

## EHLB (HSD) Subpoenas Involving District Students, Officials, Employees and/or Records

*Priority/ Required by law*

*See also: EH, EHB, JH, GBEB, JRA*

### **A. Purpose and General Statement of Policy**

The purpose of this policy is to provide guidance and establish procedures for the receipt, review, and response to subpoenas, summonses and other legal processes (collectively "subpoena(s)" directed to the District, its officials, employees, or students). This policy is designed to ensure compliance with applicable laws while safeguarding the privacy rights of individual students and employees. It also aims to protect the legal and operational interests of the District and uphold the integrity of its educational mission. The policy does not concern subpoenas or other legal process on District officials, employees or students relative to matters directed at them as individuals and not at, or affecting, the District.

1. This policy provides guidance and direction for District employees or officials who are subpoenaed to testify and/or provide educational or other District records for any judicial or administrative proceeding.
2. The Board recognizes that when civil, administrative or criminal actions are pending involving an employee or student, the District may be requested or required to take action in order to protect the rights of District students, employees and officials, as well as the interests of the District.
3. In responding to subpoenas, the District will take such measures as are appropriate to its primary mission of providing for the education of students in an environment that is safe for employees and students and is conducive to learning.

### **B. Procedures for Received Subpoenas**

1. Subpoenas Requesting District Records (a/k/a "*subpoena duces tecum*"): As provided in Board policy EH, the School Board has designated the Superintendent as the custodian of all District records, which term shall have the same meaning as "governmental records" in the state's Right to Know law, RSA 91-A:1-a, and includes, without limitation, all student and all personnel records maintained by the District in whatever form. Accordingly, the School Board designates the Superintendent as the party upon whom a subpoena should be served when the subpoena is requesting District records (such subpoenas are often styled/titled "*subpoena duces tecum*"). As the designation of a custodian by the District is not necessarily binding on the party or agency seeking the records/issuing the subpoena, any employee who receives a subpoena merely requesting District records should follow the protocol included in the next paragraph.
2. Employee Receipt of a Subpoena: Any employee who receives a subpoena regarding a judicial or administrative proceeding for any purpose

related to the District, or any of the District's students, employees or officers shall inform the Principal or other available senior building administrator immediately upon receiving the subpoena. If no building administrator is readily available, the employee shall inform the Superintendent or available senior SAU administrator. The Principal/building administrator or supervisor will inform the Superintendent or available senior SAU administrator about the subpoena as soon as possible.

No employee may testify or release student information, student or personnel records, or other district records without consultation in advance with the Superintendent or designee.

3. Subpoenas Seeking Student Records and Compliance with FERPA: In compliance with FERPA, the District will disclose student education records in response to a valid subpoena or court order only after providing reasonable advance notice to the parent/guardian or eligible student before releasing records, unless the subpoena is from a federal grand jury or law enforcement and includes a court order of non-disclosure, or the subpoena is part of a legal proceeding involving child abuse or neglect and the parent/guardian is a party to the case.
4. Consultation with Counsel: The Superintendent or Superintendent's designee, or in the absence of the Superintendent, the most senior administrator available at the SAU will promptly contact the School District's attorneys for guidance in order to ensure:
  - a. the validity of the subpoena, and
  - b. compliance with FERPA and all other legal requirements, and
  - c. protection of the interests of the District's students, employees, officials and the District itself.

**C. Dissemination of Information Regarding this Policy and Subpoenas**

The Superintendent shall ensure that all employees are informed about the requirements of this policy. Additionally, the Superintendent must ensure that all certified educators are made aware that under RSA 21-N:4, XIII, a subpoena from the New Hampshire Department of Education ("NHED") served upon a certified educator may be sent certified mail to the last address on file at the Department of Education. The delivery of the subpoena does not require a return receipt. It is imperative therefore, that all certified educators (1) ensure that their addresses on file with NHED are current, and (2) are diligent in monitoring mail at those addresses.

**NH Statutes**

RSA 189:65

RSA 189:66

RSA 189:67

RSA 194-C:4, SAU

RSA 21-N:4

RSA 91-A:1-a

**Federal Statutes**

20 U.S.C. §1232g

**Cross References****Description**

Definitions

Data Inventory and Policies Publication

Limits on Disclosure of Information

Superintendent Services

Duties of the Commissioner

Definitions

**Description**

Family Educational Rights and Privacy Act (FERPA)

**Code**

EH

EH-R(1)

EHB

GBEAB

GBEB

JRA

**Description**

Public Access to School District Records

Public Access to School District Records - Procedures for Public Access to District Records "Right to Know Requests"

Data/Records Retention

Mandatory Code of Conduct Reporting - All Employees

Staff Conduct

Student Records and Access (FERPA)

1<sup>st</sup> Reading: January 7, 2026