \$250,000. Small purchase procedures require that price or rate quotations shall be obtained from an adequate number of qualified sources.

3. Sealed Bids

Sealed, competitive bids shall be obtained when the purchase of, and contract for, single items of supplies, materials, or equipment which amounts to \$250,000 and when the Board determines to build, repair, enlarge, improve, or demolish a school building/facility the cost of which will exceed ~~\$7,500~~ \$250,000.

a. In order for sealed bidding to be feasible, the following conditions shall be present:

- i. a complete, adequate, and realistic specification or purchase description is available;
- ii. two (2) or more responsible bidders are willing and able to compete effectively for the business; and
- iii. the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

b. When sealed bids are used, the following requirements apply:

- i. Bids shall be solicited in accordance with the provisions of State law and policy DJE . Bids shall be solicited from an adequate number of qualified suppliers, providing sufficient response time prior to the date set for the opening of bids. The invitation to bid shall be publicly advertised.
- ii. The invitation for bids will include product/contract specifications and pertinent attachments and shall define the items and/or services required in order for the bidder to properly respond.
- iii. All bids will be opened at the time and place prescribed in the invitation for bids; bids will be opened publicly.
- iv. ~~A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine the low bid when prior experience indicates that such discounts~~

are usually taken.

**The Gilford School District reserves the right to reject any or all bids and to accept that bid which appears to be in the best interest of the district. The Gilford School District reserves the right to waive any formalities in, or reject, any or all bids or any part of any bid. Any bid may be withdrawn prior to the scheduled time for the opening of bids. Any bid received after the time and date specified shall not be considered. The Gilford School District also reserves the right to negotiate with a bidder when all bids exceed the budgeted appropriation.**

- v. The Board reserves the right to reject any and all bids for sound documented reason.
- vi. Bid protests shall be handled pursuant to the process set forth in DAF-3.I.

#### 4. Competitive Proposals

Procurement by competitive proposal, normally conducted with more than one sources submitting an offer, is generally used when conditions are not appropriate for the use of sealed bids or in the case of a recognized exception to the sealed bid method.

If this method is used, the following requirements apply:

- a. Requests for proposals shall be publicized and identify all evaluation factors and their relative importance. Any response to the publicized requests for proposals shall be considered to the maximum extent practical.
- b. Proposals shall be solicited from an adequate number of sources, if **feasible**.
- c. The District shall use its written method for conducting technical evaluations of the proposals received and for selecting recipients.
- d. Contracts shall be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

The District may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated, and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

#### 5. Noncompetitive Proposals

Procurement by noncompetitive proposals allows for solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- a. the item is available only for a single source;
- b. the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- c. the Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the District; and/or
- d. after solicitation of a number of sources, competition is determined to be inadequate.

**D. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms:** The District must take necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

**E. Contract/Price Analysis:** The District shall perform a cost or price analysis in connection with every procurement action in excess of ~~\$7,500~~ \$250,000 (i.e., the Simplified Acquisition/Small Purchase limit), including contract modifications. (See 2 CFR 200.323(a)). A cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price, without looking at the individual cost elements.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the District shall come to an independent estimate prior to receiving bids or proposals.

When performing a cost analysis, the District shall negotiate profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of

subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

- F. Time and Materials Contracts:** The District shall use a time and materials type contract only (1) after a determination that no other contract is suitable; and (2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to the District is the sum of the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, the District sets a ceiling price for each contract that the contractor exceeds at its own risk. Further, the District shall assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls, and otherwise performs in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

- G. Suspension and Disbarment:** The District will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. All purchasing decisions shall be made in the best interests of the District and shall seek to obtain the maximum value for each dollar expended. When making a purchasing decision, the District shall consider such factors as (1) contractor integrity; (2) compliance with public policy; (3) record of past performance/ and (4) financial and technical resources.

The Superintendent shall have the authority to suspend or debar a person/corporation, for cause, from consideration or award of further contracts. The District is subject to and shall abide by the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180.

Suspension is an action taken by the District that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (See 2 CFR Part 180 Subpart G).

Debarment is an action taken by the Superintendent to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred. (See 2 CFR Part 180 Subpart H).

The District shall not subcontract with or award sub-grants to any person or company who is debarred or suspended. For contracts over \$25,000 the District shall confirm that the vendor is not debarred or suspended by either checking the Federal government's System for Award Management ("SAM"), which maintains a list of such debarred or suspended vendors at [www.sam.gov](http://www.sam.gov) (which replaced the former Excluded Parties List System or EPLS); or collecting a certification from the vendor. (See 2 CFR Part 180 Sub part C).

Documentation that debarment/suspension was queried must be retained for each covered transaction as part of the documentation required under DAF-3, paragraph J. This documentation should include the date(s) queried and copy(ies) of the SAM result report/screen shot, or a copy

of the or certification from the vendor. It should be attached to the payment backup and retained for future audit review.

**H. Additional Requirements for Procurement Contracts Using Federal Funds:**

1. For any contract using Federal funds under which the contract amount exceeds the upper limit for Simplified Acquisition/Small Purchases (see DAF-3.C.2), the contract must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and must provide for sanctions and penalties. (See 2 CFR 200, Appendix II(A)).
2. For any contract using Federal funds under which the contract amount exceeds \$10,000, it must address the District's authority to terminate the contract for cause and for convenience, including the manner by which termination will be effected and the basis for settlement. (See 2 CFR 200, Appendix II(B)).
3. For any contract using Federal funds under which the contract amount exceeds \$150,000, the contract must include clauses addressing the Clean Air Act and the Federal Water Pollution Control Act. (See 2 CFR 200, Appendix II(G)).
4. For any contract using Federal funds under which the contract exceeds \$100,000, the contract must include an anti-lobbying clause, and require bidders to submit Anti-Lobbying Certification as required under 2 CFR 200, Appendix II (J).
5. For each contract using Federal funds and for which there is no price competition, and for each Federal fund contract in which a cost analysis is performed, the District shall negotiate profit as a separate element of the price. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of the contractor's past performance, and industry profit rates in the surrounding geographical area for similar work. (See 2 CFR 200.323(b)).

- I. Bid Protest:** The District maintains the following protest procedures to handle and resolve disputes relating to procurements and, in all instances, discloses information regarding the protest to the awarding agency.

A bidder who wishes to file a bid protest shall file such notice and follow procedures prescribed by the Request For Proposals (RFPs) or the individual bid specifications package, for resolution. Bid protests shall be filed in writing with the Superintendent within seventy-two (72) hours of the opening of the bids in protest.

Within five (5) days of receipt of a protest, the Superintendent shall review the protest as submitted and render a decision regarding the merits of the protest and any impact on the acceptance and rejection of bids submitted. Notice of the filing of a bid protest shall be communicated to the Board and shall be so noted in any subsequent recommendation for the acceptance of bids and awarding of contracts.

Failure to file a notice of intent to protest, or failure to file a formal written protest within the time prescribed, shall constitute a waiver of proceedings.

- J. Maintenance of Procurement Records:** The District shall maintain records sufficient to detail the history of all procurements. These records will include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, the basis for the contract price (including a cost or price analysis), and records regarding disbarment/suspension queries or actions. Such records shall be retained consistent with District Policy EHB and District Administrative Procedures EHB-R.

**DAF-4      PROCUREMENT – ADDITIONAL PROVISIONS PERTINENT TO FOOD SERVICE PROGRAM**

The following provisions shall be included in all cost reimbursable contracts for food services purchases, including contracts with cost reimbursable provisions, and in solicitation documents prepared to obtain offers for such contracts: (7 CFR Sec. 210.21, 215.14a, 220.16)

- A. Mandatory Contract Clauses:** The following provisions shall be included in all cost reimbursable contracts for food services purchases, including contracts with cost reimbursable provisions, and in solicitation documents prepared to obtain offers for such contracts:
1. Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school food authority;
  2. The contractor must separately identify for each cost submitted for payment to the school food authority the amount of that cost that is allowable (can be paid from the nonprofit school food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account); or
  3. The contractor must exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification;
  4. The contractor's determination of its allowable costs must be made in compliance with the applicable departmental and program regulations and Office of Management and Budget cost circulars;
  5. The contractor must identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. If approved by the state agency, the school food authority may permit the contractor to report this information on a less frequent basis than monthly, but no less frequently than annually;
  6. The contractor must identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract; and

7. The contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the school food authority, the state agency, or the department.

**B. Contracts with Food Service Management Companies:** Procedures for selecting and contracting with a food service management company shall comply with guidance provided by the NHDOE, including standard forms, procedures and timelines for solicitation, selection and approval of proposals and contracts.

**C. “Buy American” Requirement:**

Under the “Buy American” provision of the National School Lunch Act (the “NSLA”), school food authorities (SFAs) are required to purchase, to the maximum extent practicable, *domestic commodity or product*. As an SFA, the District is required to comply with the “Buy American” procurement standards set forth in 7 CFR Part 210.21(d) when purchasing commercial food products served in the school meals programs. This requirement applies whether the District is purchasing the products directly or when the products are purchased by third parties on the District’s behalf (e.g., food service management companies, group purchasing cooperatives, shared purchasing, etc.).

Under the NSLA, “*domestic commodity or product*” is defined as an agricultural commodity or product that is produced or processed in the United States using “*substantial*” agricultural commodities that are produced in the United States. For purposes of the act, “*substantial*” means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically. Products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowable under this provision as territories of the United States.

1. Exceptions: The two main exceptions to the Buy American requirements are:
  - a) The product is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality; or
  - b) Competitive bids reveal the costs of a U.S. product are significantly higher than the non-domestic product.
2. Steps to Comply with Buy American Requirements: In order to help assure that the District remains in compliance with the Buy American requirement, the Superintendent or designee shall
  - a) Include a Buy American clause in all procurement documents (product specifications, bid solicitations, requests for proposals, purchase orders, etc.);
  - b) Monitor contractor performance;
  - c) Require suppliers to certify the origin of the product;
  - d) Examine product packaging for identification of the country of origin; and



- e) Require suppliers to provide specific information about the percentage of U.S. content in food products from time-to-time.

#### **DAF-5 CONFLICT OF INTEREST AND MANDATORY DISCLOSURES**

The District complies with the requirements of State law and the Uniform Guidance for conflicts of interest and mandatory disclosures for all procurements with federal funds.

Each employee, board member, or agent of the school system who is engaged in the selection, award or administration of a contract supported by a federal grant or award and who has a potential conflict of interest must disclose that conflict in writing to the Superintendent or designee, who, in turn, shall disclose in writing any such potential conflict of interest to NHDOE or other applicable pass-through-entity.

A conflict of interest would arise when the covered individual, any member of his/her immediate family, his/her partner, or an organization, which employs or is about to employ any of those parties has a financial or other interest in or received a tangible personal benefit from a firm considered for a contract. A covered individual who is required to disclose a conflict shall not participate in the selection, award, or administration of a contract supported by a federal grant or award.

Covered individuals will not solicit or accept any gratuities, favors, or items from a contractor or a party to a subcontractor for a federal grant or award. Violations of this rule are subject to disciplinary action.

The Superintendent shall timely disclose in writing to NHDOE or other applicable pass-through-entity, all violations of federal criminal law involving fraud, bribery, or gratuities potentially effecting any federal award. The Superintendent shall fully address any such violations promptly and notify the Board with such information as is appropriate under the circumstances (e.g., taking into account applicable disciplinary processes).

#### **DAF-6 INVENTORY MANAGEMENT - EQUIPMENT AND SUPPLIES PURCHASED WITH FEDERAL FUNDS**

Equipment and supplies acquired (“property” as used in this policy DAF-6) with federal funds will be used, managed, and disposed of in accordance with applicable state and federal requirements. Property records and inventory systems shall be sufficiently maintained to account for and track equipment that has been acquired with federal funds. In furtherance thereof, the following minimum standards and controls shall apply to any equipment or pilferable items acquired in whole or in part under a Federal award until such property is disposed in accordance with applicable laws, regulations and Board policies:

- A. **“Equipment” and “Pilferable Items” Defined:** For purposes of this policy, “equipment” means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of \$5,000, or the capitalization level established by the District for financial statement purposes. “Pilferable items” are those items, *regardless of cost*, which may be easily lost or stolen, such as

- B. cell phones, tablets, graphing calculators, software, projectors, cameras and other video equipment, computer equipment and televisions.
- C. **Records**: The Superintendent or designee shall maintain records that include a description of the property; a serial number or other identification number; the source of the funding for the property (including the federal award identification number (FAIN)); who holds title; the acquisition date; the cost of the property; the percentage of the federal participation in the project costs for the federal award under which the property was acquired; the location, use, and condition of the property; and any ultimate disposition data, including the date of disposition and sale price of the property.
- D. **Inventory**: No less than once every two years, the Superintendent or designee shall cause a physical inventory of all equipment and pilferable items must be taken and the results reconciled with the property records at least once every two years.
- E. **Control, Maintenance and Disposition**: The Superintendent shall develop administrative procedures relative to property procured in whole or in part with Federal funds to:
  - 1. prevent loss, damage, or theft of the property; Any loss, damage, or theft must be investigated;
  - 2. to maintain the property and keep it in good condition; and
  - 3. to ensure the highest possible return through proper sales procedures, in those instances where the District is authorized to sell the property.

#### **DAF-7      TRAVEL REIMBURSEMENT – FEDERAL FUNDS**

The Board shall reimburse administrative, professional and support employees, and school officials, for travel costs incurred in the course of performing services related to official business as a federal grant recipient.

For purposes of this policy, “travel costs” shall mean the expenses for transportation, lodging, subsistence, and related items incurred by employees and school officials who are in travel status on official business as a federal grant recipient.

School officials and district employees shall comply with applicable Board policies and administrative regulations established for reimbursement of travel and other expenses.

The validity of payments for travel costs for all district employees and school officials shall be determined by the Superintendent or designee.

Travel costs shall be reimbursed on a mileage basis for travel using an employee’s personal vehicle and on an actual cost basis for meals, lodging and other allowable expenses, consistent with those normally allowed in like circumstances in the district’s non-federally funded activities, and in accordance with the district’s travel reimbursement policies and administrative regulations.

Mileage reimbursements shall be at the rate approved by the Board or Board policy for other district travel reimbursements. Actual costs for meals, lodging and other allowable expenses shall be reimbursed only to the extent they are reasonable and do not exceed the per diem limits established by Board policy, or, in the absence of such policy, the federal General Services Administration for federal employees for locale where incurred.

All travel costs must be presented with an itemized, verified statement prior to reimbursement.

In addition, for any costs that are charged directly to the federal award, the Superintendent or designee shall maintain sufficient records to justify that:

- A. Participation of the individual is necessary to the federal award.
- B. The costs are reasonable and consistent with Board policy.

#### **DAF-8     ACCOUNTABILITY AND CERTIFICATIONS**

All fiscal transactions must be approved by the Superintendent or designee who can attest that the expenditure is allowable and approved under the federal program. The Superintendent or designee submits all required certifications.

#### **DAF-9     TIME-EFFORT REPORTING / OVERSIGHT**

The Superintendent will establish sufficient oversight of the operations of federally supported activities to assure compliance with applicable federal requirements and to ensure that program objectives established by the awarding agency are being achieved. The District will submit all reports as required by federal or state authorities.

As a recipient of Federal funds, the District shall comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Section 200.430 of the Code of Federal Regulations requires certification of effort to document salary expenses charged directly or indirectly against Federally-sponsored projects. This process is intended to verify the compensation for employment services, including salaries and wages, is allocable and properly expended, and that any variances from the budget are reconciled.

**A. Compensation:** Compensation for employment services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits, which are addressed in 2 CFR 200.431 Compensation – fringe benefits. Costs of compensation are allowable to the extent that they satisfy the specific requirements of these regulations, and that the total compensation for individual employees:

- 1. is reasonable for the services rendered, conforms to the District’s established written policy, and is consistently applied to both Federal and non-Federal activities; and

2. follows an appointment made in accordance with the District's written policies and meets the requirements of Federal statute, where applicable.

**B. Time and Effort Reports:** Time and effort reports shall:

1. be supported by a system of internal controls which provide reasonable assurance that the charges are accurate, allowable, and properly allocated;
2. be incorporated into the official records of the District;
3. reasonably reflect the total activity for which the employee is compensated by the District, not exceeding 100% of the compensated activities;
4. encompass both Federally assisted and other activities compensated by the District on an integrated basis;
5. comply with the District's established accounting policies and practices;
6. support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one (1) Federal award, a Federal award and non-Federal award, an indirect cost activity and a direct cost activity, two (2) or more indirect activities which are allocated using different allocation bases, or an unallowable activity and a direct or indirect cost activity.

The District will also follow any time and effort requirements imposed by NHDOE or other pass-through entity as appropriate to the extent that they are more restrictive than the Federal requirements. The Superintendent or designee is responsible for the collection and retention of employee time and effort reports. Individually reported data will be made available only to authorized auditors or as required by law.

**DAF-10 GRANT BUDGET RECONCILIATION**

Budget estimates are not used as support for charges to Federal awards. However, the District may use budget estimates for interim accounting purposes. The system used by the District to establish budget estimates produces reasonable approximations of the activity actually performed. Any significant changes in the corresponding work activity are identified by the District and entered into the District's records in a timely manner.

The District's internal controls include a process to review after-the-fact interim charges made to a Federal award based on budget estimates and ensure that all necessary adjustments are made so that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

**DAF-11 SUB-RECIPIENT MONITORING AND MANAGEMENT**

When entering agreements involving the expenditure or disbursements of federal grant funds, the District shall determine whether the recipient of such federal funds is a "contractor" or "sub

recipient”, as those terms are defined in 2 CFR §200.23 and §200.93, respectively. See also guidance at 2 CFR §200.330 “Sub recipient and contractor determinations”. Generally, “sub recipients” are instrumental in implementing the applicable work program whereas a “contractor” provides goods and services for the District’s own use. Contractors will be subject to the District’s procurement and purchasing policies (e.g., *DJB*, *DJB-R*, *DAF-3* relative to federal grant funds, *DJE* relative to bidding requirements for non-federal money projects, etc.). Sub recipients are subject to this Policy.

Under the UGG, the District is considered a "pass-through entity" in relation to its sub recipients, and as such requires that sub recipients comply with applicable terms and conditions (flow-down provisions). All sub recipients of Federal or State funds received through the District are subject to the same Federal and State statutes, regulations, and award terms and conditions as the District.

**A. Sub-award Contents and Communication.**

In the execution of every sub-award, the District will communicate the following information to the sub recipient and include the same information in the sub-award agreement.

1. Every sub-award will be clearly identified and include the following Federal award identification:
  - a) Sub recipient name
  - b) Sub recipient’s unique ID number (DUNS)
  - c) Federal Award ID Number (FAIN)
  - d) Federal award date
  - e) Period of performance start and end date
  - f) Amount of federal funds obligated
  - g) Amount of federal funds obligated to the sub recipient
  - h) Total amount of the Federal award
  - i) Total approved cost sharing or match required where applicable
  - j) Project description responsive to FFATA
  - k) Name of Federal awarding agency, pass through entity and contact information
  - l) CFDA number and name
  - m) Identification of the award is R&D
  - n) Indirect cost rate for the Federal award
2. Requirements imposed by the District including statutes, regulations, and the terms and conditions of the Federal award.
3. Any additional requirements the District deems necessary for financial or performance reporting of sub recipients as necessary.
4. An approved indirect cost rate negotiated between sub recipient and the Federal government or between the pass-through entity and sub recipient.
5. Requirements that the District and its auditors have access to the sub recipient records and financial statements.

6. Terms and conditions for closeout of the sub-award.

**B. Sub recipient Monitoring Procedures.**

The Superintendent is responsible for having all the District project managers monitor sub recipients. The District will monitor the activities of the sub recipient to ensure the sub-award is used for authorized purposes. The frequency of monitoring review will be specified in the sub-award and conducted concurrently with all invoice submission.

Sub recipient monitoring procedures include:

1. At the time of proposal, assess the potential of the sub recipient for programmatic, financial, and administrative suitability.
2. Evaluate each sub recipient's risk of noncompliance prior to executing a sub-award. In doing so, the District will assess the sub recipient's:
  - a) Prior experience with the same or similar sub-awards.
  - b) Results of previous audits and single audit (if applicable).
  - c) New personnel or new or substantially changed systems.
  - d) The extent and results of Federal awarding agency monitoring.
3. Confirm the statement of work and review any non-standard terms and conditions of the sub-award during the negotiation process.
4. Monitor financial and programmatic progress and ability of the sub recipient to meet objectives of the sub-award. To facilitate this review, sub recipients are required to submit sufficient invoice detail and a progress report. The District project managers will encourage sub recipients to submit regular invoices.
5. Invoices and progress reports will be date stamped upon receipt if received in hard copy. A record of the date of receipt will be maintained for those invoices sent electronically.
6. In conducting regular oversight and monitoring, the District project managers will:
  - a) Verify invoices that include progress reports.
  - b) Review progress reports to ensure project is progressing appropriately and on schedule.
  - c) Compare invoice to agreement budget to ensure eligibility of costs and that costs do not exceed budget.
  - d) Review invoice to ensure supporting documentation is included and invoices costs are within the scope of work for the projects being invoiced.
  - e) Obtain report, certification and supporting documentation of local (non-federal)/in-kind match work from the sub recipient.
  - f) Review sub recipient match tasks for eligibility.
  - g) Initial the progress report and invoice confirming review and approval prior to payment.
  - h) Raise any concerns to the Superintendent or designee.

7. The *Superintendent or designee* upon recommendation from the project's manager, will approve the invoice payment and will initial invoices confirming review and approval prior to payment.
8. Payments will be withheld from sub recipients for the following reasons:
  - a) Insufficient detail to support the costs billed;
  - b) Unallowable costs;
  - c) Ineligible costs; and/or
  - d) Incomplete work or work not completed in accordance with required specifications.
9. Verify every sub recipient is audited in accordance with 2 CFR §200 Subpart F – Audit Requirements.

**C. Sub recipient Project Files.** Sub recipient project files will contain, at a minimum, the following:

- a) Project proposal
- b) Project scope
- c) Progress reports
- d) Interim and final products
- e) Copies of other applicable project documents as required, such as copies of contracts or MOUs

**D. Audit Requirements.**

All sub recipients are required to annually submit their audit and Single Audit report to the District for review to ensure the sub recipient has complied with good accounting practices and federal regulations. If a deficiency is identified, the District will:

1. Issue a management decision on audit findings pertaining to the Federal award.
2. Consider whether the results of audits or reviews indicate conditions that necessitate adjustments to pass through entity's own records.

**E. Methodology for Resolving Findings.**

The District will work with sub recipients to resolve any findings and deficiencies. To do so, the District may follow up on deficiencies identified through on-site reviews, provision of basic technical assistance, and other means of assistance as appropriate.

The District will only consider taking enforcement action against non-compliant sub recipients in accordance with 2 CFR 200.338 when noncompliance cannot be remedied. Enforcement may include taking any of the following actions as appropriate:

- a) Temporarily withhold cash payments pending correction of the deficiency
- b) Disallow all or part of the cost of the activity or action not in compliance.

- c) Wholly or partly suspend or terminate the sub-award.
- d) Initiate suspension or debarment proceedings.
- e) Withhold further Federal awards for the project or program.
- f) Take other remedies that may be legally available.

**District Policy History:**

*First reading:* \_\_\_\_\_

*Second reading/adopted:* \_\_\_\_\_

***District revision history:***

**Legal References:**

*42 USC 1751 – 66 National School Lunch Act*

*2 C.F.R. Part 180*

*2 C.F.R. Part 200*

*200.0 - 200.99; 200.305; 200.313(d); 200.317-.326; 200.403-.406; 200.413(a)-(c); 200.430; 200.431;  
200.458; 200.474(b)*

*200 Appendix II*

*7 CFR Part 210*

*210.16; 210.19; 210.21; 215.14a; 220.16*

***Legal References Disclaimer:*** *These references are not intended to be considered part of this policy, nor should they be taken as a comprehensive statement of the legal basis for the Board to enact this policy, nor as a complete recitation of related legal authority. Instead, they are provided as additional resources for those interested in the subject matter of the policy.*

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**NHSBA history:** REVISED – July 2019; NEW POLICY – April 2019

**NHSBA notes:** **April 2019**, this policy was created to reflect requirements of Title 2 CFR Part 200, commonly known as the Uniform Grant Guidance.

**NHSBA note, July 2019**, NHSBA revised DAF to include DAF-11, regarding sub-recipient monitoring, and modified DAF-4 to include reference to “buy American” requirements.

w/p-update/2019 Spring/DAF Grant Mgt - 2019-7 (d)

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