

PART Ed 318 CHARTERED PUBLIC SCHOOLS

REVISION NOTE:

Document #10873, effective 7-1-15, readopted with amendment, and often renumbered, existing rules in Part Ed 318 as rules in Part Ed 318 and Part Ed 319. Document #10873 also adopted rules in Part Ed 318 and Part Ed 319, as noted below:

<u>Former Rule</u>	<u>New Rule</u>
Ed 318.01	Ed 318.01
Ed 318.02	Ed 318.02
Ed 318.03	Ed 318.03
Ed 318.04	Ed 318.04
Ed 318.05	Ed 318.05
Ed 318.06	Ed 318.06
Ed 318.07	Ed 318.07
Ed 318.08	Ed 318.08-Ed 318.10
Ed 318.09	Ed 318.11
Ed 318.10	Ed 318.12-Ed 318.14
(None)	Ed 318.15 (adopted)
Ed 318.11	Ed 318.16
(None)	Ed 318.17 (adopted)
Ed 318.13	Ed 318.18
Ed 318.14	Ed 318.19
Ed 318.15	Ed 318.20
(None)	Ed 319.01 (adopted)
(None)	Ed 319.02 (adopted)
Ed 318.12	Ed 319.03
(None)	Ed 319.04 (adopted)

The affected existing rules had been filed previously under Document #9066, effective 1-10-08. The rules did not expire on 1-10-15 but were extended pursuant to RSA 541-A:14-a. Document #10873 replaces all prior filings for rules in the former Part Ed 318. The prior filings for rules in the former Part Ed 318 include the following documents:

- #6355, eff 10-18-96, EXPIRED 10-18-04
- #6821, eff 9-1-98
- #8206, INTERIM, eff 11-18-04, expired 5-17-05
- #9066, eff 1-10-08

Ed 318.01 Purpose and Scope.

(a) The purpose of these rules is to ensure uniform application of RSA 194-B in the establishment and administration of chartered public schools.

(b) The charter school provisions of these rules shall apply to:

- (1) Those persons and entities listed in RSA 194-B:3,V, as eligible to establish a charter school;
- (2) An existing public school which is eligible to become a charter conversion school in accordance with RSA 194-B:3,VI;

- (3) Local school boards authorized to approve charter schools under RSA 194-B:3, II; and
- (4) Charter schools authorized under RSA 194-B:3-a.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.02 Definitions.

- (a) "Board of trustees" means "board of trustees" as defined in RSA 194-B:1, II.
- (b) "Charter school" means "chartered public school" as defined in RSA 194-B:1, III.
- (c) "Charter conversion school" means "charter conversion school" as defined in RSA 194-B:1, IV.
- (d) "Host school district" means "host school district" as defined in RSA 194-B:1, V.
- (e) "Local school board process" means the approval process set forth in RSA 194-B:3, II
- (f) "Parent" means "parent" as defined in RSA 194-B:1, VII.
- (g) "Pupil" means "pupil" as defined in RSA 194-B:1, VIII.
- (h) "School board" means "school board" as defined in RSA 194-B:1, XI.
- (i) "State board" means "state board" as defined in RSA 194-B:1, XIII.
- (j) "State board process" means the approval process set forth in RSA 194-B:3-a.
- (k) "Teacher" means "teacher" as defined in RSA 194-B:1, XIV.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.03 Charter School Approval: Requirements of Applicants. Persons or entities eligible to apply to establish a charter school shall be organized as a nonprofit corporation in accordance with the provisions of RSA 292. Such corporation shall first establish a prospective board of trustees and prescribe the board's duties in a set of proposed bylaws which shall be consistent with the prospective board duties under RSA 194-B:5.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.04 Different Methods of Application. There shall be 2 methods of application for a charter school, as follows:

- (a) The local school board process, which begins with the applicant seeking the approval of the school board, in accordance with RSA 194-B:3, III; and
- (b) The state board process authorized under RSA 194-B:3-a which begins when the applicant presents its application directly to the state board.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.05 Local School Board Process; Application to Local School Board; Review by State Board.

(a) An applicant seeking state board approval for a charter school shall first apply for approval to the local school board by July 1 of the year preceding intended operation and in accordance with all of the provisions of RSA 194-B:3, III.

(b) An application to the local school board to establish a charter school under RSA 194-B:3, III, shall be made by the prospective board of trustees in the form of an application including a proposed contract containing all of the elements in RSA 194-B:3, II.

(c) In addition to the information necessary to establish the elements in RSA 194-B:3, II, an application shall include the following information:

- (1) The proposed name of the charter school;
- (2) The general description and proposed or potential school location, if that information is known;
- (3) The name, address, telephone and fax numbers, and email address of a contact person;
- (4) An identification of the eligible person(s) or entity of the applicant from among those listed in RSA 194-B:3, V;
- (5) The grade levels the proposed charter school will cover;
- (6) The projected student enrollment for each of the first 5 years of operation;
- (7) The total number of teachers and the average teacher/student ratio for the first 5 years;
- (8) Whether the applicant has access to a facility suitable for the school and, if not, how the applicant intends to provide a physical location for the school;
- (9) A summary of the school's focus including a description of the characteristics, methods, and goals of the school; and
- (10) Any reasons why the prospective board of trustees believes RSA 194-B:3, XII, relative to a shortening of deadlines may apply in this case.

(d) Once the school board has forwarded the application, including a proposed contract, in accordance with Ed 318.06, the commissioner shall inform the board of trustees in writing when they shall appear to answer any questions concerning the contract and the application for the charter school.

(e) The review of the application and proposed contract shall be an item on the agenda of the next regularly-scheduled state board meeting. However, if the board of trustees seeks an appeal under (f) below, the appeal decision shall be considered at a regularly-scheduled meeting after the board's review of the proposed decision of the hearing officer.

(f) In accordance with RSA 194-B:3, IV, the board of trustees may appeal a denial by the local school board to the state board. A request for an appeal shall be by letter which shall be postmarked no later than 10 days after the final decision of the local school board. The request shall detail which of the criteria of Ed 318.07 the board of trustees claims were not properly addressed in the local school board's denial. An appeal shall be conducted in accordance with Ed 200, and all decisions shall make reference to the criteria listed in RSA 194-B:3, II and Ed 318.07 as the basis for approval or disapproval of the appeal.

(g) For good cause shown, including but not limited to a hardship which is outside of the control of the applicant, a local school board and the state board shall waive any deadlines applying in RSA 194-B:3 to their respective actions for specific periods of time, provided that a request for a waiver shall:

- (1) Be in writing and be signed by the waiver applicant;
- (2) Specify the provisions of RSA 194-B to be waived, the duration of the waiver, and the hardship which is outside of the control of the applicant or other circumstance which caused the applicant to ask for a waiver; and
- (3) Include a certification that the waiver applicant has made a good faith effort to comply with said provisions.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.06 Local School Board Process; Requirements of Local School Boards. In forwarding an application, including a proposed contract, to the state board under RSA 194-B:3, III(c), the local school board shall comply with the following by the statutory deadline of September 15:

(a) If the application including a proposed contract is approved, the local school board shall file the application with the state board with a cover letter indicating the date of the local school board meeting at which the application was approved. The application shall meet the requirements of Ed 318.08 (b)-(h);

(b) If the application is denied, the local school board shall forward the application to the state board with a cover letter indicating:

- (1) Suggested amendments or additions to the application or contract to correct any areas deemed deficient, numbered to correspond to the list of criteria in RSA 194-B:3, II;
- (2) Comments concerning how the application or contract might be deficient in relation to the state board criteria for review listed in Ed 318.07;
- (3) Any legal questions the local school board wishes the state board to address, including those issues which might require an opinion to the state board by the department of justice; and
- (4) Any other matters which might be pertinent concerning the operation of the proposed charter school in the local school board's district.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.07 Local School Board Process; Review Criteria for State Board.

(a) The state board shall review the application for completeness to ensure that each of the statutory requirements of RSA 194-B:3, II has been met.

(b) In addition to the criteria listed in RSA 194-B:3, II, each applicant shall provide the following:

- (1) An admission policy which takes into consideration the following factors:
  - a. Methods for admission which shall not be designed, intended or used to discriminate or violate individual civil rights in any manner prohibited by law;

b. How the school will conduct lottery selection as provided for in RSA 194-B:9, I(c) and assure that the preferential status, if any, of children of the founding members of the charter school shall be addressed in the admissions process; and

c. How the school will provide for educationally disabled students;

(2) Procedures that either sets forth the guidelines for the optional contracting of services as allowed under RSA 194-B:5, V and RSA 194-B:8, VII, or states how and why the school declines to choose the option;

(3) A statement that the school shall conduct school employee and volunteer background investigations in accordance with RSA 189:13-a;

(4) A statement that, in accordance with RSA 194-B:8, II, the school facilities shall comply with all federal and state health and safety laws, rules, and regulations, including, but not limited to:

a. Fire safety;

b. Heating, ventilating, and air conditioning (HVAC);

c. Plumbing;

d. Electrical;

e. Requirements of Ed 321.23(u) and (v); and

f. Barrier-free access under Abfd 300 and the Americans with Disabilities Act of 1990(ADA), as amended by the ADA Amendments Act of 2008.

(5) A statement that the school shall provide required services under RSA 194-B:8, IV, if applicable; and

(6) A statement which meets the requirements of RSA 194-B:2,II.

(c) The state board shall approve, conditionally approve, or deny the application and notify the applicant in writing of its decision.

(d) If the state board:

(1) Conditionally approves an application, the state board shall include in the notification:

a. A written explanation of the reasons for conditional rather than final approval; and

b. The conditions the applicant shall meet for final approval; or

(2) Denies an application, the state board shall include in the notification:

a. A written explanation of the reasons for the denial;

b. The areas deemed deficient by the state board; and

c. An explanation that the applicant may reapply under RSA 194-B:3 or RSA 194-B:3-a.

(e) The board of trustees may appeal a denial or conditional approval by the state board in accordance with Ed 213.

Source. (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.08 Requirements for Submitting An Application.

(a) An applicant seeking state board approval for a charter school shall submit a letter of intent to submit a charter school application to:

NH Department of Education, Charter School Office,  
101 Pleasant Street, Concord NH 03301

(b) The letter shall include:

- (1) Date;
- (2) Proposed charter school name;
- (3) Proposed grade levels; and
- (4) Contact person including:
  - a. Name;
  - b. Organization, if applicable;
  - c. Address;
  - d. Email address; and
  - e. Telephone / Fax number.

(c) An applicant for a charter school shall submit an application comprising of an original, 3 paper copies and an electronic copy to the department for its review.

(d) The application shall include:

- (1) Completed application cover sheet; and
- (2) Table of contents, page numbers on each page, one-inch margins and at least 11-point font.

(e) The application shall not exceed 50 pages, not including appendices, which may include letters of support, a 5 year budget or both.

(f) The application cover sheet shall include:

- (1) The name of the proposed charter school;
- (2) Name of organization sponsoring the charter school, if any;
- (3) Name of contact person;
- (4) Mailing address;
- (5) Primary telephone;
- (6) Alternate telephone;
- (7) Email address;

- (8) Projected date of school opening;
- (9) Proposed school location; and
- (10) Total projected student enrollment broken out per year for 5 years listing the following:
  - a. School year;
  - b. Grade levels; and
  - c. Number of kindergarten students;

(g) The application shall be signed and certified by the sponsoring entity, including title, printed name and date stating, "I certify that I have the authority to submit this application and that all information contained herein is complete and accurate, realizing that any misrepresentation could result in disqualification from the application process or revocation after award. I understand that incomplete applications will not be considered. The person named as the contact person for the application is so authorized to serve as the primary contact for this application."

(h) An application to the state board to establish a charter school under RSA 194-B:3-a shall be made by the prospective board of trustees in the form of an application containing all of the elements in RSA 194-B:3, II(a)-(bb) and (dd).

(i) An application shall also include the following information:

- (1) The total number of teachers and the average teacher/student ratio for the first 5 years;
- (2) Whether the applicant has access to a facility suitable for the school and, if not, how the applicant intends to provide a physical location for the school; and
- (3) A summary of the school's focus including a description of the characteristics, methods, and goals of the school.

(i) In addition to the criteria listed in RSA 194-B:3-a, II(a)-(bb) and (dd), each applicant shall provide the following:

- (1) An admission policy which takes into consideration the following factors:
  - a. Methods for admission which shall not be designed, intended or used to discriminate or violate individual civil rights in any manner prohibited by law;
  - b. How the school will conduct lottery selection as provided for in RSA 194-B:9, I(c) and assure that the preferential status, if any, of children of the founding members of the charter school shall be addressed in the admissions process; and
  - c. How the school will provide for educationally disabled students;
- (2) A policy that either sets forth the guidelines for the optional contracting of services as allowed under RSA 194-B:5, V and RSA 194-B:8, VII, or states how and why the school declines to choose the option;
- (3) A statement that the school shall conduct school employee and volunteer background investigations in accordance with RSA 189:13-a;

(4) A statement that, in accordance with RSA 194-B:8, II, the school facilities shall comply with all federal and state health and safety laws, rules, and regulations, including, but not limited to:

- a. Fire safety;
- b. Heating, ventilating, and air conditioning (HVAC);
- c. Plumbing;
- d. Electrical; and
- e. Requirements of Ed 321.23(u) and (v);

(5) A statement that the school shall provide required services under RSA 194-B:8, IV, if applicable;

(6) A statement which meets the requirements of RSA 194-B:2, II; and

(7) Statements that the school shall develop, prior to opening, policies regarding the following:

- a. Records retention;
- b. Promoting school safety including:
  - 1. Reporting of suspected abuse or neglect;
  - 2. Sexual harassment, as detailed in Ed 303.01(j) and (k);
  - 3. RSA 193-F, pupil safety and violence prevention;
  - 4. RSA 126-U, limiting the use of child restraint practices; and
- c. Developmentally appropriate daily physical activity pursuant to Ed 310.

(k) Within 10 business days of the initial filing, the charter school office shall acknowledge receipt of application and notify the applicant of any missing information, and when the application is complete.

Source. (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.09 Review by Department of Charter Schools for State Board Approval.

(a) The charter school office shall review the application submitted for state board approval within 60 business days after receipt of a completed application.

(b) The application shall be reviewed by a legal consultant designated by the charter school office through the request for proposal (RFP) process.

(c) After completion of the legal consultant's review, the legal consultant's appraisal shall be reviewed by a committee of peers.

(d) The committee of peers shall consist of 3 persons including a department employee, a charter school representative, and an educator from the public.



(e) The committee of peers shall also evaluate the application to determine the quality using the following criteria:

(1) The mission and vision statements express a clear, focused and compelling purpose for the school that is attainable and supports student achievement. It clearly defines the core purpose and key values of the school in a few concise sentences;

(2) There is a clear description of the policies and procedures by which the governing board will operate, as well as their roles and responsibilities, including the process to appoint or elect the initial board members, the decision-making process, term limits, and an organizational plan in order to successfully implement the school's program;

(3) There is a description of the school facility provided and includes sufficient detail to indicate that priorities will focus on a facility that is appropriate based on the target location, students to be served, and future growth;

(4) There is a clearly defined, research-based curriculum being proposed with the potential to increase student achievement that meets or exceeds the school's content area standards;

(5) There are clearly defined high and attainable educational goals. There are strategies and achievement tests in place that will be used to measure each student's progress toward meeting the goals of the school;

(6) An adequate description is provided on staff member qualifications and job responsibilities. A benefits compensation plan is outlined in the application;

(7) Student transportation needs are considered and adequate plans are in place to address those needs. In the application, there is acceptance that the charter school will take responsibility for any additional costs surrounding transportation in compliance with state and federal requirements.

(8) Strategies are in place to meet individual student needs and to ensure that the appropriate services will be provided in compliance with state and federal requirements for special education;

(9) There is a description of a student recruiting plan, strategies for reaching the school's targeted population and description of the school's registration policies and procedures including enrollment timeline and lottery process. The enrollment and lottery processes are fair and equitable and reflect compliance with applicable laws;

(10) The school's purpose and expectations for parent and community involvement including a description of the school's proposed policies and due process procedures for student discipline, suspension, or expulsion that meets applicable law;

(11) There is a detailed budget and clear description of the internal financial management for a 5 year operating budget, that includes the start-up budget, to contain revenue projections, expenses and anticipated fund balances based upon the projected student enrollment. A detailed budget narrative and fundraising plan. A description of who will manage the school finances and how financial resources will be properly managed with safeguards; and

(12) There is an expectation and plans for parent involvement relating to implementation and action steps of the proposed charter school including the community outreach with surrounding school districts and organizations and to acquire letters of support from business and community leaders, elected officials and/or local school districts.

(f) A charter school evaluation rubric for a proposed charter school application shall be used by the committee as a means of determining the quality of the charter school application according to the scoring guide based on the criteria in (e) and on a 100-point scale as follows:

(1) The criteria in (e)(1) and (2) shall score a maximum of 10 points each; and

(2) The criteria in (e)(3)- (12) shall score a maximum of 8 points each.

(g) As part of the review process, the department shall provide the applicant with written comments, including suggested amendments or modifications, if the department determines that amendments or modifications are needed.

(h) After department review and written comments, if any, the department shall inform the board of trustees in writing when they shall meet with the commissioner concerning the application for the charter school.

Source. (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.10 State Board Approval.

(a) The review of the applications shall be an item on the agenda of a regularly-scheduled state board meeting twice per year, typically in June and January or the next meeting with a quorum.

(b) The state board shall approve, conditionally approve, or deny the application and notify the applicant in writing of its decision.

(c) The board shall approve the application, after reviewing the application and the department's evaluation under Ed 318.09, if it determines the application is in compliance with:

(1) Ed 318.08; and

(2) RSA 194-B:3-a, including the elements set forth in RSA 194-B:3, II(a)-(bb) and (dd).

(d) If the application is not in conformance with the standards referenced in (c), the application shall be conditionally approved if the board determines that the remaining issues:

(1) Can be readily addressed within a specified timeframe; and

(2) Are not of a nature that would impair student education.

(e) If the state board:

(1) Conditionally approves an application, the state board shall include in the notification:

a. A written explanation of the reasons for conditional rather than final approval; and

b. The conditions the applicant shall meet for final approval; or

(2) Denies an application, the state board shall include in the notification:

a. A written explanation of the reasons for the denial;

b. The areas deemed deficient by the state board; and

c. An explanation that the applicant may reapply under RSA 194-B:3, RSA 194-B:3-a in a subsequent year.

(f) The board of trustees may appeal a denial or conditional approval by the state board in accordance with Ed 213.

Source. (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.11 Issuance and Amendment of Charter.

(a) If the state board, under the local school board process or the state board process:

(1) Approves an application for a charter school, the state board shall issue a charter for the school; or

(2) Conditionally approves an application for a charter school, the state board shall issue a provisional charter for the school.

(b) Once the state board issues a charter to an applicant under the local school board process who has met all the requirements of RSA 194-B:3, III,(b), (c), and (d), the board of trustees shall inform the state board in writing of the results of the vote required by RSA 194-B:3, III(e) within 10 days of the vote.

(c) For the state board process, the state board shall issue a charter to an applicant only under the conditions established by RSA 194-B:3-a and Ed 318.08.

(d) A charter approved under the local school board process shall be amended in accordance with RSA 194-B:3, XI. An appeal by the applicant to the state board of the local school board decision pertaining to a proposed amendment shall be filed within 30 days of the denial, and shall be decided by the state board in accordance with Ed 200.

(e) A charter approved under the state board process shall be amended in accordance with the following process:

(1) A charter grantee may apply to the commissioner for amendment to its application;

(2) After the commissioner's review the proposed amendment shall be placed on the agenda of the next regularly-scheduled state board meeting;

(3) The state board shall notify the board of trustees in writing of its decision to grant or deny the proposed amendment within 10 days of its decision, providing reasons for the decision; and

(4) An appeal from a denial of the proposed amendment by the state board shall be in accordance with Ed 213.

Source. (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.12 Charter Renewal.

(a) A charter may be renewed for a renewal period of 5 years in accordance with RSA 193-B:3, X. The board of trustees of a charter school shall make an application for renewal to the state board no later than one year before the original charter is set to expire.

(b) For the first renewal, the application shall consist of the school's fourth year annual report with a cover letter requesting renewal, except that subsequent renewals shall be based on the annual report of the year preceding expiration of the charter. The criteria listed in Ed 318.07 and RSA 194-B:16, VI, shall be used by the board to approve or deny all renewals and shall be referenced in all decisions.

(c) The renewal application process shall include:

- (1) The documents in (b) with name, complete mailing address, and contact information, signed and dated by the head of the school and the chairman of the board;
- (2) A completed application for renewal signed and dated;
- (3) A document review including pertinent yearly accountability materials submitted to the charter school office;
- (4) Invitation for written comments; and
- (5) Recommendation of the commissioner.

(d) The format for the application shall be as follows:

- (1) The application shall not exceed 25 pages, excluding an executive summary which the applicant chooses to include;
- (2) Attachments shall not exceed 25 pages, excluding the draft accountability plan; and
- (3) The application and attachments shall use standard margins, be clearly paginated, and use no smaller than an 11-point font.

(f) Tables graphs, and other data shall be clearly presented, clearly explained, and directly relevant to the text.

(g) The cover letter in (b) shall contain the following:

- (1) A concise abstract, of approximately one page, restating mission and goals and addressing what progress the school has made:
  - a. Towards its academic goals defined; and
  - b. In programmatic and organizational goals;
- (2) Current enrollment numbers and anticipated enrollment for the next 3 school years;
- (3) A statement describing any changes in curriculum or instruction as a result of anticipated growth; and
- (4) A report on school features, curriculum and technology programs, successes and failures in academic attainment including:
  - a. A discussion of the efforts to disseminate best practices or in other ways coordinating with local or other school districts;
  - b. A discussion of parent involvement to date and future plans for parent involvement;
  - c. A report on past fundraising efforts and results, future fund raising goals, and plans for achieving sustainability; and

- d. A proposed budget for the following school year including:
  1. A statement on how the school will use public funds; and
  2. A detailed description of the specific board's reasoning for allocation of funds.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.13 Review of Renewal Application.

- (a) The process for review of the renewal application shall be as follows:
  - (1) The department shall conduct a school review and on-site visit; and
  - (2) The department shall complete a review and recommendation to the state board.
- (b) Criteria for review of application materials shall include:
  - (1) Whether the school is making progress toward achieving its mission;
  - (2) Whether the school is using public funds as required by the statute and the rules;
  - (3) Whether the school is meeting goals for student attainment of expected knowledge and skills;
  - (4) Whether the school is making an effort to disseminate best practices or in other ways coordinate with the local or other school districts;
  - (5) Whether the school is sustainable; and
  - (6) Whether the school has the following updated:
    - a. Certificate for occupancy;
    - b. Fire inspection certificate;
    - c. Building safety inspection;
    - d. Health inspection;
    - e. Insurance certificate; and
    - f. Financial audit.

(c) The board shall renew a charter, if as evidenced by the responses to (a) and (b), the charter school is attaining its performance targets.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.14 Revocation and Withdrawal.

(a) A charter shall be revoked for any of the reasons listed in RSA 194-B:16, II, or if the board of trustees fails to cooperate in the development of a remedial plan under RSA 194-B:16, III. If the commissioner makes a recommendation to revoke a charter, it shall give the trustees at least 90 days

notice of its intent. Revocation shall occur only after notice and opportunity for a hearing as provided under RSA 541-A:31. The hearing shall be conducted in accordance with Ed 200.

(b) A charter shall be withdrawn if the board of trustees fails to submit a progress report under RSA 194-B:3, IX.

(c) The charter shall be withdrawn if a progress report is filed but fails to:

- (1) Specify which provisions of RSA 194-B are delaying the opening of the charter school;  
or
- (2) Provide a remedial plan for the school to overcome any obstacles.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.15 Policy Development. The school shall develop policies in accordance with the following:

(a) Records retention pursuant to RSA 189:29-a;

(b) Promoting school safety including:

- (1) Reporting of suspected abuse or neglect pursuant to RSA 169-C:29;
- (2) Sexual harassment, as detailed in Ed 303.01(j) and (k);
- (3) RSA 193-F, pupil safety and violence prevention; and
- (4) RSA 126-U, limiting the use of child restraint practices; and

(c) Developmentally appropriate daily physical activity pursuant to Ed 310 and RSA 189:11-a,V-

VI.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.16 Charter School Annual Report Requirements.

(a) In addition to the requirement of RSA 194-B:10, each charter school annual report shall include at a minimum the following elements:

- (1) A statement explaining how the school is meeting the goals of its mission statement;
- (2) Any changes in the membership of the board of trustees or in the trustees' methods of operations or amendments to the by-laws;
- (3) Any recusals made by a member of the board of trustees under RSA 194-B:5, VII;
- (4) How the school is implementing all the requirements and any options allowed by RSA 194-B:8;
- (5) The attendance rate of pupils enrolled at the school as reflected in the school's average daily membership;
- (6) The number of incidents that occurred on the school grounds and that required the intervention of local, state or federal law enforcement;

- (7) The number of incident reports prepared under RSA 126-U:7, child restraints notice and record-keeping requirements;
- (8) The number of substantiated incidents of bullying or cyberbullying as identified in RSA 193-F:6;
- (9) The percentage of pupils who either were promoted to the next grade level or graduated from high school;
- (10) A description of the community services available at the school site;
- (11) The school calendar, including hours of operation;
- (12) The total number of pupils enrolled at the school during the previous school year;
- (13) The transportation services available if any;
- (14) A financial statement setting forth the revenue and expenditures for the year just ended;
- (15) A balance sheet setting forth the charter school's assets, liabilities, and fund balances or equities; and
- (16) Projections of income and expenses for the upcoming school year.

(b) If the information required for the annual report has been previously submitted, the document in which it was submitted shall be attached or the manner in which it was submitted shall be referenced, in the annual report.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.17 Review of Annual Reports. The commissioner shall review the collected data from each authorized charter school in accordance with the requirements of RSA 194-B and Ed 318.16, for the purpose of providing, to the state board, an ongoing status report of each charter school. The data specifically required shall not exceed the reporting requirements of New Hampshire public schools.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.18 Deadlines for Pupil Enrollment.

(a) A charter school approved under the local school board process shall accept applications for students only after the date when the charter school contract was ratified by the school district legislative body under RSA 194-B:3, III(e).

(b) A charter school approved under the state board process shall accept applications for students only after the charter has received provisional or final approval from the state board.

(c) If a pupil accepts admission to a charter school, receipt of student records from the student's previous school shall constitute proper notification of enrollment by the charter school.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 318.19 Assurances Against Discrimination.

(a) If any of the persons or entities listed under RSA 194-B:15 and RSA 194-B:16, I, believes a charter school has violated any of the anti-discrimination provisions of the school's own charter, the matter shall, for a charter school approved under the:

(1) Local school board process, be directed to the school board for review and disposition; and

(2) State board process, be directed to the state board for review and disposition pursuant to Ed 200.

(b) A decision of the local school board may be appealed to the state board, in accordance with Ed 200.

(c) A decision of the state board may be appealed in accordance with Ed 213.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

#### Ed 318.20 Charter School Matching Grants.

(a) In this section:

(1) “Applicant” means the board of trustees applying for a grant on behalf of a charter school; and

(2) “Grant” means a matching grant authorized under RSA 194-B:11,X.

(b) The board of trustees of a charter school that has received provisional approval or final approval under Ed 318.07(c) or Ed 318.08(g) may apply to the state board for a matching grant under RSA 194-B:11, X to assist in the establishment of the charter school.

(c) The amount of funds available for matching grants shall be based upon the sum appropriated by the legislature for the grant program in each year of the biennium. In accordance with RSA 194-B:11, X, grant funds shall be used only for funding that exceeds the state’s average per pupil cost for the grade level weight of the pupil, and shall be in addition to any other sums provided by the state.

(d) A board of trustees that intends to apply for a grant shall obtain a vendor code from the department and shall be its own fiscal agent.

(e) An applicant shall apply for a grant by submitting an application to the department, containing the following information:

(1) A copy of the charter school’s application and materials as presented to the state board with any updated information noted on the application or on an attached sheet(s), as follows:

a. For an applicant under the school board process, the application and materials presented under Ed 318.05(c) and Ed 318.07(b); and

b. For an applicant under the state board process, the application and materials presented under Ed 318.08(e) and (f);

(2) A detailed description of the charter school’s anticipated financial needs in order to open and to operate for its first year;

(3) The charter school’s plan for financing after its first year of operation; and



(4) Information relating to the requested grant, as follows:

- a. The amount of the grant sought from the state;
- b. The charter school's plan for raising the matching amount required for the grant from private contributions;
- c. The amount of private contributions already received by the date of application and the number of contributors;
- d. The amount of private contributions pledged by the date of application and the number of persons making a pledge; and
- e. A narrative description of proposed line item expenditures.

(f) The department shall review the application for completeness and notify the applicant, in writing, of any missing information within 10 days of the initial filing. If the department has any suggested modifications to the application, the department shall provide the suggestions to the applicant, in writing.

(g) When the application is complete and the applicant has had an opportunity to consider any suggested modifications from the department, the application shall be presented to the state board at a regularly-scheduled meeting. The applicant shall receive written notice of the date and time of the meeting at least 10 days before the meeting, unless the applicant waives the 10-day notice requirement in writing.

(h) The state board shall apply the following criteria when reviewing an application:

- (1) The amount of the requested grant in comparison to the total fiscal needs of the school related to opening and operating for its first year;
- (2) The sources of funding available to the charter school that would be in addition to a grant under this section;
- (3) The clarity and feasibility of the charter school's plan for opening and operation;
- (4) The likelihood of the charter school's raising the matching funds required for the grant;
- (5) Whether the charter school was approved through the school board process or the state board process, giving preference to a school approved through the school board process, if funds are limited; and
- (6) Whether the applicant has demonstrated compliance with all local, state, and federal health and safety laws, rules, and regulations.

(i) The state board shall award grants in accordance with the following:

- (1) In determining the amount of the grant, the state board shall consider the number of applicants that have already applied for or who might reasonably be expected to apply for grants during the biennium;
- (2) An applicant that applied after receiving conditional approval shall receive grant funds only after receipt of final approval from the state board; and

(3) A grant shall be awarded to an applicant only after the applicant's fiscal agent has provided documentation to the department that the applicant has raised the required matching funds.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

## PART Ed 319 OPEN ENROLLMENT SCHOOLS

### Ed 319.01 Purpose and Scope.

(a) The purpose of these rules shall be to ensure uniform application of RSA 194-D in the establishment and administration of open enrollment schools.

(b) The open enrollment provisions of these rules shall apply to open enrollment public schools as defined in RSA 194-D:1 and established under RSA 194-D:2.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 319.02 "Open enrollment public school" or "open enrollment school" means "open enrollment public school" or "open enrollment school" as defined in RSA 194-D:1.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 319.03 Open Enrollment School Requirements. The school board or moderator of a school district whose members have voted to designate one or more of its schools as an open enrollment school under RSA 194-D shall notify the state board in writing of the following no later than 60 days prior to the start of each school year:

- (a) Which schools in the school district have been formally designated as open enrollment schools;
- (b) How many students each open enrollment school has accepted from within its district and from outside its district;
- (c) A policy on transportation which is consistent with the provisions of RSA 194-D:2, IX;
- (d) All policies established under RSA 194-D:4, V; and
- (e) A statement describing how the school shall meet the requirements of a public school as required by RSA 194-D:2 through RSA 194-D:4, I.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

Ed 319.04 Deadlines for Pupil Enrollment. The school shall comply with all deadline requirements established in these rules.

[Source.](#) (See Revision Note at part heading for Ed 318)  
#10873, eff 7-1-15

## PART Ed 320 MANIFEST EDUCATIONAL HARDSHIP

### Ed 320.01 Change of School Assignment.

(a) If a parent(s) or guardian thinks the attendance of the child at the school to which such child has been assigned will result in a manifest educational hardship to the child, a parent or guardian may apply to the school board for a change of school assignment to:

- (1) Attend another public school in the same district; or
- (2) Attend a public school in another district.

(b) In order to apply to the school board for a change of school assignment based on manifest educational hardship a parent shall demonstrate the detrimental or negative effect on the pupil if the pupil continues to attend the school to which he/she is assigned.

(c) If a school board determines that manifest educational hardship has been found, the school board shall issue a waiver of the school assignment and the student shall be reassigned to a reasonably available public school, in the district or in another district.

(d) Each school board shall establish a policy, which shall allow a school board, with the recommendation of the superintendent, to take appropriate action including, but not limited to, assignment to a public school in another district when manifest educational hardship is shown.

(e) The local school board shall issue a finding of manifest educational hardship if it determines that there is clear and convincing evidence that:

- (1) A substantial portion of a pupil's academic, physical, personal and social needs cannot be met by the assigned school or are not found within the student body of the assigned school;
- (2) The assigned school's failure to meet the pupil's needs will impair the educational progress of the pupil; and
- (3) Another public school, either within the district or in another district, may reasonably meet the pupil's educational needs.

(f) If a parent or guardian is aggrieved by the decision of the school board, cooperative school board, or the authorized regional enrollment area receiving school board, he/she may appeal to the state board in accordance with the provisions of Ed 200.

Source. #6710, eff 5-1-98, EXPIRED: 5-1-06

New. #9158, eff 5-16-08, EXPIRED: 5-16-16

New. #11139, INTERIM, eff 7-16-16, EXPIRES: 1-12-17

## PART Ed 321 SCHOOL BUILDING CONSTRUCTION (Formerly Ed 305)

Ed 321.01 Purpose. The purpose of Ed 321 is to provide requirements and standards for the construction of any facility to be used for the purpose of providing education to pupils in grades kindergarten through grade 12, and to provide requirements for how school building aid will be paid for that construction.

Source. #8265, eff 1-22-05; ss by #10363, eff 6-15-13

Ed 321.02 Definitions. Except where the context makes another meaning clear, the following words have the meaning indicated when used in Ed 321:

(a) "Buildable land" also known as usable land means land upon which a school building, parking lot, on-site traffic circulation and drop-off locations, playgrounds or school playing field can be built. Wetlands, including required setbacks from wetlands, areas with slopes in excess of 60 percent areas with extensive amounts of bedrock within 6 feet of the surface, and sites known to be contaminated with hazardous materials are not buildable land.

(b) "Construction cost" means the total cost of labor and materials for the construction of the foundation, erection of the structure, finish work, and the installation of equipment integral to the operation of building systems. The cost of site development is not included.

(c) "Department" means the New Hampshire department of education.

(d) "Design capacity" means the maximum total number of students intended to be educated in a school building following completion of a construction project.

(e) "Educational capacity of a school building" means the sum of the maximum number of students that can be simultaneously instructed in every educational space of the building using the minimum space allocations specified in Ed 321.10.

(f) "Educational space" means those parts of a school building to which pupils are assigned for instructional purposes. Educational space includes, but is not limited to, classrooms, laboratories, gymnasiums, and libraries.

(g) "General purpose classroom" means an educational space intended for the instruction of a group of students that is suitable for teaching a variety of subjects and that requires no special permanently installed equipment or unusually large spaces.

(h) "Laboratory" means an educational space intended for instruction involving hands-on student participation in a particular subject that requires specialized equipment, furnishings, or materials.

(i) "Multi-purpose space" means areas within a school building that are used at different times for educational purposes and for support purposes.

(j) "New construction" means construction work that results in the creation of a new building or additional space in an existing building.

(k) "Renovation" means work involving upgrades to existing space in a building or conversion of the use of existing space in a building.

(l) "School building aid" means the state grants for the payment of a share of the cost for school construction under RSA 198:15-a.

(m) "Site development" is the work required to prepare the land for construction. It includes removal of trees and other vegetation, removal of existing structures, removal of rock, cutting and filling of earth, construction of access roads, driveways, and parking lots, installation of surface water drainage systems, and landscaping.

(n) "Substantial renovation" means:

(1) Construction done for the purpose of renewing a building that is valued at an amount greater than 25 percent of the cost to replace the building;

(2) To repair and bring the building back to new or good condition; or

(3) To prepare space for a new or different use.

(o) "Sufficient or adequate" means an amount of space, time, or material that will enable a particular function to proceed as intended without restriction or impediment from the size or condition of the physical facility, according to variations in enrollment, staffing, program, or level of instruction from one school to another.

(p) "Support space" means those parts of a school building that are generally used for purposes other than instruction Support space includes offices, storage rooms, wash rooms, kitchens, cafeterias, and similar spaces.

(q) "Total cost" means the cost of all related land, labor and materials authorized by RSA 198:15-b,II for construction costs.

(r) "Utilization rate" means the extent to which school buildings are used by comparing actual student enrollment to the educational capacity of the school expressed in a percentage figure. A 100 percent utilization rate means that every seat in every educational space is occupied for the majority of time throughout the school day.

Source. #8265, eff 1-22-05; ss by #10363, eff 6-15-13