Since the NH Standards for the Education of Children with Disabilities were readopted with amendments on March 23, 2017, a number of additional revisions have been made.

On August 8, 2018, through the rulemaking process, revisions to Ed 1102.01, Ed 1102.03, and Ed 1113.12 to reflect the amendments made to IDEA to align with the Every Student Succeeds Act (ESSA). Accordingly, parts of Ed 1102.01 and Ed 1102.03 were renumbered.

Part Ed 1128 was also amended, primarily to replace the term “catastrophic aid” with “special education aid”, consistent with the revisions made to RSA 186-C, and to provide additional clarity.

On April 10, 2020, revisions to 2 sections were adopted. The affected sections were: Ed 1102.04(h) the definition to “parent” and Ed 1119.01 confidentiality requirements (to reflect revisions to RSA 186-C’s records retention requirements).

During the 2021-22 legislative session, several changes were made to NH’s special education law, RSA 186-C. These revisions will be reflected in Ed 1100 through the rulemaking process. A clarifying note is added to this Guide to the NH Standards for the Education of Children with Disabilities in each of the sessions that will be impacted.

- In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive. This change will be reflected in the following sections:
  - Ed 1102.01(f)
  - Ed 1102.01(t)
  - Ed 1105.01(b) & (c)(2)
  - Ed 1105.02(b)
  - Ed 1105.03(c)
  - Ed 1106.01
  - Ed 1109.03(k)
  - Ed 1111.02(b)
  - Table 1100.3
  - Ed 1111.04(a), (c) & (f)(2)
  - Ed 1113.13(b)
  - Ed 1113.14(b) & (c)
  - Ed 1115.05(c)
  - Ed 1115.08(b)

- On January 1, 2022, a new section, RSA 186-C:3-c regarding supported decision-making became effective (information about this revision is included in a note following Ed 1109.01(a)(10)).

- On August 16, 2022, a new section, RSA 186-C:8-a regarding IEP teams having a discussion of voter registration as an appropriate transition goal, became effective (information about this revision is included in a note following Ed 1109.01(a)(10)).

- A note has been added following Ed 1119.01(b) where it references 20 U.S.C. section 1232g to clarify that while FERPA provides an up-to 45-day timeframe for participating agencies to make records available to a child’s parents, NH has established a 14-day timeline for schools to allow parents to inspect and review their student’s records (RSA 189:66, IV(a)).
Ed 1102.01(f) “Adult student” means a child with a disability who is:

(1) 18 years of age or older but less than 21 years of age and not adjudicated incompetent; or

Note: June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up to 22 years of age].
Ed 1102.01(t) “Child with a disability” means:
(1) A “Child with a disability” as defined in 34 CFR 300.8 who is 3 years of age or older but less than 21 years of age and who has not yet received a regular high school diploma as provided in 34 CFR 300.102;

Note: June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up 22 years of age].
Ed 1105.01(b) The LEA shall have policies and procedures to ensure that any child who is potentially a child with a disability attending school and for any child 2.5 years of age up to 21 years of age residing within its jurisdiction is referred to the IEP team.

Note: In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up 22 years of age].

Ed 1105.01(c) The child find system shall contain specific provisions to meet the particular circumstances pertinent to the following groups of persons:

(2) The LEA, using the special education process, shall find, identify, and evaluate all children suspected to be children with disabilities who are 2.5 years of age or older but less than 21 years of age.

Note: In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up 22 years of age].
Ed 1105.02(b) Any person may refer a child under the age of 21 years to the IEP team for reasons including, but not limited, to the following:

Note: In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up 22 years of age].
Ed 1105.03 Child Find For Children Placed in Homes for Children, Health Care Facilities, or State Institutions. In order to insure that all relevant agencies and groups within the boundaries of each local school district are aware of the LEA’s child find efforts and of the process for referring a child who is or might be involved with the court and for whom a special education program might be appropriate, the LEA shall:

(c) Correspond with, or contact at least once a year, agencies or groups within the area served by the LEA which might have knowledge of children with disabilities who are not being served, explaining the referral process and requesting that they refer to the LEA children under the age of 21 who might have educational disabilities; and

Note: In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive (up to 22 years of age).
Ed 1106.01  **Process; Provision of FAPE.** In order to provide a FAPE for children 2.5 years of age to 21 years of age there shall be a referral process in which:

*Note: In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up 22 years of age].*
Ed 1109.01  Elements of an Individualized Education Program.

(a) Each IEP shall include:

(10) A statement of transition services that meets the requirements of 34 CFR 300.43 and 34 CFR 300.320(b), with the exception that a plan for each student with a disability beginning at age 14 or younger, if determined appropriate by the IEP team, shall include a statement of the transition service needs of the student under the applicable components of the student’s IEP that focuses on the student’s courses of study such as participation in advanced-placement courses, vocational education, or career and technical education.

For informational purposes, I have temporarily placed these notes after Ed 1109.01(a)(10).

Through the rulemaking process, these additions/revisions may be added either here or in another section(s) of the NH Standards for the Education of Children with Disabilities.

The following new section (RSA 186-C:3-c) below became effective January 1, 2022:

186-C:3-c Supported Decision-Making. – If adult guardianship is being discussed by the IEP team with a student or the student’s family, the team shall inform the student and family of the availability of supported decision-making pursuant to RSA 464-D as an alternative to guardianship. This shall be done promptly when guardianship is first discussed. The IEP team shall make available resources to assist in establishing a supported decision-making agreement. If a supported decision-making agreement is executed, the IEP team shall abide by decisions made by the student pursuant to the supported decision-making agreement.

The following new section (RSA 186-C:8-a) will be added and effective on August 16, 2022:

186-C:8-a Voter Registration. – When an individualized education program (IEP) team or planning team for accommodations pursuant to Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq) meets for the purpose of reviewing or developing an IEP or accommodation plan for a student who is 17 years of age or older, or will be during that academic year, the team shall discuss voter registration as an appropriate community living/citizenship training goal or competency to be included in the IEP or Section 504 plan, and, if appropriate, when and how voter registration should be accomplished. Any resulting decisions shall be included in the IEP or Section 504 plan.
Ed 1109.03(k) LEAs shall comply with RSA 186-C:9 relative to required special education.

**RSA 186-C:9 Education Required.** – Each child who is determined by the local school district, or special school district established under RSA 194:60, as having a disability in accordance with RSA 186-C:2 and in need of special education or special education and related services shall be entitled to attend an approved program which can implement the child's individualized education program. Such child shall be entitled to continue in an approved program until such time as the child has acquired a regular high school diploma or has attained the age of 21, whichever occurs first, or until the child's individualized education program team determines that the child no longer requires special education in accordance with the provisions of this chapter.

*Note: In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up 22 years of age].*
Ed 1111.02(b) School districts shall, at a minimum, give evidence that the continuum of alternative educational environments from least restrictive to most restrictive set forth in Table 1100.2, “Continuum of Alternative Educational Environments for Children Ages 3-5,” and as set forth in Table 1100.2, “Continuum of Alternative Educational Environments for Children Ages 6-21” and as set forth in Table 1100.4 [Note: should read “Table 1100.3” – it is a typographical, not content-based error], “Continuum of Alternative Educational Environments –Ages 6-21 is available or would be made available as placements for children with disabilities, including children of preschool age.

Note: In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up 22 years of age].
Table 1100.3 Continuum of Alternative Learning Environments – Ages 6-21

| Note: In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up 22 years of age]. |
Ed 1111.04(a) Home instruction is an alternative placement for children at least 6 years of age but less than 21 years of age in accordance with CFR 300.115.

*Note: In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up 22 years of age].*

Ed 1111.04(c) Home instruction for children at least 6 years of age but less than 21 years of age shall not include parent-designed home instruction programs as authorized in Ed 315.

*Note: In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up 22 years of age].*
Ed 1111.04(f)  Length of the school year and school day for a home instruction placement shall be consistent with RSA 186-C: 15 except as follows:

(2) For children with disabilities ages 18-21, the procedures in Ed 1111.04(e)(1) [Note: “1111.04(e)(1)” should read “1111.04(f)(1)” – it is a typographical error] shall apply as if the child with a disability were under 18 years of age.

Note: In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up to 22 years of age].
Ed 1113.13(b) Children with disabilities shall be entitled to continue in an approved program until such time as the child has acquired a regular high school diploma or has attained the age of 21, whichever occurs first, or until the IEP team responsible for evaluating the child and determining whether the child has a disability determines that the child no longer has a disability in accordance with Ed 1107.

Note: In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up 22 years of age].

Ed 1113.14(b) The LEA shall provide a standard school year for children ages 6 – 21 as required by RSA 186-C:15, I, RSA 189:1 and RSA 189:24 and Ed 306.18-Ed 306.21.

Note: In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up 22 years of age].
Ed 1113.14(c) Children with disabilities ages 3 to 21 in need of extended school year services shall receive extended school year services in accordance with Ed 1110.

*Note: In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up 22 years of age].*
Ed 1115.05(c) Appointment of surrogate parents shall be effective until the child reaches 18 years of age unless:

(1) The child requests in writing that the commissioner of education or his/her designee extend the original appointment until the child is awarded a regular high school diploma or reaches 21 years of age, whichever occurs first;

Note: In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up 22 years of age].
Ed 1115.08(b) The liability of a surrogate parent shall be limited in accordance with RSA 186-C:14, VI.

**RSA 186-C:14, IV.** Appointment of Surrogate. Appointment of a surrogate parent under this section shall be effective until the child reaches 18 years of age, and may be extended by order of the commissioner until the child graduates from high school or reaches 21 years of age, whichever occurs first. If the surrogate parent resigns, dies or is removed, the commissioner of the department of education or designee, or the court with jurisdiction over the child's case, may appoint a successor surrogate parent in the same manner as provided in paragraph III.

*Note: In June 2022, RSA 186-C:2, the definition of a “child with a disability” was revised to include children with disabilities between the ages of 3 and 21 inclusive [up 22 years of age].*

This note is inserted into the box following the FERPA reference to its 45-day timeline.

NOTE: While NH complies with FERPA, we have established a shorter timeline for making records available to a child’s parent (NH has a 14-day timeline vs. FERPA’s 45-day timeline).

RSA 189:66, IV The department and each local education agency shall make publicly available students’ and parents’ rights under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. section 1232g, et seq., and applicable state law including:

(a) The right to inspect and review the student’s education records within 14 days after the day the school receives a request for access.