

From: [Claudia Istel](#)
To: [Adams, Angela](#)
Subject: Fwd: SBOE testimony
Date: Thursday, February 15, 2024 10:25:03 AM

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Sent from my iPhone

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February 15, 2024

Testimony regarding the Ed 306 Educational Standards

Good morning. I am Claudia Istel, a NH educator with over thirty years of experience as a public high school math teacher.

Competency-based education on which the revisions of the 306's are based was introduced while I was teaching. There is enormous merit in asking students to do more than just sit in class and pass a test but instead ask them to learn and demonstrate their understanding in a situation which requires the application of a variety of skills. Deep learning that engages the student and opportunities to learn in a variety of settings is wonderful and exciting.

However, for all the praise for this broad, panacean view of CBE, the details of training and funding to make it successful are overlooked.

I've had experience with CBE and it's not easy to teach and guide one class of twenty students through individual projects, while holding them to high standards in the multiple areas of one math course, much less three classes. It's time-consuming and expensive to do well.

I was privileged to teach in public education when high standards for teachers and curriculum were the norm; when public schools served all students of every ability and special need, whatever their background, with respect, equity, and protection of their rights; when our school buildings met safety standards.

My fear is that public schools - the pride of our communities, the foundation of our society, the basis of preparation for our students, who are our future, to be prepared for productive lives in an ever-changing and challenging world – will soon be guided by minimal standards that are gutted of rigor, of equity, of funding; that the public education will be further undermined by spending more and more tax dollars on private entities that do not have to meet any standards or follow any of the best practices of education. This will further widen the gap between richer and poorer school districts and students and further demoralize our teachers, students, parents, and communities.

AFT-NH Testimony on Feb 15, 2024 Initial Proposal for Minimum Standards for Public School Approval: ED 306
From Debrah Howes, President AFT-NH



Thank you, Chairman Cline and Members of the State Board of Education, for taking listening to my public comment today.

My name is Debrah Howes. I am president of the American Federation of Teachers – New Hampshire. I am here to speak on behalf of our 3700 members across the state. Our members include preK through 12 public school educators and support staff, university faculty as well as town employees. We work with close to 30,000 students every day in public schools in various districts across the Granite State. I am here today to talk about the Initial Proposal for the Minimum Standards for Public School Approval,

It is vitally important to get these standards correct because they have a huge impact on the way the 160,000 students who rely on our local public schools access their public education. These standards set a floor for what sort of facilities they have, what programs are offered, whether class sizes are kept small, even whether they have a school nurse on site. What you approve in the ED 306 Rules will affect almost every aspect of their educational experience, for good or bad, yet to date there has been no systematic outreach to public school parents and students to find out what they like, value, and even cherish about their public schools and what they want to see improved. How can you know what needs to be kept and what needs to be changed if you haven't asked this basic question of the most important stakeholders?

The changes that have been made to the minimum standards in this initial proposal are concerning and could have a large impact on students' educational experiences in their public schools. I will highlight just a sample here:

- Changing “instruction” to “learning opportunities” de-emphasizes the role of the professional, credentialed teacher in planning and organizing a series of lessons and units of study to make sure students learn and can demonstrate all the required competencies, don't have gaps in their knowledge and can build on previous learning. If not led by a professional, certified teacher, will all those “learning opportunities be good quality, cover all of the required competencies, and have academic rigor? Or will students be left with a jigsaw puzzle of scattered competencies with many missing pieces so that the picture never comes together? Will some of the “learning opportunities” mentioned in the draft consist of watching a series of short videos and answering multiple choice questions that require no analysis, synthesis or any other higher level thinking be called good enough? Also, if professional, credentialed teachers providing “instruction” are replaced with “learning opportunities, then cash strapped districts will cut positions, students will have fewer trained professional educators to support them when they struggle with anything academically, or when they need a challenge.
- Removing class size limits in Grades K-12, as this draft does, will negatively impact students' educational experience. More students in each classroom means less opportunity for individual attention from the teacher, less help for struggling students and less challenge for gifted and talented students. It means less opportunity for differentiated instruction to meet students' learning needs. Again, the districts with the tightest budgets will end up with the highest number of students in each classroom.

- Eliminating the requirement for certified art, music and physical education teachers in elementary school means that in districts with tight budgets, those positions will be cut. Studies have shown that art and music are not only beneficial to building students' memory, visual skills and imagination, but also improve math skills. Physical Education is important for developing healthy life habits as well as learning fair play and sportsmanship. Yet in chronically underfunded districts, the choice might become whether to have the regular classroom teacher add art, music and physical education to everything else she teaches, without the wealth of knowledge to teach those subjects, or use a series of videos.
- Relaxing the requirement to have a school nurse and replacing it with having a staff person trained in first aid could have life threatening consequences. With all of the students requiring prescriptions administered while at school, all the playground accidents, as well as the fevers, stomach bugs and other issues that schools deal with every day while students are in their care, a nurse is not a luxury and should not be removed from the minimum standards.

These are just a few examples of changes under this draft of the proposed Minimum Standards for Public School Approval. Lowering or eliminating these standards would increase the disparities between school districts, which is against the NH Constitution's guarantee of the opportunity for an equally robust public education to every Granite State child through their local school district and would just invite even more lawsuits. Every Granite State child deserves a full range of academic, arts and career and technical education courses. They deserve small class sizes, academic, behavioral, and emotional support services and hands-on and experiential learning opportunities that will help them become productive members of society. The Minimum Standards for Public School Approval are the place through regulations that ensure every public school student gets at least that constitutionally guaranteed equal opportunity for a public school education through their local school district whether they live in Berlin or Bedford. Don't adopt minimum standards that will get in the way of students receiving their constitutionally guaranteed right for an opportunity of a robust public education.

Sincerely,

Debrah Howes

Debrah Howes

President, AFT-New Hampshire



From: [Sarah Robinson](#)
To: [Adams, Angela](#)
Subject: Submitting testimony for the State Board of Education
Date: Thursday, February 15, 2024 10:31:01 AM

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Ms. Adams:

Please pass along my written testimony to the board members. Thank you so much for your help!

Mr. Chair and members of the Board, thank you for the opportunity to speak to you today. My name is Sarah Robinson and I am the Education Justice Campaign Director for Granite State Progress. I'm here today in reference to the proposal for the Minimum Standards for Public Schools (also known as the Ed 306s). In my work, I hear from parents, educators, and community members across the state who want to give students the support they need by fully-funding our public schools, and implementing inclusive policies that treat all students fairly and expand strong learning opportunities for all students. They don't want curriculum to be watered down, they don't want standards to be diluted. If the board approves this draft as presented, I am concerned that the hard work and expertise of educators and parents across the state are being resoundingly ignored by this governing body.

I was hoping to receive the draft of the 306s submitted by the National Center for Competency Based Learning on January 22nd. Unfortunately, my request for the draft was denied by the department. Educators fought for a seat at the table with The National Council for Competency Based Learning. A coalition of parents, educators, advocates, and civic leaders have been eagerly awaiting a copy of this recommended language. However, requests for access to these public documents have been denied or ignored.

I have testified before you about this very same issue; a lack of transparency and inclusion during this process. During listening sessions, educators and parents asked for equity to be returned to the draft, that decision making power remain with LOCAL school boards, and that the weakening of curriculum standards be reversed. Do any of these appear in the latest draft? What about the draft submitted by the National Center for Competency Based Learning? Since we already have the date for the public hearing on the 306s, it is not lost on any of us that this process is now underway without the requests and concerns of the public being taken seriously. I request that you make the draft submitted by the National Center for Competency Based Learning available for public scrutiny, so we can be clear about the changes made by Education Commissioner Frank Edelblut and the Department of Education. It is vital to this process that the public is made aware of the

recommendations of educators as well as what the Commissioner or Department has chosen to keep or remove from those recommendations. Additionally, the Monday April 8th public comment session scheduled from 1-3 PM is a time that I can't imagine works for the vast majority of educators and parents. I request that an additional evening or weekend online option be made available to the public, similar to how many school districts already work to meet working parents and engaged community members at more accessible times and spaces.

There is deep concern amongst the education community that once these rules are accepted by the board, any public input after the fact will be ignored and a deeply flawed document will wind its way to The Joint Legislative Committee on Administrative Rules, whose only role is to rule whether or not they comply with state law, not to determine if they are good minimum standards for our students and educators. I want to believe that your intentions are to provide our public school districts with minimum standards that will create the opportunity for strong educational foundations for the 86% of New Hampshire students who attend public schools. If that is your intention, this draft would not do it justice. Thank you for your thoughtful consideration.

With Gratitude,
Sarah

Sarah Robinson

Education Justice Campaign Director
Granite State Progress

sarah@granitestateprogress.org

(603) 496-8521

To book time to meet, please use my Calendly link:

calendly.com/sarah-gsp

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I acknowledge that I live and work on the land of the Pennacook Abenaki people of the Wampanoag Confederacy, who walked gently on the land many centuries before me. I am committed to learning about their history, culture, and stories, and to share them with my own community. If you would like to learn about who's land you currently occupy, please visit <http://native-land.ca>

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1. The Public's Right to Know.

I urge the media to reopen their Right To Know request on the input of the DOE in the drafting of these regulations.

The people have the right to know whether their input into these regulations was listened to or ignored.

This request flows directly from the NH Constitution, which holds that all officers of the government are “at all times accountable to them (the people)” and that “Government, therefore, should be open, accessible, accountable and responsive.”

[Art.] 8. [Accountability of Magistrates and Officers; Public's Right to Know.] All power residing originally in, and being derived from, the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them. Government, therefore, should be open, accessible, accountable and responsive. To that end, the public's right of access to governmental proceedings and records shall not be unreasonably restricted. The public also has a right to an orderly, lawful, and accountable government. Therefore, any individual taxpayer eligible to vote in the State, shall have standing to petition the Superior Court to declare whether the State or political subdivision in which the taxpayer resides has spent, or has approved spending, public funds in violation of a law, ordinance, or constitutional provision. In such a case, the taxpayer shall not have to demonstrate that his or her personal rights were impaired or prejudiced beyond his or her status as a taxpayer. However, this right shall not apply when the challenged governmental action is the subject of a judicial or administrative decision from which there is a right of appeal by statute or otherwise by the parties to that proceeding.

June 2, 1784

Amended 1976 by providing right of access to governmental proceedings and records.

Amended 2018 by providing that taxpayers have standing to bring actions against the government.

2. The inputs based system of education is required by statute and constitutionally protected.

Statute.

The plain language of RSA 193-E:3-b begins with this mandate:

“Using the input-based accountability system, a school shall demonstrate that it provides the opportunity for an adequate education under RSA 193-E:2-a by meeting the requirements of paragraphs I and II of this section.”

The 2018 Amendments (and their legislative history) to this statute made it clear that **schools cannot do either input or output-based accountability. They must do both.**

The input system is required by law.

NH Constitution.

The Constitution upholds the inputs-based system of education as explained in the 2023 *Conval* decision which uses the **inputs based model to set a minimum Constitutional expenditure by the State of NH.**

The judge identifies inputs as Constitutionally required because that is how we guarantee the opportunity for an adequate education, and outputs are how we measure the results of that education.

These two concepts (inputs and outputs) are intertwined and co-exist in the statute, and must be seen together as a whole, and neither can be eliminated.

The 306 regulations should not be separated in half, as is currently being attempted to submit them in two parts to the Legislature. The attempt to break this up into two parts should be rejected.

The proposed regulations attempt to eliminate inputs in many ways.

Examples:

306.20 (c) changes the policy from school boards setting instructional time for all subject matters, to a policy of distributing time to make progress towards proficiency.

It short, it changes education from an inputs-based system which has accountability requirements in statute to a system that merely making progress to results.

306. 21 (e) changes the policy from schools shall offer a program of studies that enables each student to engage in and have achievement in the areas of studies, to a policy that takes out the requirement of a program of study and is based solely on demonstrating proficiency, which is vaguely and poorly defined.

306.31 and forward

These sections all change “shall” provide to “may” provide.

Each of these sections deals with all the areas of study (English, Science, Math, Social Studies, Art, etc.). The proposed regulations remove the requirement that schools “shall” provide specific instructional methods. The proposed regulations change it to a policy that each subject area to a policy shall provide a curriculum that “may” include those methods.

Read together, these amount to an attempt to eliminate the requirement of inputs completely,

3. The proposed regulations reduce fairness in public schools compared with NH Statutes and existing 306 Regulations.

A. NH Statutes protect the rights of all students from discrimination, and specifically mentions students in 11 categories.

RSA 193:38 -- No person shall be excluded from participation in, denied the benefits of, or be subjected to discrimination in public schools because of their age, sex, gender identity, sexual orientation, race, color, marital status, familial status, disability, religion, or national origin.

B. Current 306 Regulations provide fairness for all students,

The proposed regulations reduce these important protections.

- **Shall respect differences vs. shall address.**
- **Remove specific protections for protected classes.**
- **Acknowledge the need to reduce equity gaps, vs. denial that equity gaps exist.**
- **Acknowledge need for a fair and equitable code of discipline**

Current regulations

Ed 306.06 Culture and Climate.

(a) The school policies adopted by the local school board shall reflect:

- (1) The acknowledgement of diversity and respect for differences;
- (2) Shared ownership and responsibility for the success of the school among students, their families, and the community;
- (3) Student leadership through involvement in decision-making; and
- (4) Respectful use of language and behavior by all school members that is void of ethnic, racial, and sexual stereotypes and biases.

(b) The school administration and staff shall:

- (1) Review ways in which equity gaps in achievement can be reduced and barriers to learning can be eliminated; and
- (2) Work together to establish a fair and equitable code of discipline that is fairly and consistently implemented which supports students' understanding of the importance of norms, rules, and expectations for behavior.

Proposed 306 Regulations reduce or eliminate these legal protections.

(1) Remove protections for protected classes –306.06 (a) (4)

- “ethnic, racial, sexual stereotypes and biases” vs.
- “any and all stereotypes and biases”

--Specific language is always more powerful from a legal perspective.

Specific language will ensure that schools develop and implement policies that protect these students and are enforceable if needed.

--General language is vague, does not require schools to adopt policies to protect these students and is unenforceable

Adversely impact on 40% students in our schools:

- 16% of children under 18 in NH are not white– from US Census -

<https://carsey.unh.edu/what-is-new-hampshire/sections/demography>

- 25% of high school students identify as LGBTQ – from CDC - 1 in 4 high school students identifies as LGBTQ | The Hill

(2) Put all responsibility for educational failures on the individual students, ignoring the existence of educational equity gaps. –306.06 (b) (1)

- “Equity gaps” language is removed completely for
- “develop a plan to address academic underperformance of individual students”

(3) Remove the requirement of fairness in discipline policies. 306.06 (b) (2)

- “Establish a fair and equitable code of discipline that is fairly and consistently implemented” is removed
- There is no replacement language.

4. The Constitution sets limits on what administrative agencies can do when writing regulations

When writing regulations, administrative agencies can only “fill in the details” of the statute. “Rules that go beyond the filling in of details are invalid.”

Rules “may not add to, detract from, or in any way modify statutory law.” (NH Supreme Court)

Accordingly, the rulemaking authority which may be delegated by the legislature is limited. The administrative agency’s authority allows it to “fill in details to effectuate the purpose of the statute,” *Kimball v. N.H. Bd. of Accountancy*, 118 N.H. 567, 568, 391 A.2d 888, 889 (1978); *Reno v. Hopkinton*, 115 N.H. 706, 707, 349 A.2d 585, 586 (1975), and administrative rules which go beyond the filling in of details are invalid. *Kimball v. N.H. Bd. of Accountancy*, *supra* at 568, 391 A.2d at 889; see *Reno v. Hopkinton*, *supra* at 708, 349 A.2d at 586. “Rules adopted by State boards and agencies may not add to, detract from, or in any way modify statutory law.” *Kimball v. N.H. Bd. of Accountancy*, *supra* at 568, 391 A.2d at 889. Traditionally it has been the responsibility of this court to insure that the administrative agency does not substitute its will for that of the legislature. *Id.* at 569, 391 A.2d at 889.

Source: Supreme Court of New Hampshire
121 N.H. 552 (N.H. 1981) 431 A.2d 783
Opinion of the Justices - Request of the House of Representatives
No. 81-166 Decided June 23, 1981

NCCBL Public Session Remarks regarding the 306s.

I want to thank the State Board and the department for entrusting the National Center for Competency- Based Learning and, especially me, with my third opportunity to ~~help~~ *participate in* guide the future of public education in New Hampshire. And, as we now know, what started at a NH state board meeting in Londergan Hall in 2003 has become a national movement toward competency-based learning. NCCBL has been working for 3 years to put forward a document that ~~helps~~ *assist in* ~~helps~~ *helps* New Hampshire regain its status as the national leader in competency-based learning.

During these past 3 years we have assembled two separate teams of public school champions. In March of last year our original 13 member team submitted its first draft to the State Board based on input from team members and over 20 meetings with various groups. Since then, team members Nathan Harris, Val Zanchuk and I have conducted in-person listening sessions around the state gathering even more input. All in all, more inclusivity than any other similar effort in state history.

At a 2-hour joint session of the NH House and Senate education committees in October, I announced that we were putting together a second team that included the leadership of the NEA including President Megan Tuttle and Irv Richardson, NH School Administrators Association's executive director Mark MacLean, and former Department of Education administrator and long time educator, Christine Downing along with 4 members of the original 306 team. This group met over 3 months including six full days at NEA headquarters to go over the input from the listening sessions and meetings conducted by Christine with 176 educators and two 2 hour sessions with the commissioner. On January 22nd of this year we submitted our 2nd draft to the Department. This draft was vetted line by line, by our entire team. While none of us got everything that we wanted, our team fully endorses what we submitted.

It is worth noting that the entire back section of the document referring to the curriculum areas is still to be reviewed. It is our understanding that Christine Downing *who is no longer a part of* will lead this effort separate from our team. Our team as a whole, led by Christine, has agreed with the commissioner on a format for addressing this section that we believe has the potential to result in a satisfactory final product.

As I stated at virtually every listening session, the State Board of Education was under no obligation to accept any of the recommendations made by our team. Upon looking at the state board's draft, it is clear that a substantial number of our recommendations have been included. We are encouraged by this. However, we have not vetted the State Board's draft as a whole. We intend to go over the document in detail and provide our thoughts at the official April 8th 306s hearing.

It is worth noting that the entire back section of the document referring to the curriculum areas is still to be reviewed. It is our understanding that Christine Downing will lead this effort separate from our team. Our team as a whole, led by Christine, has agreed with the commissioner on a format for addressing this section that we believe has the potential to result in a satisfactory final product making the document even better.