

EXHIBIT A



UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

April 3, 2025

Reminder of Legal Obligations Undertaken in Exchange for Receiving Federal Financial Assistance and Request for Certification under Title VI and *SFFA v. Harvard*

Requested Certification:

On behalf of _____ [SEA/LEA], I acknowledge that I have received and reviewed this Reminder of Legal Obligations Undertaken in Exchange for Receiving Federal Financial Assistance and Request for Certification under Title VI and *SFFA v. Harvard*. I further acknowledge that compliance with the below and the assurances referred to, as well as this certification, constitute a material condition for the continued receipt of federal financial assistance, and therefore certify our compliance with the below legal obligations.

Signature

Date

Title and District or State

Title VI of the Civil Rights Act of 1964 provides that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”¹

Notification of the obligations imposed by Title VI are incorporated throughout federal funding and contracting as a specific condition on the receipt of federal funds by educational institutions throughout the United States such as your own and have been in force and effect for decades:

Title VI of the Civil Rights Act unambiguously imposes a condition on the grant of federal moneys. Section 601 of Title VI states that “[n]o person ... shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d. Recipients of Federal financial assistance are automatically subject to the nondiscrimination obligation imposed by the statute.

¹ 42 U.S.C. § 2000d. The United States Department of Education’s regulations regarding Title VI further state that a recipient of federal funds may not, “on ground of race, color, or national origin ... [r]estrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program.” 34 C.F.R. § 100.3(b)(1)(iv). Nor may a funding recipient, such as a college or university “[d]eny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program” on the basis of race, color, or national origin. *Id.* § 100.3(b)(1)(vi).

The statutory mandate can hardly escape notice. Every application for Federal financial assistance must, “as a condition to its approval and the extension of any Federal financial assistance,” contain assurances that the program will comply with Title VI and with all requirements imposed pursuant to the executive regulations issued under Title VI. In fact, applicants for federal assistance literally sign contracts in which they agree to comply with Title VI and to “immediately take any measures necessary” to do so. This assurance is given “in consideration of” federal aid, and the federal government extends assistance “in reliance on” the assurance of compliance. *See* 3 R. Cappalli, Federal Grants § 19:20, at 57, and n. 12 (1982) (written assurances are merely a formality because the statutory mandate applies and is enforceable apart from the text of any agreement).

Guardians Ass’n v. Civ. Serv. Comm’n of City of New York, 463 U.S. 582, 629–30 (1983).

Direct receipt of federal funding under Title I Part A of the Elementary and Secondary Education Act of 1965 *as amended* (20 U.S.C. § 6301 *et seq.*) is conditioned with an assurance that your entity “[w]ill comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: ... Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin.” [Revised Assurances Template: The Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act](#), p. 6. Similar assurances are required under federal contracts and grants. Specifically, federal regulations require that “[t]he Federal agency or pass-through entity *must manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with the U.S. Constitution, applicable Federal statutes and regulations—including provisions protecting free speech, religious liberty, public welfare, and the environment, and those prohibiting discrimination—and the requirements of this part.* The Federal agency or pass-through entity must communicate to a recipient or subrecipient all relevant requirements, including those contained in general appropriations provisions, and incorporate them directly or by reference in the terms and conditions of the Federal award.” 2 CFR § 200.300(a) (emphasis added).

Moreover, each State Education Agency is required to file a single set of assurances with the Secretary as part of its consolidated State plan or application under the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 7844). These assurances include the SEA’s commitment to comply with all Federal statutes regarding nondiscrimination, including, but not limited to, Title VI of the Civil Rights Act of 1964.

In *Students for Fair Admissions v. President and Fellows of Harvard College* (“*SFFA v. Harvard*”), 600 U.S. 181 (2023), the Supreme Court held that the race-based affirmative action programs at Harvard and the University of North Carolina were illegal because they violated the Equal Protection Clause of the Fourteenth Amendment (for state schools like North Carolina), as well as Title VI (for state and private schools that receive federal funding like Harvard). The Court explained that the Equal Protection Clause “represent[s] a foundational principle—the absolute equality of all citizens of the United States politically and civilly before their own laws.” *Id.* at 201 (internal quotation marks omitted). It “forbids discrimination by the General Government, or by the States, against any citizen because of his race.” *Id.* at 205 (alterations omitted; quoting *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954)). Put simply, the Equal Protection Clause and Title VI prohibit race-based action, with only the narrowest of exceptions. *Id.*

“The entire point of the Equal Protection Clause is that treating someone differently because of their skin color is *not* like treating them differently because they are from a city or from a suburb, or because they play the violin poorly or well.” *SFFA v. Harvard*, 600 U.S. at 220. That means that “race may never be used as a ‘negative’ and that it may not operate as a stereotype,” and the Court’s “cases have stressed that an individual’s race may never be used against him in the admissions process.” *Id.* at 218. Through its equity mandates, the Biden administration has, as did the colleges and universities in *SFFA v. Harvard*, “concluded, wrongly, that the touchstone of an individual’s identity is not challenges bested, skills built, or lessons learned but the color of their skin. Our constitutional history does not tolerate that choice.” *Id.* at 231. As the Supreme Court emphasized, “[e]liminating racial discrimination means eliminating all of it.” *Id.* at 206.²

Given the text of Title VI and the assurances you have already given, any violation of Title VI—including the use of Diversity, Equity, & Inclusion (“DEI”) programs to advantage one’s race over another—is impermissible. The use of certain DEI practices can violate federal law. The continued use of illegal DEI practices may subject the individual or entity using such practices to serious consequences, including:

1. The use of the provisions of 42 U.S.C. § 2000d-1 to seek the “termination of or refusal to grant or to continue assistance under such program,” eliminating federal funding for any SEA, LEA, or educational institution that engages in such conduct.³
2. For entities and institutions that use DEI practices in violation of federal law, those entities may incur substantial liabilities, including the potential initiation of litigation for breach of contract by the Department of Justice in connection with civil rights guarantees contained in federal contracts and grant awards seeking to recover previously received funds paid to them under these contracts and grants.⁴

² The only exception to this prohibition on the use of racial classifications is where their use satisfies “strict scrutiny” under the Equal Protection clause. A racial classification will survive strict scrutiny only where its use advances a compelling governmental interest and the use of race is narrowly tailored to achieve that interest. *SFFA v. Harvard*, 600 U.S. at 207. “Classifying and assigning” students based on their race “requires more than an amorphous end to justify it.” *Id.* at 214 (alteration omitted). Goals to correct “societal discrimination,” for example, are insufficient. *Id.* at 226. The Supreme Court has been clear that only two interests rise to the level of “compelling”: (1) “remediating specific, identified instances of past discrimination that violated the Constitution or a statute,” and (2) “avoiding imminent and serious risks to human safety in prisons, such as a race riot.” *Id.* at 207. And even if there is an identified compelling interest, “the government’s use of race” must be “narrowly tailored”—i.e., “‘necessary’”—to “achieve that interest.” *Id.*

³ “Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law.” 42 U.S.C. § 2000d-1.

⁴ Title VI allows the enforcement of conditions attached to federal funding by “any other means authorized by law.” One enforcement mechanism for Title VI violations is a suit by the Attorney General for breach of contract. *See, e.g., Guardians Ass’n v. Civil Serv. Comm’n of N.Y.C.*, 463 U.S. 582, 630 n.24 (1983) (“the Federal Government can always sue any recipient who fails to comply with the terms of the grant agreement”); *Cannon v. Univ. of Chi.*, 441 U.S. 677, 772 (1979) (White, J., dissenting) (“The ‘other means’ provisions of [Title VI] include agency suits to enforce contractual antidiscrimination provisions”); *United States v. Marion Cnty. Sch. Dist.*, 625 F.2d 607, 609–11 & 617 (5th Cir. 1980) (concluding “that the United States is entitled to sue to enforce contractual assurances of compliance with Title VI’s prohibition against discrimination in the operation of federally-funded schools”); *see also* Arthur R. Block, *Enforcement of Title VI Compliance Agreement by Third Party Beneficiaries*, 18 HARV. C.R.C.L. L. REV. 1, 9 n.24 (1983) (noting that the Department has enforced Title VI “under two legal authorizations”: suits under Title IV of the Civil Rights Act of 1964 and actions for “specific performance of contractual assurances of non-discrimination made by fund recipients”).

3. Moreover, the submissions of claims for money from the federal government when an entity is not in compliance with Title VI and/or its assurances due to certain DEI practices subjects the entity to liability under “[t]he False Claims Act (FCA) [which] imposes liability on anyone who ‘knowingly’ submits a ‘false’ claim to the Government.” *United States ex rel. Schutte v. SuperValu Inc.*, 598 U.S. 739, 742 (2023) (citing 31 U.S.C. § 3729(a)). Under the FCA, violators face penalties including treble damages and civil penalties of thousands of dollars per violation.

EXHIBIT B

Reminder of Legal Obligations Undertaken in Exchange for Receiving Federal Financial Assistance and Request for Certification under Title VI and *SFFA v. Harvard*

DIRECTIONS

The attached certification form must be completed by the senior educational official as defined by Ed 501.03 (m)* for each district or chartered public school and returned to the New Hampshire Department of Education (NHED).

One certification form must be completed for each individual district or chartered public school.

Email the completed certification form in its entirety, including the Mandatory Supplement Questionnaire, to federalcompliance@doe.nh.gov, **no later than 5:00 pm on Thursday, April 10, 2025**, with the email subject line: Title VI Compliance Certification/District Name (Charter Name).

If no certification form is received by NHED by the deadline above, NHED is required to report to the United States Department of Education that no certification was received.

All issues of noncompliance and a proposed enforcement plan will be submitted to the United States Department of Education.

**Ed 501.03 (m) "Senior educational official" means the top executive in an educational organization who makes the key decisions on spending, staffing, and other education policies.*



UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

April 3, 2025

Reminder of Legal Obligations Undertaken in Exchange for Receiving Federal Financial Assistance and Request for Certification under Title VI and *SFFA v. Harvard*

Requested Certification:

On behalf of _____ [SEA/LEA], I acknowledge that I have received and reviewed this Reminder of Legal Obligations Undertaken in Exchange for Receiving Federal Financial Assistance and Request for Certification under Title VI and *SFFA v. Harvard*. I further acknowledge that compliance with the below and the assurances referred to, as well as this certification, constitute a material condition for the continued receipt of federal financial assistance, and therefore certify our compliance with the below legal obligations.

Signature

Date

Title and District or State

Title VI of the Civil Rights Act of 1964 provides that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”¹

Notification of the obligations imposed by Title VI are incorporated throughout federal funding and contracting as a specific condition on the receipt of federal funds by educational institutions throughout the United States such as your own and have been in force and effect for decades:

Title VI of the Civil Rights Act unambiguously imposes a condition on the grant of federal moneys. Section 601 of Title VI states that “[n]o person ... shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d. Recipients of Federal financial assistance are automatically subject to the nondiscrimination obligation imposed by the statute.

¹ 42 U.S.C. § 2000d. The United States Department of Education’s regulations regarding Title VI further state that a recipient of federal funds may not, “on ground of race, color, or national origin ... [r]estrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program.” 34 C.F.R. § 100.3(b)(1)(iv). Nor may a funding recipient, such as a college or university “[d]eny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program” on the basis of race, color, or national origin. *Id.* § 100.3(b)(1)(vi).

The statutory mandate can hardly escape notice. Every application for Federal financial assistance must, “as a condition to its approval and the extension of any Federal financial assistance,” contain assurances that the program will comply with Title VI and with all requirements imposed pursuant to the executive regulations issued under Title VI. In fact, applicants for federal assistance literally sign contracts in which they agree to comply with Title VI and to “immediately take any measures necessary” to do so. This assurance is given “in consideration of” federal aid, and the federal government extends assistance “in reliance on” the assurance of compliance. *See* 3 R. Cappalli, Federal Grants § 19:20, at 57, and n. 12 (1982) (written assurances are merely a formality because the statutory mandate applies and is enforceable apart from the text of any agreement).

Guardians Ass’n v. Civ. Serv. Comm’n of City of New York, 463 U.S. 582, 629–30 (1983).

Direct receipt of federal funding under Title I Part A of the Elementary and Secondary Education Act of 1965 *as amended* (20 U.S.C. § 6301 *et seq.*) is conditioned with an assurance that your entity “[w]ill comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: ... Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin.” [Revised Assurances Template: The Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act](#), p. 6. Similar assurances are required under federal contracts and grants. Specifically, federal regulations require that “[t]he Federal agency or pass-through entity *must manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with the U.S. Constitution, applicable Federal statutes and regulations—including provisions protecting free speech, religious liberty, public welfare, and the environment, and those prohibiting discrimination—and the requirements of this part.* The Federal agency or pass-through entity must communicate to a recipient or subrecipient all relevant requirements, including those contained in general appropriations provisions, and incorporate them directly or by reference in the terms and conditions of the Federal award.” 2 CFR § 200.300(a) (emphasis added).

Moreover, each State Education Agency is required to file a single set of assurances with the Secretary as part of its consolidated State plan or application under the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 7844). These assurances include the SEA’s commitment to comply with all Federal statutes regarding nondiscrimination, including, but not limited to, Title VI of the Civil Rights Act of 1964.

In *Students for Fair Admissions v. President and Fellows of Harvard College* (“*SFFA v. Harvard*”), 600 U.S. 181 (2023), the Supreme Court held that the race-based affirmative action programs at Harvard and the University of North Carolina were illegal because they violated the Equal Protection Clause of the Fourteenth Amendment (for state schools like North Carolina), as well as Title VI (for state and private schools that receive federal funding like Harvard). The Court explained that the Equal Protection Clause “represent[s] a foundational principle—the absolute equality of all citizens of the United States politically and civilly before their own laws.” *Id.* at 201 (internal quotation marks omitted). It “forbids discrimination by the General Government, or by the States, against any citizen because of his race.” *Id.* at 205 (alterations omitted; quoting *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954)). Put simply, the Equal Protection Clause and Title VI prohibit race-based action, with only the narrowest of exceptions. *Id.*

“The entire point of the Equal Protection Clause is that treating someone differently because of their skin color is *not* like treating them differently because they are from a city or from a suburb, or because they play the violin poorly or well.” *SFFA v. Harvard*, 600 U.S. at 220. That means that “race may never be used as a ‘negative’ and that it may not operate as a stereotype,” and the Court’s “cases have stressed that an individual’s race may never be used against him in the admissions process.” *Id.* at 218. Through its equity mandates, the Biden administration has, as did the colleges and universities in *SFFA v. Harvard*, “concluded, wrongly, that the touchstone of an individual’s identity is not challenges bested, skills built, or lessons learned but the color of their skin. Our constitutional history does not tolerate that choice.” *Id.* at 231. As the Supreme Court emphasized, “[e]liminating racial discrimination means eliminating all of it.” *Id.* at 206.²

Given the text of Title VI and the assurances you have already given, any violation of Title VI—including the use of Diversity, Equity, & Inclusion (“DEI”) programs to advantage one’s race over another—is impermissible. The use of certain DEI practices can violate federal law. The continued use of illegal DEI practices may subject the individual or entity using such practices to serious consequences, including:

1. The use of the provisions of 42 U.S.C. § 2000d-1 to seek the “termination of or refusal to grant or to continue assistance under such program,” eliminating federal funding for any SEA, LEA, or educational institution that engages in such conduct.³
2. For entities and institutions that use DEI practices in violation of federal law, those entities may incur substantial liabilities, including the potential initiation of litigation for breach of contract by the Department of Justice in connection with civil rights guarantees contained in federal contracts and grant awards seeking to recover previously received funds paid to them under these contracts and grants.⁴

² The only exception to this prohibition on the use of racial classifications is where their use satisfies “strict scrutiny” under the Equal Protection clause. A racial classification will survive strict scrutiny only where its use advances a compelling governmental interest and the use of race is narrowly tailored to achieve that interest. *SFFA v. Harvard*, 600 U.S. at 207. “Classifying and assigning” students based on their race “requires more than an amorphous end to justify it.” *Id.* at 214 (alteration omitted). Goals to correct “societal discrimination,” for example, are insufficient. *Id.* at 226. The Supreme Court has been clear that only two interests rise to the level of “compelling”: (1) “remediating specific, identified instances of past discrimination that violated the Constitution or a statute,” and (2) “avoiding imminent and serious risks to human safety in prisons, such as a race riot.” *Id.* at 207. And even if there is an identified compelling interest, “the government’s use of race” must be “narrowly tailored”—i.e., “‘necessary’”—to “achieve that interest.” *Id.*

³ “Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law.” 42 U.S.C. § 2000d-1.

⁴ Title VI allows the enforcement of conditions attached to federal funding by “any other means authorized by law.” One enforcement mechanism for Title VI violations is a suit by the Attorney General for breach of contract. *See, e.g., Guardians Ass’n v. Civil Serv. Comm’n of N.Y.C.*, 463 U.S. 582, 630 n.24 (1983) (“the Federal Government can always sue any recipient who fails to comply with the terms of the grant agreement”); *Cannon v. Univ. of Chi.*, 441 U.S. 677, 772 (1979) (White, J., dissenting) (“The ‘other means’ provisions of [Title VI] include agency suits to enforce contractual antidiscrimination provisions”); *United States v. Marion Cnty. Sch. Dist.*, 625 F.2d 607, 609–11 & 617 (5th Cir. 1980) (concluding “that the United States is entitled to sue to enforce contractual assurances of compliance with Title VI’s prohibition against discrimination in the operation of federally-funded schools”); *see also* Arthur R. Block, *Enforcement of Title VI Compliance Agreement by Third Party Beneficiaries*, 18 HARV. C.R.C.L. L. REV. 1, 9 n.24 (1983) (noting that the Department has enforced Title VI “under two legal authorizations”: suits under Title IV of the Civil Rights Act of 1964 and actions for “specific performance of contractual assurances of non-discrimination made by fund recipients”).

3. Moreover, the submissions of claims for money from the federal government when an entity is not in compliance with Title VI and/or its assurances due to certain DEI practices subjects the entity to liability under “[t]he False Claims Act (FCA) [which] imposes liability on anyone who ‘knowingly’ submits a ‘false’ claim to the Government.” *United States ex rel. Schutte v. SuperValu Inc.*, 598 U.S. 739, 742 (2023) (citing 31 U.S.C. § 3729(a)). Under the FCA, violators face penalties including treble damages and civil penalties of thousands of dollars per violation.

Reminder of Legal Obligations Undertaken in Exchange for Receiving Federal Financial Assistance and Request for Certification under Title VI and *SFFA v. Harvard*

Mandatory Supplement Questionnaire

Upon investigation, have there been instances of noncompliance identified within your LEA?

☐ Yes

☐ No

If the answer to the question above is yes, please describe each issue of noncompliance found within your LEA.

For each area of noncompliance identified above, detail your remediation plans including intended date of remediation completion.

EXHIBIT C

 An official website of the United States government [Here's how you know](#)

U.S. Department of Education

[HOME](#) / [ABOUT US](#) / [NEWSROOM](#) / [PRESS RELEASES](#)

PRESS RELEASE

ED Requires K-12 School Districts to Certify Compliance with Title VI and Students v. Harvard as a Condition of Receiving Federal Financial Assistance

APRIL 3, 2025

Today, the U.S. Department of Education sent letters to State Commissioners overseeing K-12 State Education Agencies (SEAs) requiring them to certify their compliance with their antidiscrimination obligations in order to continue receiving federal financial assistance. Specifically, the Department requests certification of compliance with Title VI of the Civil Rights Act and the responsibilities outlined in *Students for Fair Admissions v. Harvard*.

"Federal financial assistance is a privilege, not a right. When state education commissioners accept federal funds, they agree to abide by federal antidiscrimination requirements. Unfortunately, we have seen too many schools flout or outright violate these obligations, including by using DEI programs to discriminate against one group of Americans to favor another based on identity characteristics in clear violation of Title VI," **said Acting Assistant Secretary for Civil Rights Craig Trainor**. "Today, the Department is taking an important step toward ensuring that states understand—and comply with—their existing obligations under civil rights laws and *Students v. Harvard*. As Chief Justice Roberts wrote, 'Eliminating racial discrimination means eliminating all of it.' No student should be denied opportunities or treated differently because of his or her race. We hope all State and Local

Education Agencies agree and certify their compliance with this legal and constitutional principle.”

SEAs will be responsible for reporting on their state overall and for collecting certification responses from their Local Education Agencies (LEAs). SEAs will have 10 days to sign and return [the certification](#).

Background:

These certifications are being sent out pursuant to the Department of Education’s authority and responsibility to ensure that recipients of federal funding are complying with United States civil rights law.

On February 14, the Office for Civil Rights (OCR) issued a [Dear College Letter](#) (DCL) to educational institutions receiving federal funds notifying them that they must cease using race preferences and stereotypes as a factor in their admissions, hiring, promotion, scholarship, prizes, administrative support, sanctions, discipline, and other programs and activities. Two weeks later, OCR published [Frequently Asked Questions](#) to anticipate and answer questions that may arise in response to the DCL.

CONTACT

Press Office | press@ed.gov | (202) 401-1576 |
Office of Communications and Outreach (OCO)

Office of Communications and Outreach (OCO)

Page Last Reviewed: April 3, 2025

Pay for College

Fill out the FAFSA

529 Plans

Loan Forgiveness

1098 Tax Forms

Educational Resources

504 Plans

FERPA

IEPs (Individualized Education Program)

Teaching Resources

Become a Teacher

Professional Resources

School Safety and Security

Teaching Abroad

File a Report

Report Fraud, Waste, or Abuse

Report a Civil Rights Violation

Student Privacy Complaint Forms

About Us

Contact Us

ED Offices

Overview of ED

[Frequently Asked Questions \(FAQs\)](#)

[Jobs at ED](#)

News

[Press Releases](#)

[Homeroom Blog](#)

[Subscriptions](#)

Site Notices and Privacy Policies

[Accessibility Support](#)

ED Archive

U.S. Department of Education



www.ed.gov

An official website of the Department of Education

[About Dept of Education](#)

[Accessibility Support](#)

[No FEAR Act data](#)

[Office of the Inspector General](#)

[Performance reports](#)

[FOIA](#)

[Privacy Policy](#)

[ED Archive](#)

Looking for U.S. government information and services? [Visit USA.gov](https://www.usa.gov)

EXHIBIT D

Revised State Template for the Consolidated State Plan

The Elementary and Secondary Education Act of 1965, as
amended by the Every Student Succeeds Act



U.S. Department of Education
Issued: March 2017

12/4/2024

OMB Number: 1810-0576
Expiration Date: September 30, 2017

Paperwork Burden Statement According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1810-0576. The time required to complete this information collection is estimated to average 249 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this collection, please write to: U.S. Department of Education, Washington, DC 20202-4537. If you have comments or concerns regarding the status of your individual submission of this collection, write directly to: Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Ave., S.W., Washington, DC 20202-3118.

3. Monitoring and Technical Assistance (ESEA section 3113(b)(8)): Describe:

- i. How the SEA will monitor the progress of each eligible entity receiving a Title III, Part A subgrant in helping English learners achieve English proficiency; and**
- ii. The steps the SEA will take to further assist eligible entities if the strategies funded under Title III, Part A are not effective, such as providing technical assistance and modifying such strategies.**

In accordance with Commissioner's Regulations Part 154, each LEA must develop a Comprehensive ELL/MLL Education Plan (CEEP) that describes how the LEA meets the educational needs of ELLs/MLLs, including all subgroups of ELLs/MLLs. Additionally, each LEA submits an annual Data/Information Report to the Department. The Department reviews each CEEP and Data/Information Report to ensure compliance with Commissioner's Regulations Part 154 and Title III.

To be eligible for Title III funds for ELLs/MLLs, LEAs must have instructional programs for ELLs/MLLs that comply with Commissioner's Regulations Part 154 and Title III. The eight RBERNs across New York State also work with LEAs by providing technical assistance and professional development. The Department is developing a District/School Self-Evaluation Tool to enable LEAs to assess the degree to which their academic instruction meets ELLs'/MLLs' needs and is culturally responsive to ELL/MLL populations. This Self-Evaluation Tool includes goals, objectives, and rating scales, and requires LEAs to identify and review evidence regarding the quality of their ELL/MLL programs. If strategies and practices identified in LEAs' CEEPs and Data/Information Reports, in Corrective Action Plans, and via the District/School Self-Evaluation Tool are found to be ineffective or out of compliance, the Department will conduct in-person monitoring, as well as provide technical assistance, including data analysis and professional development for educators and administrators.

F. . Title IV, Part A: Student Support and Academic Enrichment Grants

- 1. Use of Funds (ESEA section 4103(c)(2)(A)): Describe how the SEA will use funds received under Title IV, Part A, Subpart 1 for State-level activities.**

New York State is committed to offering all students a safe, supportive, and well-rounded school experience. In accordance with ESEA Section 4104, the Department will use up to 1% of these funds to support administrative costs associated with carrying out responsibilities related to public reporting on how Title IV, Part A funds are being expended by Local Educational Agencies (LEAs), including the degree to which LEAs have made progress toward meeting the objectives and outcomes for the program. Up to 4% of SEA-level funds will be used to strengthen and expand the Department's work in the following high-priority areas:

- 1. Supporting LEAs in providing programs and activities that offer well-rounded and culturally responsive educational experiences to all students.

The Department is committed to supporting LEAs across New York State to ensure that every student – including students from traditionally under-served and under-represented racial, ethnic,

and socio-economic groups – has equitable and sustained access to highly effective schools that provide a well-rounded, culturally responsive education and rigorous coursework that enables students to become prepared for college, career, and civic responsibility. Toward that end, the Department will leverage programmatic and fiscal supports to increase the number of schools across New York State that demonstrate the following characteristics in serving every student:

- Visionary instructional leaders partner with all stakeholders. Visionary instructional leaders create a professional, respectful, and supportive school culture and community that values and promotes diversity and leads to success, well-being, and high academic and career expectations and outcomes for all students. This is accomplished through the use of collaborative systems of continual and sustainable school improvement.
- All students receive curricula in all disciplines that are challenging, engaging, and integrated. The curricula are tied to appropriate formative and summative assessments, which are aligned to New York State Learning Standards. This results in instruction that is relevant and responsive to student needs and modified to maximize student growth and learning outcomes.
- Teachers and staff engage in ongoing professional development to equip themselves with effective, research-based, strategic instructional practices. Teachers and staff use multiple measures, so that targeted instruction maximizes student learning outcomes. Teachers and staff address the needs and interests of diverse learners and design lessons and activities that are responsive to what students need to learn. These efforts allow students to consistently experience high levels of engagement and achievement.
- The school community identifies, promotes, and supports social, emotional, physical, and cognitive development throughout the school day. This is accomplished by designing systems, programs, and strengths-based experiences that identify and foster healthy relationships, as well as safe, inclusive, and respectful environments. These efforts lead to students developing social emotional skills and barriers to learning being removed.
- The school has active partnerships that are culturally and linguistically inclusive and in which families, students, community members, and school staff respectfully collaborate. These partnerships support student academic progress, social-emotional growth, well-being, and personal and civic responsibility, so that students have the opportunity to reach their full potential.
- The school community identifies, promotes, and supports multiple pathways to graduation and career readiness that are based on individual strengths, needs, interests, and aspirations. These pathways create access to multiple opportunities for students to pursue advanced coursework and actively explore and/or pursue specific career-related coursework and experiences in the arts, languages, and Career and Technical Education. Consequently, students develop the knowledge and skills to meaningfully transition to postsecondary opportunities and to exercise civic responsibility.
- The school community continually and critically examines and challenges its own cultural assumptions, in an effort to understand how they shape schoolwide policies and practices, so as to inform plans for continual movement toward a school environment that is inclusive, as well as linguistically and culturally responsive.
- The school community promotes cultural responsiveness and appropriate responses to individuality and differences, as reflected in policies, programs, and practices. The school

examines its cultural assumptions to inform practice and professional development on culturally and linguistically responsive pedagogy.

The Department will work to ensure that all students have access to a robust array of courses, activities, and programs in English, reading/language arts, writing, science, technology, engineering, mathematics, foreign languages, civics and government, economics, visual and performing arts, music, theater, history, geography, computer science, career and technical education, health and wellness, and physical education. The Department will also work to ensure that all students have access to effective, data-driven academic support services, including multi-tiered systems of support via Academic Intervention Services and/or Response to Intervention models. Further, the Department will encourage schools and districts to utilize curricula and education experiences that employ Universal Design for Learning principles, and create opportunities for students to see themselves in daily teaching and learning activities.

In addition to academic supports, the Department will work to ensure that students have access to non-academic support services, such as social-emotional, behavioral, mental health, and social services provided by specialized instructional support personnel, such as school counselors, school social workers, school psychologists, school nurses, speech language pathologists, audiologists, behavioral specialists, and licensed creative arts therapists. The Department will promote the practice of integrating learning supports (e.g., behavioral, mental health, and social services), instruction, and school management within a comprehensive, cohesive approach that facilitates multidisciplinary collaboration. The Department will continue to promote school and district use of its [Social and Emotional Development and Learning \(SEDL\) Guidelines](#). This guidance document aims to give New York State school communities a rationale and the confidence to address child and adolescent affective development as well as cognitive development.

The Board of Regents also strongly supports providing students access to extra-curricular opportunities so that students can serve their schools and their communities, participate in community-based internships, and engage in sports and the arts. The Department recognizes that, for many students, the provision of access to these types of well-rounded educational experiences must include supports, services, and opportunities that take place outside of the school day. The Department believes that community organizations can play a crucial role in bringing essential resources and expertise to schools, complementing and supplementing what the rest of the school day delivers. Community partnerships expand the types of learning experiences to which students are exposed, bringing arts instruction, civics and service, hands-on science, sports and physical fitness, and/or vocational education and career readiness activities into the school schedule. To ensure that all students benefit from school-community partnerships, the Department will require schools and districts undertaking a Comprehensive Needs Assessment as part of CSI or TSI school improvement and creating plans based off of such assessment to incorporate input from relevant community partners that work in the school or work with the students that the school serves in a community-based setting, such as afterschool providers, summer program providers, early care providers, community colleges, health providers, and mental health providers.

In addition, the Department will allow Title I schools that meet alternative criteria to implement a Schoolwide program, even if their poverty rates are below 40 percent in order to ensure that all students have access to a well-rounded education. As was the case under the ESEA Flexibility Waiver, New York State will use such waivers so that an LEA may implement interventions consistent with the turnaround principles or interventions that are based on the needs of the students in the school and designed to enhance the entire educational program in any of its identified schools, even if those schools do not have a poverty percentage of 40 percent or more. In making determinations about waiver requests, the Department plans to develop a rubric to assess each request against standardized criteria. The Department anticipates that waiver requests will be reviewed throughout the year to provide timely support and technical assistance to LEAs and schools during the planning process.

2. Supporting LEAs in fostering safe, healthy, supportive, and drug-free environments that support student academic achievement

The Department believes that effectively engaging parents and families is critical to establishing safe, healthy, and supportive environments for students in all schools across the State. To ensure that all students are supported by strong home-school-community partnerships, the Department will promote State-, district-, and school-level strategies for effectively engaging parents and other family members in their children's education, based on inclusive, equitable school cultures that recognize and foster student diversity. The Board of Regents recognizes that (1) improved student achievement is linked to engaging parents and families in the education process, (2) parents and families are the first educators of children, and (3) education is the shared responsibility of schools, parents and families, and the community. The Department also prioritizes family engagement as a critical component in a child's education for the following reasons:

- Family engagement supports children's school readiness academically, socially, and emotionally
- Home-school partnerships are formed when families are engaged in their child's learning
- Families that support their child's learning more easily recognize gaps, if they occur, and can advocate for needed services
- Families that are engaged in the early years tend to continue to stay engaged throughout their child's education, making smooth transitions from home to school throughout the P-12 continuum
- Family involvement benefits educational systems, as it is a contributory factor in all school improvement efforts

With these tenets in mind, the Department will continue to provide capacity-building resources and professional development for school administrators, instructional staff, and non-instructional staff who interact directly with families. The Department will provide LEAs with guidance and best practice-based resources, such as the [Dual Capacity Building Framework for Family-School Partnerships](#), to help support the targeted and effective use Title I, Part A and/or Title IV, Part A funds for parent and family outreach and engagement activities.

EXHIBIT E

Massachusetts
Consolidated State Plan
Under the Every Student Succeeds Act (ESSA)
October 2024

Original Plan Approved September 2017



U.S. Department of Education
OMB Number: 1810-0576
Expiration Date: November 30, 2019

revision of the English language arts and literacy curriculum frameworks, mathematics curriculum frameworks, history and social sciences curriculum frameworks, arts curriculum frameworks, and world languages curriculum frameworks.

- **Priority 4:** Increase student access to the supports they need to be successful in achieving the standards in the Massachusetts curriculum frameworks.

We will advance this work under ESSA by:

- **Implementing more effective programs to serve the students farthest behind.** The Every Student Succeeds Act has provided us with many opportunities to improve results for student groups that have historically struggled to meet proficiency standards, in particular, students from low income backgrounds, English learners, and students receiving special education services. Through grant funding, prioritized access to resources, and program initiatives at the state and local levels, we will accelerate the improvement of our lower performing students.
- **Implementing the next-generation Massachusetts Comprehensive Assessment System (MCAS) test and supporting districts as they develop common assessments.** The state upgraded the MCAS to better measure the critical thinking skills students need for success in the 21st century. The new test built upon the best aspects of the MCAS assessments that have served the Commonwealth well for the past two decades. All tests are now administered entirely via computer, following a transition to online testing that began in 2017.

3) Support social-emotional learning, health, and safety

Academic and social-emotional skills and competencies are mutually reinforcing. Thus, preparing all students for success must include attending to their social emotional and health development. We will accomplish this by promoting systems and strategies that foster safe, positive, healthy, culturally competent, and inclusive learning environments that address students' varied needs in order to improve educational outcomes for all students.

We will continue to advance this work under ESSA by:

- **Promoting social and emotional learning (SEL).** DESE will continue to promote and help strengthen social-emotional competencies and wellness in students and adults across the state, with the goal of creating conditions that support statewide implementation of SEL programs and practices in preschool through high school so that all students can develop skills to thrive in and beyond school. Participation in the Collaborating States Initiative facilitated by the Collaborative for Academic, Social, and Emotional Learning (CASEL), helps inform DESE practices and supports for the field. Examples of current initiatives include an [SEL and Mental Health grant program](#); SEL, health & wellness focused [professional development](#); and an [SEL and Mental Health MTSS Academy](#) to support school and district teams with learning and implementation efforts across the state. A [Social and Emotional Learning Indicator System \(SELIS\) pilot project](#) is also underway. Many DESE guidance documents also help further SEL goals, for instance the revised versions of the [Educator Effectiveness Teacher and School Administrator Rubrics](#), [Culturally Responsive Social-Emotional Competency Development](#), and [Social and Emotional Learning \(SEL\) Grade 1–3 Resources](#).
- **Ensuring a positive school climate and providing safe, healthy, and supportive learning environments for all students.** We provide training, technical assistance, access to resources and guidance to schools and districts as they consider using Title IV, Part A and other sources of funds in

this realm. We also continue to support initiatives and resources such as the Safe and Supportive Schools Framework and Self-Reflection Tool, Rethinking Discipline, Bullying Prevention and Intervention, and Substance Use and Abuse Prevention. In addition, we encourage districts to increase student access to a broad, well-rounded curriculum that includes physical education (as required by state law in each grade) and health. DESE also partners with districts to administer Views of Climate and Learning (VOCAL) student surveys. The surveys and accompanying guidance resources are designed to provide schools with local and statewide information on student perceptions of three dimensions of school climate (engagement, safety, and environment).

- **Promoting family engagement** as a key lever that contributes to positive outcomes for students. DESE continues to provide training, technical assistance, resources, and guidance to schools and partners on effective family engagement strategies that promote the development of strong working relationships with families and appropriate community organizations to support students' success. Foundational resources that guide this work include the cross-agency [Family Engagement Framework](#) and the [Family, School and Community Partnership Fundamentals Self-Assessment](#). Examples of current initiatives include collaborating with the Federation for Children with Special Needs and other partners on the Massachusetts Statewide Family Engagement Center, hosting the first annual Summit "Better Together: Strengthening Family School Partnerships" with more than 400 participants in Fall 2022, hosting quarterly networking meetings for family and community engagement specialists from across the state.

4) Turn around the lowest performing districts and schools

The state's lowest performing schools require evidence-based interventions and strong educators to support rapid improvement in the schools' ability to prepare their students for success. Since 2010, Massachusetts has used strong authorities codified in state law to implement a system of identification, support, and intervention in the state's lowest performing schools and districts. The state law emphasizes sufficient autonomy and flexibility to empower school leadership to make key decisions regarding staffing, resources, and schedules within a context of accountability for results. Under ESSA, we will continue to support and partner with districts as they strive to improve underperforming schools. Where districts are unable to implement effective improvement initiatives, we will utilize our authority under state statute to intervene.

Since passage of An Act Relative to the Achievement Gap in 2010, the Department has evolved efforts over time to best serve students in the state's highest need schools and districts--that is, those districts and schools determined by the state's accountability system as focused/targeted and broad/comprehensive support. Since 2018, our accountability and assistance model has integrated state and federal requirements to ensure we are focusing assistance efforts on schools identified as comprehensive and targeted support, as well as the lowest performing 10 percent of schools and schools with low performing student groups.

The Department's Center for School and District Partnership (CSDP) and Office of Strategic Transformation (OST) prioritize assistance for focused/targeted and broad/comprehensive support. Assistance efforts span a wide array of activities and levers, including direct technical assistance from Department staff and its approved partners, grant funding, toolkits and guidance, research-based resources, and professional development. These efforts are designed to enhance school and district capacity to effectively and proactively use proven instructional and supportive practices to boost and sustain rapid gains in student achievement. Direct technical assistance from DESE staff includes supporting districts to set equity-focused priorities aimed at gap-closing, supporting the development and sustenance of school- and district-level

EXHIBIT F



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

Office of Counsel
Tel. 518-474-6400
Fax 518-474-1940

April 4, 2025

U.S. Department of Education
Office for Civil Rights
Washington DC, 20202

Dear Sir or Madam:¹

We received your “Request for Certification” dated April 3, 2025.² Please accept this response on behalf of the Commissioner of Education.

The New York State Education Department (NYSED) has certified, on multiple occasions, that it does and will comply with Title VI of the Civil Rights Act of 1964 and its implementing regulations. It did so recently in connection with its Every Student Succeeds Act Plan, which the United States Department of Education (USDOE) approved on January 8, 2025. The certification remains in effect, as do other certifications and assurances regarding Title VI previously provided to USDOE.

Beyond that, NYSED is unaware of any authority that USDOE has to demand that a State Education Agency (SEA) agree to its interpretation of a judicial decision or change the terms and conditions of NYSED’s award without formal administrative process. We understand that the current administration seeks to censor anything it deems “diversity, equity & inclusion” (DEI).³ But there are no federal or State laws prohibiting the principles of DEI. And USDOE has yet to define what practices it believes violate Title VI; your request for certification merely adverts to “certain” and “illegal” DEI “practices.” The requested certification attempts to condition NYSED’s continued funding on USDOE’s interpretation of the law—an interpretation that, as USDOE admits, lacks “the force and effect of law.”⁴

¹ The request for certification was sent from a generic email address and is unsigned.

² The request, which contains significant collection activities, does not appear to have been issued in compliance with the Paperwork Reduction Act, 44 USC §§ 3501 *et seq.*

³ See WHITE HOUSE EXECUTIVE ORDER: ENDING RADICAL AND WASTEFUL GOVERNMENT DEI PROGRAMS AND PREFERENCING (Jan. 20, 2025), Ending Radical And Wasteful Government DEI Programs And Preferencing – The White House.

⁴ OFF. OF C.R., U.S. DEP’T OF EDUC., DEAR COLLEAGUE LETTER: TITLE VI OF THE CIVIL RIGHTS ACT IN LIGHT OF STUDENTS FOR FAIR ADMISSIONS V. HARVARD 1 n.3 (2025) (“This guidance does not have the force and effect of law and does not bind the public or create new legal standards.”); OFF. OF C.R., U.S. DEP’T OF EDUC., FREQUENTLY ASKED QUESTIONS ABOUT RACIAL

USDOE cannot make improvisatory changes to legal assurances and impose new requirements on recipients without adhering to rulemaking procedures (*see* 20 USC § 1232).⁵

In any event, this is an abrupt shift from USDOE's position on DEI during the first Trump administration. As indicated in the enclosed article, former Secretary of Education Betsy DeVos informed USDOE staff in 2020 that "[d]iversity and inclusion are the cornerstones of high organizational performance." Ms. DeVos also opined that "embracing diversity and inclusion are key elements for success" for "building strong teams." USDOE has provided no explanation for how and why it changed positions."⁶

The case of *Students for Fair Admission, Inc. v. President and Fellows of Harvard College* does not have the totemic significance that you have assigned to it. This case prohibits consideration of race in college admissions. USDOE is entitled to make whatever policy pronouncements it wants—but cannot conflate policy with law.

The email that accompanies the Request for Certification also demands that NYSED, "within ten (10) days ... report the signature status for each of your LEAs, any compliance issues found within your LEAs, and your proposed enforcement plans for those LEAs." NYSED has previously informed its LEAs of the requirement to comply with Title VI and its implementing regulations. We are unaware of any legal authority of USDOE to require an SEA to obtain individual certifications from each of its LEAs, report on their signature status, and propose enforcement plans to USDOE for approval in connection with a request of this nature.

standards."); OFF. OF C.R., U.S. DEPT OF EDUC., FREQUENTLY ASKED QUESTIONS ABOUT RACIAL PREFERENCES AND STEREOTYPES UNDER TITLE VI OF THE CIVIL RIGHTS ACT 1 n.3 (2025) (hereinafter FAQ) ("The contents of this Q&A document do not have the force and effect of law and do not bind the public or impose new legal requirements; nor do they bind the Department of Education in the exercise of its discretionary enforcement authority").

⁵ When promulgating a rule with the force of law, agencies must undertake notice and comment and respond to the public's comments on the proposed rule. This request improperly attempts to prescribe and enforce a nationwide legislative rule regarding "certain" undefined DEI "practices" under the auspices of Title VI without following that process. 5 USC § 553 (b)-(c); *Perez v. Mortg. Bankers Ass'n*, 575 US 92, 95-96 (2015).

⁶ Agencies are prohibited from doing so. *See e.g., Encino Motorcars, LLC v. Navarro*, 579 US 211, 221-222 (2016) (when changing positions agencies must "provide a reasoned explanation for the change," "display awareness that [they are] changing position," and consider "serious reliance interests," quoting *FCC v. Fox Television Stations, Inc.*, 556 US 502, 515 [2009]).

Given the fact that you are already in possession of guarantees by NYSED that it has and will comply with Title VI, no further certification will be forthcoming.

Sincerely,

A handwritten signature in blue ink, appearing to read "DM Bentley", with a long horizontal flourish extending to the right.

Daniel Morton Bentley
Counsel & Deputy Commissioner

EXHIBIT G



Frank Edelblut
Commissioner

Christine Brennan
Deputy Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
25 Hall Street
Concord, N.H. 03301
TEL. (603) 271-3495
FAX (603) 271-1953

April 4, 2025

TO: Senior Educational Official

FROM: Lindsey Labonville, Administrator
Bureau of Federal Compliance

SUBJECT: General Assurances FY 2026

The New Hampshire Department of Education (NHED) has developed the attached "General Assurances, Requirements and Definitions for Participation in Federal Programs" document that must be signed by all agencies and organizations that receive federal funds through the NHED. The federally funded programs which flow money through the NHED require each applicant to file certain assurances. Some of these assurances apply to all programs and are therefore, considered "general assurances."

The submission of general assurances is required in part by:

- Federal regulation 34 CFR §76.301 of the Education Department General Administrative Regulations (EDGAR), which requires a general application for subgrantees/subrecipients for participation in federal programs funded by the U.S. Department of Education that meets the requirements of Section 442 of the General Education Provisions Act (GEPA).
- Applicable federal statutes.
- Applicable regulations of other federal agencies.

The NHED has consolidated the general assurances into one document which also now includes requirements and definitions in an effort to provide more guidance relative to implementation of the underlying assurances. NHED requests an annual submission for each Local Education Agencies (LEA's). This will simplify the collection of assurances and facilitate the requirement that the NHED Commissioner of Education certify to the Secretary of Education the status of all LEAs.

In New Hampshire both School Districts and School Administrative Units (SAUs) are considered LEA's. Individual program policy determines which type of entity may apply for federal funds. As such, both the Senior Educational Official and the local School Board Chairperson are required to sign the certifications of the attached document.

I am requesting that you and the local School Board complete the certifications at the end of the enclosed general assurance document; initial each page in the spaces provided (no initials required for the signature pages) and upload the document in its entirety to the district's homepage on GMS. The Bureau of Federal Compliance office will notify the appropriate NHED program approving federal funds to LEA's when it has received each assurance. The various federal programs are not to request additional copies from you, but to accept the Bureau of Federal Compliance list as the basis for determining compliance with these requirements as one item in their approval of proposals for funding. Other program specific assurances will still be requested from the LEA's by individual NHED programs.

Compliance with these general assurances will be subject to review by NHED staff during on-site federal compliance monitoring. Annual audits by CPAs in accordance with the Single Audit Act may also include compliance checks.

On the Certification page, please include the name and number of the SAU office and the name of the School District which will be applying for funds. Both certifying parties are asked to execute the document and return the document by uploading it to the district GMS homepage no later than **June 1, 2025**.

If you should have any questions regarding these general assurances, please contact Lindsey Labonville, Administrator of the Bureau of Federal Compliance at Lindsey.L.Labonville@doe.nh.gov or at 603-731-4621.

New Hampshire Department of Education

FY2026

GENERAL ASSURANCES, REQUIREMENTS AND DEFINITIONS FOR PARTICIPATION IN FEDERAL PROGRAMS

Subrecipients of any Federal grant funds provided through the New Hampshire Department of Education (NHED) must submit a signed copy of this document to the NHED Bureau of Federal Compliance prior to any formula grant application being deemed to be “substantially approvable” or any discretionary grant receiving “final approval.” Once a formula grant is deemed to be in substantially approvable form, the subrecipient may begin to obligate funds which will be reimbursed upon final approval of the application by the NHED (34 CFR 708).

Any funds obligated by the subrecipient prior to the applicant submitting its application to the NHED in substantially approvable form will not be reimbursable even upon final approval of the application by the NHED.

All individuals executing this document should review the document to ensure that you understand the requirements and deadlines to which you are agreeing.

Following your review and acceptance of these General Assurances, Requirements and Definitions for Participation in Federal Programs please sign the certification statement on the appropriate page and then initial each of the remaining pages where indicated (initials on the signature pages are not required).

Please note that the practice of the School Board authorizing the Senior Educational Official to sign on behalf of the School Board Chair is not acceptable to the NHED in this case and will be considered non-responsive.

Once the document is fully executed, please upload a signed copy of these General assurances to the LEA homepage within GMS for review and approval. General assurances must be uploaded for each district applying for federal funds.

Should you have any questions please contact Lindsey Labonville at 603-731-4621 or Lindsey.L.Labonville@doe.nh.gov.

General Assurances, Requirements and Definitions for Participation in Federal Programs

A. General Assurances

Assurance is hereby given by the subrecipient that, to the extent applicable:

- 1) The subrecipient has the legal authority to apply for the federal assistance, and the institutional, managerial, and financial capability (including funds sufficient to pay non-federal share of project costs, as applicable) to ensure proper planning, management, and completion of the project described in all applications submitted.
- 2) The subrecipient will give the awarding agency, the NHED, the Comptroller General of the United States and, if appropriate, other State Agencies, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
- 3) The subrecipient will comply with the requirements regarding construction and real property within 34 CFR Part 75.600-75.684. The non-Federal entity is required to comply with any reporting requirements on the status of real property in which the Federal Government retains an interest pursuant to 2 CFR 200.330.
- 4) The subrecipient will establish safeguards to prohibit employees from using their positions for purposes that constitute or appear to present a personal or organizational conflict of interest, or for personal gain.
- 5) The subrecipient will initiate and complete the work within the applicable time frame after receiving approval from the awarding agency.
- 6) The subrecipient will comply with all Federal statutes, administrative rules and executive orders including provisions protecting free speech, religious liberty, public welfare, the environment, and those prohibiting discrimination. These include, but are not limited to:
 - (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; including any guidance issued consistent with Executive Order 14151 Ending Radical And Wasteful Government DEI Programs And Preferencing – The White House (January 20, 2025) and the communication titled “Reminder of Legal Obligations Undertaken in Exchange for Receiving Federal Financial Assistance and Request for Certification under Title VI and SFFA v. Harvard issued by the United States Department of Education on April 3, 2025, as applicable;
 - (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex including any guidance issued consistent with Executive Order 14168 Defending Women From Gender Ideology Extremism And Restoring Biological Truth To The Federal Government (January 20, 2025), as applicable;
 - (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps;
 - (d) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age;
 - (e) The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
 - (f) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;

- (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
 - (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing;
 - (i) Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made;
 - (j) The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) and the Protection of Pupil Rights Amendment (PPRA) (20 U.S.C. § 1232h; 34 CFR Part 98); and
 - (k) The requirements of any other statute(s), administrative rule, executive order, dear colleague letter, or non-regulatory guidance which may apply to the application.
- 7) The subrecipient will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of federal participation in purchases.
 - 8) The subrecipient will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds. The subrecipient further assures that no federally appropriated funds have been paid or will be paid by or on behalf of the subrecipient to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - 9) The subrecipient will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported in whole or in part with federal funds.
 - 10) The subrecipient will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported in whole or in part with federal funds.
 - 11) The subrecipient will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
 - 12) The subrecipient will comply with all applicable requirements of all other federal laws, executive orders, regulations, dear colleague letter, non-regulatory guidance and policies governing all program(s).
 - 13) The subrecipient will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 CFR 200.501, Subpart F, "Audit Requirements," as applicable.
 - 14) The recipient will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.
 - 15) The control of funds provided to a subrecipient that is a Local Education Agency under each program, and title to property acquired with those funds, will be in a public agency, and a public agency will administer those

funds and property.

- 16) Personnel funded from federal grants and their subcontractors will adhere to the prohibition from text messaging while driving an organization-owned vehicle, or while driving their own privately owned vehicle during official Grant business, or from using organization-supplied electronic equipment to text message or email while driving. Recipients must comply with these conditions under Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009 (pursuant to provisions attached to federal grants funded by the US Department of Education).
- 17) The subrecipient assures that it will adhere to the Pro-Children Act of 2001, which states that no person shall permit smoking within any indoor facility owned or leased or contracted and utilized for the provision of routine or regular kindergarten, elementary, or secondary education or library services to children (P.L. 107-110, section 4303(a)). In addition, no person shall permit smoking within any indoor facility (or portion of such a facility) owned or leased or contracted and utilized for the provision of regular or routine health care or day care or early childhood development (Head Start) services (P.L. 107-110, Section 4303(b)(1)). Any failure to comply with a prohibition in this Act shall be considered to be a violation of this Act and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty, as determined by the Secretary of Education (P.L. 107-110, section 4303(e)(1)).
- 18) The subrecipient will comply with the Stevens Amendment.
- 19) The subrecipient will comply with the Buy America Preference for Infrastructure Projects as required by 2 CFR Part 184.
- 20) The subrecipient will submit such reports to the NHED and to U.S. governmental agencies as may reasonably be required to enable the NHED and U.S. governmental agencies to perform their duties. The subrecipient will maintain such fiscal and programmatic records, including those required under 20 U.S.C. 1234(f), and will provide access to those records, as necessary, for those Departments/agencies to perform their duties.
- 21) The Subrecipient will ensure compliance with 2 CFR 200.415(a) and (b).
- 22) If an LEA, the subrecipient will provide reasonable opportunities for systematic consultation with and participation of teachers, parents, and other interested agencies, organizations, and individuals, including education-related community groups and non-profit organizations, in the planning for and operation of each program.
- 23) If an LEA, the subrecipient shall assure that any application, evaluation, periodic program plan, or report relating to each program will be made readily available to parents and other members of the general public upon request.
- 24) If an LEA, the subrecipient has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program, significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects. Such procedures shall ensure compliance with applicable federal laws and requirements.
- 25) The subrecipient will comply with the requirements of the Gun-Free Schools Act of 1994.
- 26) The subrecipient will submit a fully executed and accurate FY25 Single-Audit Certification (required) and the Federal Expenditures Worksheet (if applicable) to the NHED no later than December 31, 2025. The worksheet

will be provided to each subrecipient by the NHED via email and is posted on the NHED website.

- 27) The subrecipient shall comply with the restrictions of New Hampshire RSA 15:5.
- 28) The subrecipient will comply with the requirements in 2 CFR Part 180, Government-wide Debarment and Suspension (Non-procurement).
- 29) The subrecipient certifies that it will maintain a drug-free workplace and will comply with the requirements of the Drug-Free Workplace Act of 1988 and 34 CFR 84.200.
- 30) The subrecipient will adhere to the requirements of Title 20 USC 7197 relative to the Transfer of Disciplinary Records.
- 31) The subrecipient will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
- 32) The subrecipient will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally assisted construction sub-agreements.
- 33) The subrecipient will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- 34) The subrecipient will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
- 35) The subrecipient will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- 36) The subrecipient will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
- 37) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all

contracts and purchase orders for work or products under this award (2 CFR 200.322).

38) The subrecipient will comply with the Prohibition on Certain Telecommunications and Video Surveillance Equipment requirement per 2 CFR 200.216.

39) The subrecipient will comply with the Protection for Whistleblowers (41 U.S.C. §4712).

B. Explanation of Grants Management Requirements

The following section elaborate on certain requirements included in legislation or regulations referred to in the "General Assurances" section. This section also explains the broad requirements that apply to federal program funds.

1. Financial Management Systems

Financial management systems, including records documenting compliance with federal statutes, regulations, and the terms and conditions of the federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions, and to trace funds to establish that such funds have been used in accordance with Federal statutes, regulations, and the terms and conditions of the Federal award.

Specifically, the financial management system must be able to:

- a) Identify, in its accounts, all federal awards received and expended and the federal programs under which they were received. Federal program and federal award identification must include, as applicable, the CFDA title and number, federal award identification number and year, name of the federal agency, and name of the pass-through entity, if any.
- b) Provide accurate, current, and complete disclosure of the financial results of each federal award or program.
- c) Produce records that identify adequately the source and application of funds for federally funded activities.
- d) Maintain effective control over, and accountability for, all funds, property, and other assets. The subrecipient must adequately safeguard all assets and assure that they are used solely for authorized purposes.
- e) Generate comparisons of expenditures with budget amounts for each federal award.

2. Written Policies and Procedures

The subrecipient must have written policies and procedures for (this list is not all inclusive):

Policy/Procedure Name	In Accordance With	Policy	Procedure
Drug-Free Workplace Policy	34 CFR 84.200 and the Drug-Free Workplace Act of 1988		N/A
Procurement Policy & Procedure	2 CFR 200.317-327		
Conflict of Interest/Standard of Conduct Policy	2 CFR 318(c)(1)		N/A
Inventory Management Policy & Procedure	2 CFR 200.313(d)		
District Travel Policy	2 CFR 200.475(b)		N/A
Subrecipient Monitoring Policy & Procedure (if applicable)	2 CFR 200.332(d)		

Time and Effort Policy & Procedure	2 CFR 200.430		
Records Retention Policy & Procedure	2 CFR 200.334		
Prohibiting the Aiding and Abetting of Sexual Abuse Policy	ESEA Section 8546		N/A
Allowable Cost Determination Policy	2 CFR 200.302(b)(7)		N/A
Gun Free School Act	Gun Free School Act of 1994		N/A
Cash Management	2 CFR 200.302(b)(6) and 200.305		
Nonsmoking Policy for Children's Services	ESEA Section 8573		N/A

3. Internal Controls

The subrecipient must:

- a) Establish, maintain, and document effective internal controls over the federal award that provides reasonable assurance that the non-federal entity is managing the federal award in compliance with federal statutes, regulations, and the terms and conditions of the federal award. These internal controls should comply with the guidance outlined in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- b) Comply with the U.S. Constitution, federal statutes, regulations, applicable executive order, and non-regulatory guidance, as applicable, and the terms and conditions of the federal awards.
- c) Take prompt action when instances of noncompliance are identified, including noncompliance identified in audit findings.
- d) Take reasonable cybersecurity and other measures to safeguard information including protected personally identifiable information (PII) and other types of information. This also includes information the Federal agency or pass-through entity designates as sensitive or other information the recipient or subrecipient considers sensitive and is consistent with applicable Federal, State, local and tribal laws regarding privacy and responsibility over confidentiality.
- e) Retain all Federal award records and other supporting documentation in accordance with 2 CFR 200.334.

4. Allowable Costs

In accounting for and expending project/grant funds, the subrecipient may only charge expenditures to the project award if they are:

- a) in payment of obligations incurred during the approved project period;
- b) in conformance with the approved project;
- c) in compliance with all applicable statutes and regulatory provisions;
- d) costs that are allocable to a particular cost objective;
- e) spent only for reasonable and necessary costs of the program; and
- f) not used for general expenses required to carry out other responsibilities of the subrecipient.

5. Audits

This part is applicable for all non-federal entities as defined in 2 CFR 200, Subpart F.

- a) In the event that the subrecipient expends \$1,000,000 or more in federal awards in its fiscal year, the subrecipient must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F. In determining the federal awards expended in its fiscal year, the subrecipient shall consider all sources of federal awards, including federal resources received from the NHED. The determination of amounts of federal awards expended should be in accordance with the guidelines established by 2 CFR 200, Subpart F.
- b) In connection with the audit requirements, the subrecipient shall also fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200.508.
- c) If the subrecipient expends less than \$1,000,000 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F, is not required. In the event that the subrecipient expends less than \$1,000,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from subrecipient resources obtained from non-federal entities).

The subrecipient assures it will implement the following audit responsibilities:

- a) Procure or otherwise arrange for the audit required by this part in accordance with auditor selection regulations (2 CFR 200.509) and ensure it is properly performed and submitted no later than nine months after the close of the fiscal year in accordance with report submission regulations (2 CFR 200.512).
- b) Provide the auditor access to personnel, accounts, books, records, supporting documentation, and other information as needed so that the auditor may perform the audit required by this part.
- c) Prepare appropriate financial statements, including the schedule of expenditures of federal awards, in accordance with financial statements regulations (2 CFR 200.510).
- d) Promptly follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan, in accordance with audit findings follow-up regulations (2 CFR 200.511(b-c)).
- e) If an audit reveals the basis for a finding related to a federally funded program, upon request of the NHED Bureau of Federal Compliance (BFC), promptly submit a corrective action plan using the NHED template provided by the BFC for audit findings related to the federally funded programs.
- f) For repeat findings not resolved or only partially resolved, the subrecipient must provide an explanation for findings not resolved or only partially resolved to the BFC for findings related to all federally funded programs. The BFC will review the subrecipient's submission and issue an appropriate management decision adhering to the same framework as set forth in 2 CFR 200.521.

6. Reports to be Submitted

Audits/Management Decisions

Copies of reporting packages for audits conducted in accordance with 2 CFR 200, Subpart F shall be submitted, by or on behalf of the recipient directly to the following:

- a) The Federal Audit Clearinghouse (FAC) in 2 CFR 200, Subpart F requires the auditee to electronically submit the data collection form described in 200.512(b) and the reporting package described in 200.512(c) to FAC at: The Federal Audit Clearinghouse

Copies of other reports or management decision letter(s) shall be submitted by or on behalf of the subrecipient directly to:

- a) **New Hampshire Department of Education**

Bureau of Federal Compliance
25 Hall Street
Concord, NH 03301 Or via email to: federalcompliance@doe.nh.gov

- b) In response to requests by a federal agency, auditees must submit a copy of any management letters issued by the auditor, 2 CFR 200.512(e).

Any other reports, management decision letters, or other information required to be submitted to the NHED pursuant to this agreement shall be submitted in a timely manner.

Single Audit Certifications and Federal Expenditures Worksheet

A fully executed and accurate FY25 Single-Audit Certification (required) and Federal Expenditures Worksheet (if applicable) shall be submitted to the NHED no later than **December 31, 2025**. A copy of the forms will be provided to each subrecipient by the NHED via email.

7. Debarment, Suspension, and Other Responsibility Matters

As required by Executive Orders (E.O.) 12549 and 12689, Debarment and Suspension, and implemented at 2 CFR Part 180, for prospective participants in primary covered transactions, as defined in 2 CFR 180.120, 180.125 and 180.200, no contract shall be made to parties identified on the General Services Administration's *Excluded Parties List System* as excluded from Federal Procurement or Non-procurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding their exclusion status and that of their principal employees.

The federal government imposes this requirement in order to protect the public interest, and to ensure that only responsible organizations and individuals do business with the government and receive and spend government grant funds. Failure to adhere to these requirements may have serious consequences – for example, disallowance of cost, termination of project, or debarment.

To assure that this requirement is met, there are four options for obtaining satisfaction that subrecipients and contractors are not suspended, debarred, or disqualified.

The subrecipient certifies that it and its principals:

- a) Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any federal Department or agency.
- b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes; commission of embezzlement; theft, forgery, bribery, falsification, or destruction of records; making false statements; or receiving stolen property.
- c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in this certification.
- d) Have not within a three-year period preceding this application had one or more public transactions (federal, state, or local) terminated for cause or default.

Where the subrecipient is unable to certify to any of the statements in this certification, they shall attach an

explanation to this document.

8. Drug-Free Workplace (Grantees Other Than Individual)

As required by the Drug-Free Workplace Act of 1988 and implemented in 34 CFR 84.200 the subrecipient certifies that it will continue to provide a drug-free workplace by:

- a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance (34 CFR 84.610) is prohibited in the subrecipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
- b) Establishing, as required by 34 CFR 84.215, an ongoing drug-free awareness program to inform employees about:
 - The dangers of drug abuse in the workplace;
 - The recipient's policy of maintaining a drug-free workplace;
 - Any available drug counseling, rehabilitation, and employee assistance programs; and
 - The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- c) Requiring that each employee engaged in the performance of the project is given a copy of this statement.
- d) Notifying the employee in the statement that, as a condition of employment under the project, the employee will:
 - Abide by the terms of the statement; and
 - Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
- e) Notifying the agency in writing within 5 calendar days after receiving notice of an employee's conviction of a violation of a criminal drug statute in the workplace, as required by 34 CFR 84.205(c)(2), from an employee or otherwise receiving actual notice of employee's conviction. Employers of convicted employees must provide notice, including position title to:

Director, Grants and Contracts Service
 U.S. Department of Education
 400 Maryland Avenue, S.W. [Room 3124, GSA – Regional Office Building No. 3]
 Washington, D.C. 20202-4571

(Notice shall include the identification number[s] of each affected grant).

- f) Taking one of the following actions, as stated in 34 CFR 84.225(b), within 30 calendar days of receiving the required notice with respect to any employee who is convicted of a violation of a criminal drug statute in the workplace.
 - Taking appropriate personnel action against such an employee, up to and including termination consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - Requiring such employee to participate satisfactorily in drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

- g) Making a good-faith effort to maintain a drug-free workplace through implementation of the requirements stated above.

9. Gun Possession

As required by Title XIV, Part F, and Section 14601 (Gun-Free Schools Act of 1994) of the Improving America's Schools Act:

The LEA assures that it shall comply with the provisions of RSA 193:13, IV.

Any pupil who brings or possesses a firearm as defined in section 921 of Title 18 of the United States Code in a safe school zone as defined in RSA 193-D:1 without written authorization from the superintendent or designee shall be expelled from school by the local school board for a period of not less than 12 months. Nothing in this section shall be construed to prevent the local school district or chartered public school that expelled the student from providing educational services to such student in an alternative setting.

The LEA assures that it shall timely file the report required by Ed 317.07.

The LEA assures that it has establish policies on school discipline as required by RSA 193:13, XI and XII and Ed 317.03.

10. Lobbying

As required by Section 1352, Title 31, of the U.S. Code, and implemented in 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined in 34 CFR 82.105 and 82.110, the applicant certifies that:

- a) No federally appropriated funds have been paid or will be paid by or on behalf of the subrecipient to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
- b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal grants or cooperative agreements, the subrecipient shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c) The subrecipient shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, contracts under federal awards, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

New Hampshire RSA 15:5 - **Prohibited Activities.**

- I. Except as provided in paragraph II, no recipient of a grant or appropriation of state funds may use the state funds to lobby or attempt to influence legislation, participate in political activity, or contribute funds to any entity engaged in these activities.

- II. Any recipient of a grant or appropriation of state funds that wishes to engage in any of the activities prohibited in paragraph I, or contribute funds to any entity engaged in these activities, shall segregate the state funds in such a manner that such funds are physically and financially separate from any non-state funds that may be used for any of these purposes. Mere bookkeeping separation of the state funds from other moneys shall not be sufficient.

11. Subrecipient Monitoring

In addition to reviews of audits conducted in accordance with 2 CFR 200, Subpart F, subrecipient monitoring procedures may include, but not be limited to, on-site or remote visits by NHED staff, limited scope audits, and/or other procedures. By signing this document, the subrecipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the NHED. In the event the NHED determines that a limited scope audit of the project recipient is appropriate, the subrecipient agrees to comply with any additional instructions provided by NHED staff to the subrecipient regarding such audit.

12. More Restrictive Conditions

Subrecipients found to be in noncompliance with program and/or fund source requirements or determined to be “high risk” shall be subject to the imposition of more restrictive conditions as determined by the NHED.

13. Obligations by Subrecipients

Obligations will be considered to have been incurred by subrecipients on the basis of documentary evidence of binding commitments for the acquisition of goods or property or for the performance of work, except that funds for personal services, services performed by public utilities, travel, or the rental of facilities shall be considered to have been obligated at the time such services were rendered, such travel occurred, and/or when facilities were used (see 34 CFR 76.707).

14. Personnel Costs – Time Distribution

Charges to federal projects for personnel costs, whether treated as direct or indirect costs, are allowable to the extent that they satisfy the specific requirements of 2 CFR 200.430 and will be based on payrolls documented in accordance with generally accepted practices of the subrecipient and approved by a responsible official(s) of the subrecipient.

When employees work solely on a single federal award or cost objective, charges for their salaries and wages must be supported by personnel activity reports (PARs), which are periodic certifications (at least semi-annually) that the employees worked solely on that program for the period covered by the certification. These certifications must be signed by the employee or a supervisory official having firsthand knowledge of the work performed by the employee.

When employees work on multiple activities or cost objectives (e.g., more than one federal project, a federal project and a non-federal project, an indirect cost activity and a direct cost activity, two or more indirect activities which are allocated using different allocation bases, or an unallowable activity and a direct or indirect cost activity), the distribution of their salaries or wages will be supported by personnel activity reports or equivalent documents that meet the following standards:

- a) Reflect an after-the-fact distribution of the actual activity of each employee;
- b) Account for the total activity for which each employee is compensated;

- c) Prepared at least monthly and must coincide with one or more pay period; and
- d) Signed and dated by the employee.

15. Protected Prayer in Public Elementary and Secondary Schools

The subrecipient certifies that the LEA has no policy that prevents or otherwise denies participation in constitutionally protected prayer in public elementary and secondary schools. (Section 8524(a) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act and codified at 20 U.S.C. § 7904).

16. Purchasing/Procurement

The non-Federal entity must have and use documented procurement procedures, consistent with the standards of this section and 2 CFR 200.317 - 2 CFR 200.327 for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

1. Informal procurement methods
 - a. Micro-purchases
 - b. Simplified Acquisition
2. Formal procurement methods
 - a. Sealed bids
 - b. Proposals
3. Noncompetitive procurement

17. Retention and Access to Records

The subrecipient certifies that it will comply with all federal regulations, including but not limited to, 2 CFR 200.334 – 2 CFR 200.338.

18. The Stevens Amendment

All federally funded projects must comply with the Stevens Amendment of the Department of Defense Appropriation Act, found in Section 8136, which provides:

When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with federal money, all grantees receiving federal funds, including but not limited to state and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with federal money, (2) the dollar amount of federal funds for the project or program, and (3) the percentage and dollar amount of the total costs of the project or program that will be funded by non-governmental sources.

19. Transfer of Disciplinary Records

Title 20 USC 7197 requires that the State have a procedure to assure that a student's disciplinary records, with respect to suspensions and expulsions, are transferred by the project recipient to any public or private elementary or secondary school where the student is required or chooses to enroll. In New Hampshire, that assurance is statutory and found at RSA 193-D:8.

The relevant portions of the federal and state law appear below.

- a) **Disciplinary Records** - In accordance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), not later than 2 years after the date of enactment of this part, each State receiving Federal funds under this Act shall provide an assurance to the Secretary that the State has a procedure in place to facilitate the transfer of disciplinary records, with respect to a suspension or expulsion, by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school.
- b) **193-D:8 Transfer Records; Notice** – All elementary and secondary educational institutions, including academies, private schools, and public schools, shall upon request of the parent, pupil, or former pupil, furnish a complete school record for the pupil transferring into a new school system. Such record shall include, but not be limited to, records relating to any incidents involving suspension or expulsion, or delinquent or criminal acts, or any incident reports in which the pupil was charged with any act of theft, destruction, or violence in a safe school zone.

20. Compliance with FERPA and PPRA

The subrecipient certifies that it complies with Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) and the Protection of Pupil Rights Amendment (PPRA) (20 U.S.C. § 1232h; 34 CFR Part 98) by ensuring the following:

- a) The subrecipient has established and implemented effective internal processes to ensure that student's complete education records are maintained;
- b) The subrecipient has established and implemented effective internal processes to ensure that parents are provided with the opportunity to review their student's education records;
- c) The subrecipient has established policies and procedures that permit disclosure of personally identifiable information from a student's education records in order to address safety issues in a manner that complies with FERPA;
- d) The subrecipient provides parents and eligible students annual notification of their rights under FERPA consistent with 34 CFR § 99.7; and
- e) The subrecipient, if applicable, has established procedures to provide military recruiters the same access to secondary students as provided to postsecondary institutions or to prospective employers and require that schools provide student information to military recruiters, when requested, unless the parent has opted out of providing such information (schools are required to provide to military recruiters include student names, addresses, electronic mailing addresses, and telephone listings. *See* Section 8528 of the ESEA, as amended, 20 U.S.C. § 7908 and 10 U.S.C. § 503(c)).

C. Definitions (2 CFR 200.1)

- 1) **Audit finding** - *Audit finding* means deficiencies which the auditor is required by 2 CFR 200.516 (a) to report in the schedule of findings and questioned costs.
- 2) **Management decision** - *Management decision* means the Federal awarding agency's or pass-through entity's written determination, provided to the auditee, of the adequacy of the auditee's proposed corrective actions to address the findings, based on its evaluation of the audit findings and proposed corrective actions.
- 3) **Pass-through entity** - *Pass-through entity (PTE)* means a recipient or subrecipient that provides a subaward to a subrecipient (including lower tier subrecipients) to carry out of a Federal program. The

authority of the pass-through entity under this part flows through the subaward agreement between the pass-through entity and subrecipient.

- 4) **Period of performance** - *Period of performance* means the total estimate time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. Identification of the Period of Performance in the Federal award per 2 CFR 200.211(b)(5) does not commit the awarding agency to fund the award beyond the currently approved budget period.
- 5) **Subaward** - *Subaward* means an award provided by a pass-through entity to a subrecipient for the subrecipient to contribute to the goals and objectives of the project by carrying out part of a Federal award received by the pass-through entity. It does not include payments to a contractor, beneficiary, or participant. A subaward may be provided through any form of legal agreement consistent with criteria in with 2 CFR 200.331, including an agreement the pass-through entity considers a contract.
- 6) **Subrecipient** – *Subrecipient* means an entity that receives a subaward from a pass-through entity to carry out part of a federal award.
- 7) **Senior Educational Official** – *Senior Educational Official* means the top executive in an educational organization who makes the key decisions on spending, staffing, and other education policies.

CERTIFICATION

Instructions: The Senior Education Official **must** consult with the School Board for the School District/SAU by informing said School Board about the District's/SAU's participation in Federal Programs and the terms and conditions of the General Assurances, Requirements and Definitions for Participation in Federal Programs. The Senior Educational Official and the Chair of the School Board **must** sign this certification page (and initial the remaining pages) as described below and return it to the NHED. **No payment for project/grant awards will be made by the NHED without a fully executed copy of this General Assurances, Requirements and Definitions for Participation in Federal Programs on file.** For further information, contact the NHED Bureau of Federal Compliance at federalcompliance@doe.nh.gov

Senior Educational Official or other Qualifying Administrator Certification:

We the undersigned acknowledge that [a] person is guilty of a violation of R.S.A. § 641:3 if [h]e or she makes a written or electronic false statement which he or she does not believe to be true, on or pursuant to a form bearing a notification authorized by law to the effect that false statements made therein are punishable; or (b) With a purpose to deceive a public servant in the performance of his or her official function, he or she: (1) Makes any written or electronic false statement which he or she does not believe to be true; or (2) Knowingly creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading; or (3) Submits or invites reliance on any writing which he or she knows to be lacking in authenticity; or (4) Submits or invites reliance on any sample, specimen, map, boundary mark, or other object which he or she knows to be false.

Accordingly, I, the undersigned official legally authorized to bind the named School District/SAU hereby apply for participation in federally funded education programs on behalf of the School District/SAU named below. I certify, to the best of my knowledge, that the below School District/SAU will adhere to and comply with these General Assurances, Requirements and Definitions for Participation in Federal Programs (pages 1 through 14 inclusive). I further certify, as is evidenced by the Minutes of the School Board Meeting held on _____, _____, _____, that I have informed the members of the School Board of the federal funds the District/SAU will be receiving and of these General Assurances, Requirements and Definitions for the Participation in Federal Programs for the District's/SAU's participation in said programs.

SAU/Charter Number: _____ District or Charter School Name: _____

Typed Name of Senior Educational Official

Signature

Date

School Board Certification:

I, the undersigned official representing the School Board, acknowledge that the Senior Educational Official, as identified above, has consulted with all members of the School Board, in furtherance of the School Board's obligations, including those enumerated in RSA 189:1-a, and pursuant to the School Board's oversight of federal funds the District will be receiving and of the General Assurances, Requirements and Definitions for Participation in Federal Programs in said programs.

 Typed Name of School Board
 Chair (on behalf of the School Board)

 Signature

 Date

Once the document is fully executed, please upload a signed copy of these General assurances to the LEA homepage within GMS for review and approval. General assurances must be uploaded for each district applying for federal funds.

EXHIBIT H

Reminder of Legal Obligations Undertaken in Exchange for Receiving Federal Financial Assistance and Request for Certification under Title VI and *SFFA v. Harvard*

Mandatory Supplement Questionnaire

Upon investigation, have there been instances of noncompliance identified within your LEA?

☐ Yes

☐ No

If the answer to the question above is yes, please describe each issue of noncompliance found within your LEA.

For each area of noncompliance identified above, detail your remediation plans including intended date of remediation completion.