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Bureau of Special Education FY'19 Memo #5

Date: July 19, 2018

To: Superintendents of Schools
Administrators of Special Education

From: Office of the Commissioner of Education
Division of Educational Improvement
Bureau of Special Education

RE: Relative to the Retention of Records of Individualized Education Programs

The Bureau of Special Education (Bureau) is issuing guidance regarding the passing of HB 1551 relative to retention of students' IEPs.

Currently, the New Hampshire Standards for the Education of Children with Disabilities (NH Standards), section Ed 1119.01 requires school districts and private providers of special education to adopt a policy regarding the retention and destruction of special education records. This standard includes language that:

"An LEA shall not destroy a student's special education records prior to the student's 25th birthday, except with prior written consent of the parent or, where applicable, the adult student, pursuant to 34 CFR 300.624(b). The LEA must maintain a copy of the last IEP that was in effect prior to the student's exit from special education until the student's 60th birthday."

With the passage of HB 1551, New Hampshire Special Education RSA 186-C is amended. The new section, RSA 186-C:10-3 requires:

I. Upon a student's graduation from high school, his or her parents may request the local education agency, in writing, to have the student's records and final individualized education program destroyed at that time or request that the records be retained until the student's twenty-sixth birthday. The parents may, at any time prior to the student's twenty-sixth birthday, request, in writing, that the records be retained until the student's thirtieth birthday.

II. Absent any request by a student's parents at the time of graduation, the local education agency shall destroy a student's records and final individualized education program within a reasonable time after the student's twenty-sixth birthday, provided that all such records be destroyed by the student's thirtieth birthday.

HB 1551 takes effect on July 24, 2018. The Bureau is encouraging districts to review and revise their special education policies and procedures to ensure compliance with RSA 186-C:10-a. The Bureau intends to enter into rulemaking to address these changes.

Questions regarding this memo, please contact Elizabeth Carlotto at Elizabeth.Carlotto@doe.nh.gov or 271-4982.