

HB 489 - AS AMENDED BY THE HOUSE

19Mar2019... 0989h

2019 SESSION

19-0516
06/05

HOUSE BILL **489**

AN ACT relative to changing a pupil's school or assignment because of a manifest educational hardship.

SPONSORS: Rep. Ladd, Graf. 4

COMMITTEE: Education

ANALYSIS

This bill revises the procedures for a change of school or assignment because of manifest educational hardship.

Explanation: Matter added to current law appears in ***bold italics.***
 Matter removed from current law appears ~~[in brackets and struckthrough.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to changing a pupil's school or assignment because of a manifest educational hardship.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Section; Change of School or Assignment; Definition; Manifest Educational Hardship.
2 Amend RSA 193 by inserting after section 2 the following new section:

3 193:2-a Definitions. In this chapter:

4 I. "Best interest of the student" means a condition or action taken that benefits or is
5 intended to favorably support a student's learning experience.

6 II. "Manifest educational hardship" means that a student has a documented physical,
7 mental, or emotional condition brought on by his or her current educational placement and that
8 such condition has a detrimental or negative impact on the student's academic achievement or
9 growth, physical safety, or social and emotional well-being. Such condition must be severe,
10 pervasive, or persistent so as to interfere with or limit the ability of the student to receive an
11 education.

12 2 School Assignment; Change of School or Assignment. RSA 193:3, I-III is repealed and
13 reenacted to read as follows:

14 I. If the parent or guardian of a student believes it would be in the best interest of the
15 student to change the student's school or assignment, the parent or guardian may request a
16 meeting with the superintendent of the student's district of residence for the purpose of changing
17 the student's school or assignment to another public school or public academy within the district or
18 to a public school or public academy in another district. The superintendent shall meet with the
19 parent or guardian within 10 instructional days of receiving the request. At such meeting, the
20 parent or guardian may present documents, witnesses, or other relevant evidence supporting his or
21 her belief that it is in the best interest of the student to change the student's school or assignment.
22 The superintendent may present such information as he or she deems appropriate. In determining
23 whether it is in the best interest of the student to change the student's school or assignment, the
24 superintendent shall consider the student's academic, physical, personal, and social needs.

25 (a) The superintendent shall make a determination and notify the parent or guardian
26 on the student's school assignment request no more than 10 instructional days after the meeting
27 with the parent or guardian.

28 (b) If the superintendent finds it is in the best interest of the student to change the
29 student's school or assignment, the superintendent shall either change the assignment within the
30 student's current school, transfer the student to another public school or public academy within the

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1 district of residence, or transfer the student to a public school or public academy in another district.
2 If a student is reassigned to another district under this paragraph, the superintendents of the
3 district of residence and the receiving district shall jointly establish a tuition rate for such student.
4 Some or all of the tuition may be waived by the superintendent of the receiving district for good
5 cause shown or pursuant to the school board policy of the receiving district. The cost of
6 transportation shall be the responsibility of the parent or legal guardian.

7 (c) If the superintendent finds that it is not in the best interest of the student to change
8 the student's school or assignment, the parent or guardian may appeal the superintendent's
9 decision to the school board of residence to determine if student is experiencing a manifest
10 educational hardship, as defined in RSA 193:2-a. The superintendent shall notify the school board
11 that the parent or guardian has requested a manifest educational hardship hearing. The school
12 board shall schedule a hearing to be held no more than 15 days after receiving the request.

13 II. If a student is assigned to attend school in another district because of manifest
14 educational hardship, the district in which the student resides shall pay tuition to the district in
15 which the child is reassigned, with such tuition being computed under RSA 193:4. The state board
16 of education may permit such child to withdraw from the school the student currently attends for
17 such time as the state board deems necessary. Children with disabilities as defined in RSA 186-C:2
18 shall be accorded a due process review pursuant to rules adopted under RSA 186-C:16. A student
19 reassigned under this section shall be counted in the average daily membership in residence of the
20 student's resident school district. The student's resident district shall forward any tuition payment
21 due to the district to which the student was reassigned. The superintendent of the student's
22 resident school administrative unit shall notify the department of education within 30 days of any
23 reassignment of students under this section. Nothing in this paragraph shall alter or impair the
24 right of a child with a disability, as defined in RSA 186-C:2, to be accorded a due process review
25 pursuant to rules adopted under RSA 186-C:16. Changes of school or assignment based upon the
26 best interest of the student or manifest educational hardship shall be subject to the following
27 provisions:

28 (a) The student's parent or legal guardian petitions the superintendent for a change of
29 school assignment or consents to the superintendent's recommendation for such a change; and

30 (b) The superintendent determines that such a change would be in the student's best
31 interest; and

32 (c) The school board of each school district involved in the reassignment of the student
33 votes to approve the reassignment; and

34 (d) The total reassignments or transfers in any one school year shall not exceed one
35 percent of the average daily membership in residence of a school district, or 5 percent of the average
36 daily membership in residence of any single school, whichever is greater, unless the school board
37 votes to exceed this limit.

38 III. The state board of education shall adopt rules pursuant to RSA 541-A, relative to

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1 manifest educational hardship and related issues which affect a child's attendance at school. Each
2 school district shall establish a policy, consistent with the state board's rules, which shall allow a
3 school board, with the recommendation of the superintendent, to take appropriate action including
4 assignment to another public school or public academy within the district or to a public school or
5 public academy in another district. The school district's manifest education policy may designate an
6 assistant superintendent to act on the superintendent's behalf regarding matters of student change
7 of school or assignment. Students reassigned under this section shall be subject to meeting the
8 admission requirements of the school to which the student is reassigned; and subject to the
9 agreement of the superintendent of the receiving school district.

10 3 Effective Date. This act shall take effect 60 days after its passage.