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THE STATE SCHOOL ORGANIZATION

State Board of Education

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186:52, 186:53 [Repealed.]

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- 186:68 Duty to Provide Access.

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- 186:69 School Improvement Program. [Repealed.]

Reading Recovery Training Program

- 186:70 Reading Recovery Training Program.

HISTORY

Effective date of amendments—1986 amendments and repeals. 1986, 41:34, IV, provided that the provisions of 1986, 41:7-14, 29 and 30, which affect this chapter, would take effect when the reorganized department of education established by the act (see RSA 21-N) became operational on the date set according to 1983, 372:5, II. Pursuant to 1983, 372:5, II, the joint committee on implementation of reorganization and the governor determined the effective date upon which the reorganized department became operational to be April 3, 1988.

CROSS REFERENCES

Charter schools and open enrollment act, see RSA 194-B:1 et seq.
 Department of education generally, see RSA 21-N.
 Motor vehicle drivers' schools, see RSA 263:44 et seq.
 Organization of executive branch of government generally, see RSA 21-G.
 School administrative units, see RSA 194-C.

ANNOTATIONS

Municipal control

The extent to which school finances are subject to municipal control in each city is determined by its charter. *Franklin v. Hinds* (1958) 101 N.H. 344, 143 A.2d 111.

The manner in which educational policies of cities shall be formulated is determined by the legislature and not the courts. *Franklin v. Hinds* (1958) 101 N.H. 344, 143 A.2d 111.

Cited

Cited in *Claremont Sch. Dist. v. Governor* (1997) 142 N.H. 462, 703 A.2d 1353.

State Board of Education

CROSS REFERENCES

State board of education generally, see RSA 21-N:10, 11.

LIBRARY REFERENCES

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Schools and School Districts § 86 et seq.

186:1 Organization.

[Repealed 1986, 41:29, I, eff. April 3, 1988.]

HISTORY

Former section(s). Former RSA 186:1, which was derived from 1919, 106:1; 1921, 85, I:1, 10; PL 116:1, 13; 1929, 178:1; RL 134:1,

13; 1943, 32:1; and 1950, 5, part 23:1, related to establishment of a department of education, and composition and compensation of the state board of education. See now RSA 21-N:2, I, 10.

Effective date of repeal. See note preceding RSA 186:1 regarding effective date of 1986, 41:29.

ANNOTATIONS UNDER FORMER RSA 186:1

Teaching prohibition

It was legislative purpose, with respect to this section, that state board of education should not be composed of technical educators or those professionally engaged in school work regardless of the character or type of school involved, and a board member would violate this section should he teach at a private four-year post-secondary school. *Opinion of Justices* (1973) 113 N.H. 457, 309 A.2d 215.

186:2 Appointment; Chairman.

[Repealed 1986, 41:29, I, eff. April 3, 1988.]

HISTORY

Former section(s). Former RSA 186:2, which was derived from 1919, 106:2; 1921, 85, I:2; PL 116:2; 1929, 178:2; 1931, 168:1; and RL 134:2, related to appointment and terms of board members and chairman of the board. See now RSA 21-N:10, III.

Effective date of repeal. See note preceding RSA 186:1 regarding effective date of 1986, 41:29.

186:3 Removal; Vacancies.

[Repealed 1986, 41:29, I, eff. April 3, 1988.]

HISTORY

Former section(s). Former RSA 186:3, which was derived from 1919, 106:3; 1921, 85, I:3; PL 116:4; and RL 134:4, related to removal of board members and filling of vacancies. See now RSA 21-N:10, IV.

Effective date of repeal. See note preceding RSA 186:1 regarding effective date of 1986, 41:29.

186:4 Office; Meetings.

[Repealed 1986, 41:29, I, eff. April 3, 1988.]

HISTORY

Former section(s). Former RSA 186:4, which was derived from 1919, 106:4; 1921, 85, I:4; PL 116:4; and RL 134:4, related to office and meetings of board. See now RSA 21-N:10, V.

Effective date of repeal. See note preceding RSA 186:1 regarding effective date of 1986, 41:29.

186:5 Powers. The state board shall have the same powers of management, supervision, and direction over all public schools in this state as the directors of a business corporation have over its business, except as otherwise limited by law. It may make all rules and regulations necessary for the management of its own business and for the conduct of its officers, employees, and agents, and to secure the efficient administration of the public schools and the administration of the work of Americanization, in teaching English to non-English-speaking adults and in furnishing instruction in the privileges, duties, and responsibilities of citizenship, which is hereby declared to be an essential part of public school education. It shall be the duty of school boards and employees of school districts to comply with the rules and regulations of the state board.

HISTORY

Source. 1919, 106:5. 1921, 85, I:5. PL 116:5. RL 134:5.

CROSS REFERENCES

Duties of state board of education generally, see RSA 21-N:11, 186:11.

Rulemaking authority of state board of education generally, see RSA 21-N:9.

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1. Jurisdiction over municipalities

A city council's power to appropriate funds for school districts is subject to requirement that it appropriate the funds necessary to meet the obligations imposed under the minimum standards established by the state board of education under the authority of this section. *Laconia Board of Education v. City of Laconia* (1971) 111 N.H. 389, 285 A.2d 793.

A city's appropriation for schools may not be less than the amount necessary to meet the minimum requirements of the state board of education. *Franklin v. Hinds* (1958) 101 N.H. 344, 143 A.2d 111.

School district's exclusion of married woman from teaching position was invasion of function of state board of education. *Coleman v. School District of Rochester* (1936) 87 N.H. 465, 183 A. 586.

2. Rules of procedure

The power of the state board of education under this section to make its own rules of procedure is not subject to a narrow and limited construction. *Jones v. Merrimack Valley School District* (1966) 107 N.H. 144, 218 A.2d 55.

3. Fiscal matters

Nashua board of education is charged with fiscal management of schools including authority to require sums in excess of minimums required by state law. *Sullivan v. Flynn* (1976) 116 N.H. 547, 365 A.2d 1052.

Cited

Cited in *Landaff School District v. State Board of Education* (1971) 111 N.H. 317, 282 A.2d 678; *Avard v. Dupuis*, 376 F. Supp. 479 (D.N.H. 1974); *Garrity v. Gallen*, 522 F. Supp. 171 (D.N.H. 1981); 1986 Op. Atty. Gen. 150.

186:6 Compliance with Federal Provisions.

The state board may also make the regulations necessary to enable the state to comply with the provisions of any law of the United States intended to promote vocational or other education, to abolish illiteracy and Americanize immigrants, to equalize educational opportunities, to promote physical health and recreation, and to provide an adequate supply of trained teachers.

HISTORY

Source. 1919, 106:5. 1921, 85, I:5. PL 116:6. RL 134:6.

CROSS REFERENCES

Rulemaking authority of state board of education generally, see RSA 21-N:9.

186:6-a Limitation of Education. Notwithstanding any other provision of law, the authority of the state department of education shall be limited to the problems associated with kindergarten and grades one through 12, provided, however, that the state board of education shall be authorized to

accept, distribute and supervise funds for pre-kindergarten programs.

HISTORY

Source. 1963, 303:12. 1971, 371:3. 1989, 303:1. 1995, 182:22, eff. Aug. 4, 1995. 1998, 272:32, eff. Jan. 1, 1999.

Amendments—1998. Deleted “and to the government of the regional community technical institute and colleges created and existing under RSA 188-A” following “grades one through 12”.

—**1995.** Substituted “regional community-technical institute and colleges” for “technical colleges and institutes” preceding “created”.

—**1989.** Deleted “vocational” preceding “technical”.

—**1971.** Rewritten to the extent that a detailed comparison would be impracticable.

ANNOTATIONS

Preschool programs

The state board of education has no authority to make an assignment to a preschool special education program. *Swain v. State Board of Education* (1976) 116 N.H. 332, 360 A.2d 887.

186:7 Federal Funds; Cooperation. The state treasurer shall be custodian of any money that may be allotted to the state by the federal government for general educational purposes. He shall also be the custodian of all moneys received by the state from appropriations made by congress for vocational rehabilitation of persons disabled in industry or otherwise, together with moneys received for this purpose from other sources, and is authorized to make disbursements therefrom upon the order of the state board. The state board is authorized and directed to cooperate with the proper authorities of the United States in educational work and in carrying out the provisions of the federal civilian vocational rehabilitation act.

HISTORY

Source. 1917, 226:2. 1921, 85, I:5. 1925, 18:1. PL 116:7. 1931, 48:1. RL 134:7.

References in text. The vocational rehabilitation act, referred to in the third sentence, which was classified to 29 U.S.C. § 31 et seq. and was repealed by Act Sept. 26, 1973, P.L. 93-112, is now covered by provisions of the Rehabilitation Act of 1973, which is classified to 29 U.S.C. § 701 et seq.

186:7-a Special Teacher Competence Fund.

The state treasurer shall invest as a permanent fund the proceeds of the sale of the state lands affected under the authority of a joint resolution approved June 28, 1867 and the annual income thereof may be used by the state board of education for any activity calculated to increase the professional competence of the teachers of New Hampshire.

HISTORY

Source. 1969, 69:6, eff. June 3, 1969.

186:8 Rulemaking Authority; Standards; Employee Qualifications. The state board of education shall adopt rules, pursuant to RSA 541-A, relative to:

I. Minimum curriculum and educational standards for all grades of the public schools.

II. Qualifications and duties for school superintendents, principals, school administrative unit professionals and other public school employees.

III. Certification standards for educational personnel, including those listed in RSA 21-N:9, II(s), provided that the commissioner of the department of education may, through an agreement with another state when such state and New Hampshire are parties to an interstate agreement, provide for recertification based on another state's procedures if the other state's professional development plan is approved by the New Hampshire department of education.

IV. Establishing requirements for teachers and teacher preparation programs to ensure that all teachers are prepared to teach to a broad range of students' needs, including, but not limited to, the needs of exceptional learners.

V. Certification standards for advanced teaching credentials, including administering the master teacher credential as provided in RSA 189:14-f.

VI. Appeals from a school board on the matter of nonrenewal of teacher contracts, providing that the appeal to the state board of education shall be limited to the record developed at the school board hearing, except where the state board of education determines that new evidence is available which could not have been reasonably discovered at the time of the school board hearing and that such evidence may have materially affected the outcome of the school board hearing. In such cases, the state board of education shall render a final decision in the matter or remand it to the school board for a new hearing.

HISTORY

Source. 1919, 106:5. 1921, 35, 1:5. PL 116:8. RL 134:8. 1951, 255:2. RSA 186:8. 1986, 41:7, eff. April 3, 1988. 1998, 174:3, eff. Aug. 14, 1998; 314:2, eff. Aug. 25, 1998. 1999, 224:1, eff. Sept. 4, 1999. 2003, 204:1, eff. Aug. 29, 2003.

Amendments—2003. Paragraph VI: Added.

—1999. Paragraph III: Added the proviso.

—1998. Paragraph IV: Added by chs. 174 and 314.

—1986. Rewritten to the extent that a detailed comparison would be impracticable.

Effective date of amendments—1986. See note preceding RSA 186:1 regarding effective date of 1986, 41:7.

Redesignation of paragraph. Paragraph IV, as added by 1998, 314:2, was redesignated as par. V pursuant to 1998, 314:7, eff. Aug. 25, 1998.

CROSS REFERENCES

Adoption of rules relating to home education program, see RSA 193-A:3.

Adoption of rules relating to statewide education improvement and assessment program, see RSA 193-C:4.

Rulemaking authority of state board generally, see RSA 21-N:9.

ANNOTATIONS

Qualifications of teachers

The state board of education is vested with the sole authority to determine the qualifications of teachers, and the local school board cannot hold applicants with certificates from the state board ineligible or make rules barring them from election if nominated. *Coleman v. School District of Rochester* (1936) 87 N.H. 465, 183 A. 586.

Cited

Cited in *Supervisory Union 29 v. New Hampshire Dep't of Educ.* (1984) 125 N.H. 117, 480 A.2d 46; 1986 Op. Atty. Gen. 150.

186:9 Commissioner of Education.

[Repealed 1986, 41:29, I, eff. April 3, 1988.]

HISTORY

Former section(s). Former RSA 186:9, which was derived from 1919, 106:6; 1921, 85, 1:6; PL 116:9; and RL 134:9, related to appointment, term, removal and duties of commissioner of education.

Effective date of repeal. See note preceding RSA 186:1 regarding effective date of 1986, 41:29.

186:9-a Deputy Commissioner of Education.

[Repealed 1986, 41:29, I, eff. April 3, 1988.]

HISTORY

Former section(s). Former RSA 186:9-a, which was derived from 1957, 90:1, related to appointment, duties and removal of deputy commissioner of education.

Effective date of repeal. See note preceding RSA 186:1 regarding effective date of 1986, 41:29.

186:9-b Salary.

[Repealed 1986, 41:29, I, eff. April 3, 1988.]

HISTORY

Former section(s). Former RSA 186:9-b, which was derived from 1957, 90:1, related to salary of deputy commissioner of education. See now RSA 21-N:3, IV.

Effective date of repeal. See note preceding RSA 186:1 regarding effective date of 1986, 41:29.

186:10 Officers and Employees.

[Repealed 1986, 41:29, I, eff. April 3, 1988.]

HISTORY

Former section(s). Former RSA 186:10, which was derived from 1919, 106:7; 1921, 85, 1:7; PL 116:10; RL 134:10; and 1951, 255:2, related to appointment of officers and employees of state board of education.

Effective date of repeal. See note preceding RSA 186:1 regarding effective date of 1986, 41:29.

186:10-a Hearing Officer. The state board of education upon nomination of the commissioner shall appoint a qualified hearing officer to preside over such preliminary hearings as may be held prior to formal hearings held by the state board, and to render decisions which shall be binding until the state board's formal hearings are held.

HISTORY

Source. 1977, 57:1. 1986, 41:30, eff. April 3, 1988.

Amendments—1986. Inserted "of education" following "state board" and made other minor stylistic changes.

Effective date of amendments—1986. See note preceding RSA 186:1 regarding effective date of 1986, 41:30.

186:11 Duties of State Board of Education.

The state board of education shall, in addition to the duties assigned by RSA 21-N:11:

I. [Repealed.]

II. SUPERVISION. Supervise the expenditure of all moneys appropriated for public schools, and inspect all institutions in which or by which such moneys are used.

III. BUDGET: INFORMATION. Prepare a budget for such expenditures, give to the public information as to the educational conditions in different parts of the state and the opportunities open to pupils in the public schools, and all such further information in respect to educational matters as will promote the cause of education. For this purpose it may employ lecturers and publish and distribute books and pamphlets on education and educational subjects.

IV, V. [Repealed.]

VI. SCHOOL REGISTERS. Prescribe the form of the register to be kept concerning the schools, the form of blanks and inquiries for the returns to be made by the school boards, and seasonably send the same to the clerks of the several cities and towns for the use of the school boards therein.

VII. PUBLIC DOCUMENTS. Keep on file in its office and distribute all state documents in relation to public schools and education.

VIII. DISTRICT RETURNS. Preserve in accessible form the returns of school boards and of all other officers required to make returns to the board.

IX. INSTRUCTION AS TO INTOXICANTS AND VENEREAL DISEASES. Investigate the condition and efficiency of public education with special reference to the instruction given in physiology and hygiene in relation to the effect of alcohol and other drugs and venereal diseases on the human system, prescribe such a course in respect to these subjects as will stimulate and guide public sentiment and give a detailed account of its doings in relation thereto in its biennial report.

IX-a. (a) AIDS EDUCATIONAL MATERIAL. Develop and provide human immunodeficiency virus-related educational material to:

(1) all school boards pursuant to RSA 189:10; and

(2) private and public elementary, secondary, and postsecondary educational and vocational training institutions for the delivery of appropriate courses and programs.

(b) Evaluate AIDS information programs and course counseling activities, on a continuing basis, at private and public secondary and postsecondary educational and vocational educational institutions.

X. Adopt rules, pursuant to RSA 541-A, relative to:

(a) Certification of teachers, supervisors, and administrators in the public schools. The state board shall also examine the qualifications of candidates for those positions and issue certificates to those who meet the requirements of said rules.

(b) Fees to be paid to the commissioner of education for the administration of proficiency exams and other competence evaluations and other related fees including, but not limited to, fees for late filing and duplicate credentials, and for the

issuance of educational credentials. These fees must bear a reasonable relationship to the actual costs related to such activities. Funds collected from these fees shall be expended only for purposes of fulfilling the requirements of this paragraph. No portion of the funds collected from these fees shall lapse, nor be used for any other purpose than fulfilling the requirements of this paragraph, nor be transferred to any other appropriation.

(c) Approval of professional preparation programs.

(d) Procedures for the electronic certification of educational credentials.

XI. [Repealed.]

XII. VOCATIONAL EDUCATION. Cooperate with the U.S. Department of Education for the purpose of carrying the Carl D. Perkins Vocational Education Act of 1984 and its successor acts into effect insofar as that act relates to this state.

XIII. EDUCATION FOR PERSONS WITH DISABILITIES. Prepare, develop and administer plans to provide educational facilities for persons with disabilities.

XIV. LECTURES. Lecture on educational subjects in as many cities and towns in this state as the time occupied by the commissioner's other duties will permit.

XV. TRUANT OFFICERS. Report frequently to the chairman of the several school boards the relative efficiency of the several truant officers in the state.

XVI. [Repealed.]

XVII. DISTRICT CONTRACTS. Examine contracts made by districts with academies, high schools and other literary institutions, for the purpose of deciding whether they are calculated to promote the cause of education.

XVIII. SCHOOL ATTENDANCE. Enforce the laws relative to school attendance and the employment of minors; and for this purpose the board and its deputies are vested with the power given by law to truant officers.

XIX. SCHOOL LAWS. Compile and issue, at the close of each session of the legislature, an edition of the school laws.

XX-XXIV. [Repealed.]

XXV. ASSISTANTS. Employ as many supervisors, inspectors, stenographers, accountants, clerks and agents as may be necessary to enable it to perform the duties imposed on it by law.

XXVI. CONFERENCES. Hold conferences from time to time with superintendents, other school administrative unit personnel, principals, and teachers, or their representatives, for the purpose of inspiring mutual cooperation in the carrying on of their work and of unifying educational aims and practices.

XXVII. PROGRAMS. Prepare, publish and distribute such school programs, outlines of work and courses of study as will best promote education interests of the state.

XXVIII. HEALTH. Have authority to employ a competent person or persons to examine and care for the health of pupils, subject to the provisions of RSA 200.

XXIX. Adopt rules, pursuant to RSA 541-A, relative to reasonable criteria for approving non-public schools for the purpose of compulsory attendance requirements. The state board of education may, upon request, designate which schools meet those criteria, and may, upon the request of a non-public school, approve or disapprove its education program and curriculum.

XXIX-a. Adopt rules pursuant to RSA 541-A, relative to establishing a process for receiving, investigating, and resolving complaints from parents or legal guardians concerning school safety and school violence in nonpublic schools.

XXX. [Repealed.]

XXXI. DRIVER EDUCATION. Establish jointly with the department of safety, teacher qualifications, course content and standards, in connection with the driver education program conducted in secondary schools in this state; and adopt such rules as may be necessary to carry out the program and supervise the driver education program in the secondary schools of the state. Although authority is shared by the departments of safety and education, those regulations, directions and procedures that have a direct or indirect relationship to a life or safety issue shall rest with the department of safety as the final and ultimate authority.

XXXII. LEARNING DISABILITY TEACHER. Establish the qualifications, conditions and exceptions for providing a learning disability teacher in each school district.

XXXIII. DISCRIMINATION. Insure that there shall be no unlawful discrimination in any public school against any person on the basis of sex, race, creed, color, marital status or national origin in educational programs, and that there shall be no denial to any person on the basis of sex, race, creed, color, marital status or national origin of the benefits of educational programs or activities.

XXXIV. MISSING CHILD EDUCATION PROGRAM. Administer the missing child education program as established in RSA 193:31.

XXXV. CERTIFICATION STANDARDS FOR THE CREDENTIAL OF MASTER TEACHER. Adopt rules creating the educational credential of master teacher based on the provisions of RSA 189:14-f.

XXXVI. PUPIL SAFETY AND VIOLENCE PREVENTION. Develop and distribute to school districts a technical assistance advisory for the purpose of providing guidance to school districts on the implementation of pupil safety and violence prevention policies as required under RSA 193-F.

HISTORY

Source. 1919, 106:9. 1921, 85, I:8. PL 116:11. 1929, 145:3. 1939, 8:1. RL 134:11. 1953, 243:1-4. RSA 186:11. 1957, 252:1, 2. 1961, 196:1-3. 1963, 117:2; 147:1; 303:7; 305:1-3. 1965, 199:1; 339:4. 1967, 448:1. 1969, 69:1-3. 1971, 371:4, 5; 443:4. 1973, 140:15; 209:2; 242:1. 1974, 28:1. 1975, 23:1; 207:1; 505:6. 1977, 432:1; 452:6. 1979, 53:1; 459:4, 9, 10. 1981, 318:1. 1985, 318:4. 1986, 41:8-10, 29, II. 1987, 161:1. 1988, 262:7. 1989, 266:37. 1990, 28:1; 140:2, III. 1992, 123:1. 1993, 322:9, I, II, eff. July 1, 1993. 1996, 298:5, I, eff. Aug. 9, 1996. 1998, 174:4, 5, eff. Aug. 14, 1998; 314:3, eff. Aug. 25, 1998;

389:8, 9, eff. Oct. 1, 1998. 1999, 157:1, eff. Aug. 27, 1999. 2000, 190:2, eff. Jan. 1, 2001. 2003, 39:1, eff. July 1, 2003; 186:2, eff. Aug. 25, 2003.

References in text. The Carl D. Perkins Vocational Education Act of 1984, referred to in par. XII, is classified to 20 U.S.C. §§ 2301, 2302, 2321-2325, 2341, 2342, 2351, 2371-2373, 2376-2377, 2391-2393, 2411, 2413, 2415.

Amendments—2003. Paragraph X(d): Added.

Paragraph XXIX-a: Added.

—2000. Paragraph XXXVI: Added.

—1999. Paragraph XXXI: Substituted “and adopt” for “promulgate” preceding “such rules” and deleted “and regulations” thereafter in the first sentence and added the second sentence.

—1998. Introductory paragraph: Chapter 389 substituted “RSA 21-N:11” for “RSA 21-N:9”.

Paragraph X(b): Chapter 174 inserted “other related fees including, but not limited to, fees for late filing and duplicate credentials, and” following “evaluations and” and made a minor stylistic change in the first sentence.

Paragraph X(c): Added by ch. 174.

Paragraph XI: Repealed by ch. 389.

Paragraph XXXV: Added by ch. 314.

—1996. Paragraph I: Repealed.

—1993. Repealed pars. XX and XXI.

—1992. Paragraph XIX: Deleted “biennial” preceding “session”, “at the expense of the state” following “legislature” and “with the session amendments” at the end of the paragraph.

—1990. Paragraph XII: Chapter 28 substituted “U.S. Department of Education” for “Federal Board for Vocational Education” and “Carl D. Perkins Vocational Education Act of 1984 and its successor acts” for “Act of Congress of February 23, 1917, known as the Smith-Hughes Act”.

Paragraph XIII: Chapter 140 substituted “persons with disabilities” for “the handicapped” following “education for” in the paragraph catchline and following “facilities for” in the text of the paragraph.

—1989. Paragraph IV: Repealed.

—1988. Paragraph IX-a: Added.

—1987. Paragraph I: Deleted “not more than 60” preceding “school administrative” in the first sentence.

—1986. Rewrote the section catchline and introductory clause.

Paragraph X: Rewritten to the extent that a detailed comparison would be impracticable.

Paragraphs XXII-XXIV: Repealed.

Paragraph XXIX: Rewritten to the extent that a detailed comparison would be impracticable.

Paragraph XXX: Repealed.

—1985. Paragraph XXXIV: Added.

—1981. Paragraph XXIII: Substituted “the most recently available equalized valuation as of June 30 of the preceding school year” for “latest equalized valuations” following “ranges of” in the second sentence.

—1979. Paragraph I: Chapter 53 substituted “to borrow money in order to purchase real estate, or to mortgage said real estate” for “or” preceding “to construct” in the second sentence.

Chapter 459 substituted “school administrative units” for “supervisory unions” or “unions” wherever it occurred.

Paragraph XXII: Chapter 459 substituted “school administrative unit” for “supervisory union” wherever it occurred.

Paragraph XXIII: Chapter 459 substituted “school administrative units” for “supervisory unions” or “unions” wherever it occurred.

Paragraph XXIV: Chapter 459 substituted “60” for “85” preceding “percent” in the last sentence and “school administrative unit” for “supervisory union” wherever it occurred.

Paragraph XXVI: Chapter 459 substituted “school administrative unit” for “supervisory union” preceding “personnel”.

Paragraph XXX: Chapter 459 substituted “60” for “85” preceding “percent” in the last sentence and “school administrative unit” for “supervisory union” wherever it occurred.

—1977. Paragraph I: Chapter 452 inserted “provided, however, that such supervisory unions shall not have the power to procure land or to construct or purchase buildings” following “corporation” in the second sentence.

Paragraph XXXIII: Added by ch. 432.

—1975. Paragraph I: Chapter 207 substituted “sixty” for “fifty” preceding “supervisory” in the first sentence.

Paragraph XIX: Chapter 23 deleted “not exceeding two thousand copies” following “amendments”.

Paragraph XXII: Rewritten by ch. 505 to the extent that a detailed comparison would be impracticable.

—1974. Paragraph XXIX: Added the last sentence.

—1973. Paragraph IX: Rewritten by ch. 242 to the extent that a detailed comparison would be impracticable.

Paragraph XX: Chapter 140 substituted “the governor and council on or before December first in every odd numbered year” for “the legislature, and file it with the secretary of state on or before December first every even numbered year” following “report to”.

Paragraph XXXII: Added by ch. 209.

—1971. Paragraph X: Rewritten by ch. 371 to the extent that a detailed comparison would be impracticable.

Paragraph XIII: Chapter 443 substituted “handicapped” for “deaf” following “for the” in the catchline and at the end of the paragraph.

Paragraph XXVI: Chapter 371 inserted “other supervisory union personnel, principals” following “superintendents”.

—1969. Paragraph V: Repealed.

Paragraph X: Rewritten to the extent that a detailed comparison would be impracticable.

Paragraph XXIX: Rewritten to the extent that a detailed comparison would be impracticable.

—1967. Paragraph VI: Substituted “concerning” for “in” following “kept”.

—1965. Paragraph I: Chapter 199 added the second sentence and substituted “the state board” for “it” following “unions” in the last sentence.

Paragraph XXXI: Added by ch. 339.

—1963. Paragraph IV: Rewritten by ch. 147 to the extent that a detailed comparison would be impracticable.

Paragraph XVI: Repealed by ch. 303.

Paragraph XXII: Rewritten by ch. 305 to the extent that a detailed comparison would be impracticable.

Paragraph XXIII: Chapter 117 rewrote the first sentence.

Chapter 305 rewrote section to the extent that a detailed comparison would be impracticable.

Paragraph XXX: Added by ch. 305.

—1961. Paragraph XXII: Substituted “teacher consultant” for “helping teacher” wherever it appeared and deleted the third sentence.

Paragraph XXIII: Substituted “teacher consultant” for “helping teacher” wherever it appeared, deleted “in each successive biennium” following “salaries” in the first sentence after the table, and deleted the last sentence.

Paragraph XXIV: Substituted “teacher consultant” for “helping teacher” at the beginning of the first sentence.

—1957. Paragraph XXIII: Rewritten to the extent that a detailed comparison would be impracticable.

Paragraph XXIV: Added the last sentence.

Effective date of amendments—1986 amendments and repeals. See note preceding RSA 186:1 regarding effective date of 1986, 41:8, 9, 10, 29.

Exemption of Coos County School District from SAU assignment. 1992, 124:4, eff. May 1, 1992, provided: “Notwithstanding the provisions of RSA 186:11, I, the Coos county school district shall not be assigned to a school administrative unit. The county administration shall consult with the appropriate superintendents and the state department of education in respect to the statutory requirements of the school district.”

CROSS REFERENCES

Adoption of rules relating to educational standards and certification standards for personnel generally, see RSA 186:8.

Human immunodeficiency virus education, prevention and control, see RSA 141-F.

Missing child bulletin, see RSA 7:10-a.

Professional standards board, see RSA 186:60.

Reporting and investigation of cases of missing children, see RSA 169-E.

Rulemaking authority of state board of education generally, see RSA 21-N:9.

School fingerprinting program, see RSA 189:49-a.

ANNOTATIONS

Health courses, 4

Prior law, 1

School administrative units, 2

Teacher qualifications, 3

1. Prior law

The provision for the approval of private schools as a substitute for public school attendance is a reasonable exercise of the state's power to establish a system whereby it can be known by reasonable means that the required teaching is given. *State v. Hoyt* (1929) 84 N.H. 38, 146 A. 170.

2. School administrative units

Legislation declaring a “moratorium” on further changes in the structure of school administrative units (SAUs) did not preclude the state board of education from authorizing changes in the structures of specific SAUs, since the legislation was intended exclusively to address changes in SAU structure occurring through the legislative process. 1986 Op. Atty. Gen. 142.

3. Teacher qualifications

Schoolteachers' qualifications are certified by the state board of education under paragraph X of this section, and once certified they are entitled to pursue their calling anywhere in the state, and their qualification does not depend upon their residence. *Donnelly v. City of Manchester* (1971) 111 N.H. 50, 274 A.2d 789.

4. Health courses

Proposed health courses for elementary school students, covering family relationships, mental and physical health, personal hygiene, nutrition, the hazards of smoking, the dangers and benefits of drugs and environmental concern would not infringe upon the parents' freedom of religion or its free exercise. *Davis v. Page*, 385 F. Supp. 395 (D.N.H. 1974).

Cited

Cited in Opinion of the Justices (1973) 113 N.H. 457, 309 A.2d 215; *Avard v. Dupuis*, 376 F. Supp. 479 (D.N.H. 1974); *Alexander v. Orford School District* (1977) 117 N.H. 641, 377 A.2d 127; *Chwalek v. Dover School Committee* (1980) 120 N.H. 864, 424 A.2d 406; *Garrity v. Gallen*, 522 F. Supp. 171 (D.N.H. 1981); *Supervisory Union 29 v. New Hampshire Dep't of Educ.* (1984) 125 N.H. 117, 480 A.2d 46; *Appeal of Londonderry Sch. Dist.* (1998) 142 N.H. 677, 707 A.2d 137.

LIBRARY REFERENCES

ALR

AIDS infection as affecting right to attend public school. 60 ALR4th 15.

Sexual conduct as ground for dismissal of teacher or denial or revocation of teaching certificate. 78 ALR3d 19.

Validity of state regulation of curriculum and instruction in private and parochial schools. 18 ALR4th 649.

National Defense Education Aid

186:11-a–186:11-e.

[Repealed 1990, 28:11, eff. May 14, 1990.]

HISTORY

Former section(s). Former RSA 186:11-a through 186:11-e, which were derived from 1959, 292:1, and 1986, 41:11, related to the national defense education fund.

Appeals and Appropriations

HISTORY

Amendments—1986. 1986, 145:3, eff. July 1, 1986, added the subdivision heading to the chapter.

186:12 Appeal from Commissioner's Orders.

[Repealed 1986, 41:29, I, eff. April 3, 1988.]

HISTORY

Former section(s). Former RSA 186:12, which was derived from 1919, 106:9; 1921, 85, I:9; PL 116:12; and RL 134:12, related to appeals to the state board from commissioner's orders.

Effective date of repeal. See note preceding RSA 186:1 regarding effective date of 1986, 41:29.

ANNOTATIONS UNDER FORMER RSA 186:12

1. Definitions

Approval, by commissioner of education, of school makeup schedule of board of education, made necessary due to class time lost when bomb threats were made and school was let out, did not constitute an order or finding by the commissioner, and teachers association representing the teachers was not required to participate in the decision and had no right of appeal from it, thus it could not be argued that since teachers association failed to appeal from what defendant school district called an order of the commissioner it could not sue district for compensation to teachers for two Saturdays used for making up classes. *Association of Portsmouth Teachers v. Portsmouth School District* (1973) 113 N.H. 659, 312 A.2d 573.

2. Due process

Even if teacher consultant had a protected property interest in his job giving rise to due process rights, teacher was given all the process he was due when he declined to take advantage of full evidentiary hearing; fact that hearing was only available after vote was taken not to renew employment contract did not deny due process, since current contract still had seven months to run. *Short v. School Admin. Unit No. 16* (1992) 136 N.H. 76, 612 A.2d 364.

186:13 Appropriations, How Used. All money appropriated by the legislature for general educational purposes, in addition to the literary fund and all other funds created for the purposes enumerated in this section, shall be used for the following purposes:

I. **ILLITERACY.** For the abolition of illiteracy and for the instruction of illiterates over 14 years of age in common school branches and in the privileges, duties, and responsibilities of citizenship.

II. **AMERICANIZATION.** For the Americanization of immigrants, for the teaching of those 14 years of age and over to speak and read English and to appreciate and respect the civic and social institutions of the United States, and for instruction in the duties of citizenship.

III. **EQUALIZATION AND GENERAL AID.** For equalizing educational opportunity and improving the public elementary and high schools.

IV. **HEALTH.** For promotion of the physical health and recreation of pupils, and for their medical and dental examination.

V. **EXAMINATION, ETC.** For the determination of mental and physical defects, for the employment of school nurses and the instruction of pupils in the principles of health and sanitation.

VI. **INSTRUCTING TEACHERS.** For preparing teachers for the schools, particularly for rural schools, for encouraging a more nearly universal preparation of prospective teachers, and for extending the facilities for the improvement of teachers already in the service.

VII. **EXPENSES.** For the expense of administration of the department of education.

VIII. **FEDERAL AID.** For making available the funds provided by federal law for vocational or other education.

IX. **TUITION.** For the payment of tuition as provided in this title.

X. **EDUCATION FOR THE DEAF.** For the expense of providing educational facilities for the deaf.

XI. (a) To share with local school districts, under Public Law 91-248, the cost of the national school lunch program, excluding state salary and administrative expenses, the state board of education shall from appropriated funds disburse such funds to schools in such manner that each school receives the same proportionate share of such funds as it receives of the federal funds apportioned to New Hampshire for the same federal fiscal year, under section 4 of the National School Lunch Act, as amended.

(b) To accomplish the requirements for school food service and nutrition education which each school board is required to implement under RSA 189:11-a, the state board of education may allocate from such matching funds, as required to be appropriated under Public Law 91-248, an amount not to exceed ½ of the appropriation. These funds are to be disbursed to school districts for the purchase of food service equipment and nutrition education learning materials as required to meet the requirements of RSA 189:11-a. Such disbursements are to be used first to meet the school district's share of non-food assistance matching under the federal program and to assist with the purchase of food service equipment in schools ineligible for federal non-food assistance funding; residual amounts available under this appropriation authority may be utilized to institute nutrition education programs, at the discretion of the state board of education.

XII. **REVOLVING FUND.** For a nonlapsing revolving fund to be known as the printed materials revolving fund which is hereby established to be administered by the department of education. The moneys in said fund shall be used for the purpose of printing materials for distribution. A reasonable charge shall be established for each copy of a document. Charges made shall be in the amount necessary to pay the cost of producing such documents. Receipts from the sale of any documents shall be credited to the fund established in this paragraph. The receipts from such charges shall be used for no other purpose than the subsequent printing of documents of the department of education. State agencies and members of the general court shall not be charged for printed materials which are paid for by the fund. Any available balance in this fund in excess of \$50,000 on June 30 of each year shall be deposited in the general fund as unrestricted revenue.

HISTORY

Source. 1919, 106:11. 1921, 85, I:11. PL 116:14. 1929, 145:3. 1939, 8:2. RL 134:14. 1947, 198:1. RSA 186:13. 1971, 250:1. 1975, 347:1. 1986, 145:1. 1993, 227:1, eff. July 1, 1993. 1996, 179:2, eff. June 3, 1996.

References in text. Public Law 91-248, referred to in paragraph XI, is classified to 42 U.S.C. § 1751 et seq.

Section 4 of the National School Lunch Act, referred to in paragraph XI(a) is classified to 42 U.S.C. § 1753.

Amendments—1996. Paragraph XII: Rewritten to the extent that a detailed comparison would be impracticable.

—**1993.** Paragraph XII: Substituted “\$25,000” for “\$10,000” in two places in the eighth sentence and in one place in the ninth sentence.

—**1986.** Paragraph XII: Added.

—**1975.** Paragraph XI: Designated existing paragraph as subpar. (a) and added subpar. (b).

—**1971.** Paragraph XI: Added.

ANNOTATIONS

Qualifications of teachers

State board’s prescription of qualifications for a teacher should prevail. *Coleman v. School District of Rochester* (1936) 87 N.H. 465, 183 A. 586.

Cited

Cited in *Garrity v. Gallen*, 522 F. Supp. 171 (D.N.H. 1981).

186:13-a Coordinating Board of Advanced Education and Accreditation.

[Repealed 1973, 533:14, eff. July 1, 1973.]

HISTORY

Former section(s). Former RSA 186:13-a, which was derived from 1963, 303:6; 1967, 288:1, 1969, 214:1; and 1971, 540:1, related to the establishment, composition and functions of a coordinating board of advanced education.

Approval of Branches of Out-Of-State-Institutions

HISTORY

Amendments—1986. 1986, 145:4, eff. July 1, 1986, added the subdivision heading to the chapter.

186:13-b Branches or Extension Courses in this State. Any out-of-state institution of higher learning planning to establish a branch, branches, or extension courses, in this state, shall apply to the postsecondary education commission for an evaluation of its plans. Plans for each such branch, branches, or extension courses shall thereupon be evaluated, and, if approved, the branch, branches, or extension courses shall thereupon be accredited for such period and under such regulations as said commission may determine. If a branch, or branches, or program of extension courses are disapproved at any time by said commission all operations and publicity of it shall cease without delay.

HISTORY

Source. 1965, 35:1. 1973, 533:2, eff. July 1, 1973.

Amendments—1973. Substituted “postsecondary education commission” for “coordinating board of advanced education and accreditation” preceding “for an evaluation” in the first sentence and “commission” for “board” following “said” in the second and third sentences.

186:13-c Penalty. Any such out-of-state institution establishing a branch, branches, or extension courses in this state without such branch, branches or extension courses being accredited by said commission as provided in RSA 186:13-b, shall be listed

by the state board of education as non-approved branch, branches, or extension courses and this action shall be published through the press and through correspondence with colleges and secondary schools in this region.

HISTORY

Source. 1965, 35:1. 1973, 533:3, eff. July 1, 1973.

Amendments—1973. Substituted “commission” for “board” following “accredited by said”.

The Teachers Colleges

186:14–186:24.

[Repealed 1963, 303:7, eff. July 1, 1963.]

HISTORY

Former section(s). Former RSA 186:14, which was derived from 1870, 6:1; 1872, 5:4; 1876, 26:1; GL 93:1; PS 95:1; 1909, 157:1; 1919, 106:8; 1921, 85, I:12; PL 116:15; RL 134:15; RSA 186:14; and 1961, 71:1, related to the administration of the Plymouth and Keene teachers colleges.

Former RSA 185:15, which was derived from 1909, 157:2; 1921, 85, I:13; PL 116:16; and RL 134:16, related to receipt of gifts and purchases of land or other property by the state board.

Former RSA 186:16, which was derived from 1909, 157:3, 6, 7; 1921, 85, I:14; PL 116:17; and RL 134:17, related to the maintenance of practice schools and the compensation of supervising teachers in those schools.

Former RSA 186:17, which was derived from 1870, 67:1; GL 93:3; PS 95:6; 1921, 85, I:15; PL 116:18; and RL 134:18, related to the duties of the presidents of the teachers colleges.

Former RSA 186:18, which was derived from 1872, 5:5; GL 93:1; PS 95:1; 1913, 83:7; 1921, 85, I:16; PL 116:19; and RL 134:19, related to the course of instruction in the teachers colleges.

RSA 186:18-a, which was derived from 1959, 26:1, related to extension courses.

Former RSA 186:19, which was derived from 1875, 26:1; GL 93:5; PS 95:6; 1921, 85, I:17; PL 116:20; and RL 134:20, related to diplomas.

Former RSA 186:20, which was derived from 1875, 26:1; GL 93:5; PS 95:7; 1921, 85, I:18; PL 116:21; 1927, 13:1; RL 134:21; and 1947, 167:1, related to tuition.

Former RSA 186:21, which was derived from 1953, 226:7, related to dormitory rentals at Keene Teachers College.

Former RSA 186:21-a, which was derived from 1957, 293:13, related to dormitory rentals at Plymouth Teachers College.

Former RSA 186:21-b, which was derived from 1957, 293:13, related to the bookstore and snack bar at Keene Teachers College.

Former RSA 186:22, which was derived from 1883, 73:2; PS 95:9; 1903, 59:1; 1921, 85, I:19; PL 116:22; and RL 134:22, related to the compensation for instruction, by the presidents and teachers, when required by the board.

Former RSA 186:23, which was derived from 1870, 6:8; GL 93:4; PS 95:10; 1895, 32:1; 1921, 85, I:20; PL 116:23; and RL 134:23, related to the biennial report of the board and its contents.

Former RSA 186:24, which was derived from 1953, 265:1, related to the annual salary of the presidents of the teachers colleges.

Examination of Candidates for Teachers

186:25–186:34.

[Repealed 1969, 69:4, eff. June 3, 1969.]

HISTORY

Former section(s). Former RSA 186:25, which was derived from 1895, 49:1; 1921, 85, I:21; PL 116:24; and RL 134:24, related to public examination of teachers.

Former RSA 186:26, which was derived from 1895, 49:2; 1921, 85,

I:22; PL 116:25; and RL 134:25, related to a certificate of qualifications for every teacher.

Former RSA 186:27, which was derived from 1911, 161:1; 1921, 85, I:23; PL 116:26; and RL 134:26, related to the issuance of a certificate of qualifications without examination.

Former RSA 186:28, which was derived from 1895, 49:3; 1921, 85, I:24; PL 116:27; and RL 134:27, related to a list of approved candidates which is to be kept by the board.

Former RSA 186:29, which was derived from 1895, 49:5; 1921, 85, I:25; PL 116:28; and RL 134:28, related to the appropriation of funds necessary to carry out the provisions of this subdivision.

Former RSA 186:30, which was derived from 1915, 156:1; 1921, 85, I:26; PL 116:29; RL 134:29; RSA 186:30; and 1959, 182:1, related to application for the position of teacher in the public schools.

Former RSA 186:31, which was derived from 1915, 156:2; 1921, 85, I:27; PL 116:30; and RL 134:30, related to the state board's recommendation of teachers whom they feel are fit and qualified to teach.

Former RSA 186:32, which was derived from 1915, 156:3; 1921, 85, I:28; PL 116:31; and RL 134:31, related to the cost of carrying out the provisions in RSA 186:30 and 186:31.

Former RSA 186:33, which was derived from 1915, 156:4; 1921, 85, I:29; PL 116:32; and RL 134:32, related to unlawful fees or rewards used to obtain a position as a teacher.

Former RSA 186:34, which was derived from 1915, 156:5; 1921, 85, I:30; PL 116:33; and RL 134:33, related to the penalty for violation of RSA 186:33.

See now RSA 186:8 and 186:11, X.

ANNOTATIONS UNDER FORMER RSA 186:25

Qualifications of teachers

State board of education is vested with the sole authority to determine the qualifications of teachers. *Coleman v. School District of Rochester* (1936) 87 N.H. 465, 183 A. 586.

Teachers' Institutes

186:35–186:38.

[Repealed 1969, 69:5, eff. June 3, 1969.]

HISTORY

Former section(s). Former RSA 186:35, which was derived from 1883, 73:1; PS 94:4; 1921, 85, I:31; PL 116:34; and RL 143:34, related to yearly teachers' institutes held in each county.

Former RSA 186:36, which was derived from 1883, 73:4; PS 94:6; 1921, 85, I:32; PL 116:35; and RL 134:35, related to a fund to support the annual teachers' institutes.

Former RSA 186:37, which was derived from 1883, 73:5; PS 94:7; 1921, 85, I:33; PL 116:36; and RL 134:36, related to expenses of the annual institutions which may be covered by the state treasurer.

Former RSA 186:38, which was derived from 1883, 73:6; PS 94:8; 1921, 85, I:34; PL 116:37; and RL 134:37, related to an audit of the expenses of the annual institutions.

Vocational Education

CROSS REFERENCES

Division of educational improvement, see RSA 21-N:6.

Division of career technology and adult learning, see RSA 21-N:8.

186:39 State Board of Education. The state board of education is hereby designated as the sole agency for the receipt of federal funds under the provisions of federal vocational education acts. The commissioner, department of education, shall administer programs for which the state may be entitled to receive such federal funds. The state is pledged to make available for the several purposes of said federal acts funds sufficient to meet the state's obligations from time to time and to meet all

conditions necessary to entitle the state to accept the benefits thereof.

HISTORY

Source. 1917, 226:1. 1921, 85, I:35. 1925, 18:1. PL 116:38. RL 134:38. RSA 186:39. 1990, 28:2, eff. May 14, 1990.

Amendments—1990. Rewritten to the extent that a detailed comparison would be impracticable.

186:40 Administration. The commissioner, department of education, is authorized to arrange with institutions and with school boards of towns or city districts in the state to furnish the necessary buildings, equipment, and additional funds required in carrying out the provisions of the federal acts, so far as those acts apply to this state; and school districts are authorized to enter into such contracts with the commissioner. The commissioner is further authorized to approve certain schools and educational institutions within the state as vocational training centers for the purpose of enlarging the opportunities for such training and putting into effect the provisions of RSA 186:39 and to make suitable arrangements with such schools and institutions to receive pupils for vocational training who may not reside in the town or school district where such school or institution is located.

HISTORY

Source. 1917, 226:4, 5. 1921, 85, I:36. PL 116:39. RL 134:39. 1943, 91:1. RSA 186:40. 1990, 28:3, eff. May 14, 1990.

Amendments—1990. Substituted "commissioner, department of education" for "state board" preceding "is authorized" in the first sentence and "commissioner" for "state board" at the end of that sentence and preceding "is further" in the second sentence.

Revision note. Substituted "RSA 186:39" for "the preceding section" in the second sentence for purposes of clarity.

ANNOTATIONS

Gifts

School districts may accept by gift farm lands which may be utilized in vocational education. *Ladd v. Higgins* (1946) 94 N.H. 212, 50 A.2d 89.

186:40-a Technical Assistance. A primary responsibility of the department of education shall be to provide technical assistance and information to school districts to assist the districts to effectively and efficiently implement state and federal vocational education policies and programs. The department shall place less emphasis on regulation and shall give high priority to increasing and improving technical assistance efforts.

HISTORY

Source. 1985, 297:3, eff. June 14, 1985.

Handicapped Children

186:41–186:50.

[Repealed 1965, 378:2, eff. July 1, 1965.]

HISTORY

Former section(s). Former RSA 186:41, which was derived from 1939, 156:1, and RL 143:40, related to the definition of "handicapped child".