

<p>1. Agency Name &amp; Address:</p> <p><b>Board of Education c/o Department of Education 25 Hall St. Concord, NH 03301</b></p>	<p>2. RSA Authority: <b>RSA 21-N:9, II(c); RSA 198:15-a, V; RSA 198:15-b, III(b)-(c); RSA 198:15-c, III</b></p> <hr/> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>  X  </u></p>
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5. Short Title: **School Building Construction**

6. (a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:

**The Board of Education (Board) is proposing to readopt with amendment Ed 321 on school building construction and aid to clarify and streamline the application process and the awarding of school building aid moneys to align with the changes in HB 452 (Chapter 35 of the Laws of 2023) to RSA 198:15-a through RSA 198:15-c.**

**RSA 198:15-c, III, which authorizes the Board to adopt rules relative to the required services, responsibilities, and qualifications of a project manager for building projects over \$1,000,000 is being implemented in the rule for the first time in Ed 321.28.**

**Ed 321 is being extensively amended by reorganizing existing sections, removing sections that were not applicable to construction or building aid, and adding in new sections including rules regarding a project manager, safety requirements for all new construction or renovations, and updates to the process for how eligibility is determined for projects. The recently adopted Ed 320, relative to school building approvals, now contains sections that are no longer found in Ed 321 that did not have to do with construction or the building aid process. The rules in the proposal are summarized as follows:**

- **Ed 321.01, “Purpose”, outlines the purpose of the rules, providing construction standards and the application process for school building aid for public schools;**
- **Ed 321.02, “Definitions”, outlines the definitions used in Ed 321, which includes adding, deleting, and amending or replacing current definitions;**
- **Ed 321.03, “Construction Standards for All Public Schools”, outlines the requirements in rules and statutes with which public school construction projects must adhere, regardless if building aid is used to fund a portion of the construction or not;**
- **Ed 321.04, “Building Aid Eligibility”, outlines the types of projects and other eligibility requirements that public schools must meet to be eligible to apply for building aid;**
- **Ed 321.05, “Substantial Renovation”, outlines the eligibility requirements for school building aid for renovation projects;**

- **Ed 321.06, “Air Quality and Energy Efficient Projects”, outlines the requirements for these projects to be eligible for building aid;**
- **Ed 321.07, “Maximum Standards for School Building Aid for Land Acquisition”, outlines the maximum amount of land eligible for school building aid;**
- **Ed 321.08, “Calculation of Design Capacity”, describes the calculation used to find the design capacity for elementary, middle, and high schools;**
- **Ed 321.09, “Maximum Sizes for School Buildings”, outlines how the maximum size of a school building eligible for building aid is calculated, including tables that detail the baseline gross square footage (GSF) based on the number of students and type of school, and additional square footage considerations based on the number of special education students, the percentage of students participating in free or reduced cost meal programs, and the percentage of English Language Learners (ELLs) in the school;**
- **Ed 321.10, “Minimum Safety Construction Standards for School Building Aid Recipients”, outlines the measures to be included in the construction of a new school, additions to existing buildings, and substantial renovation projects in order to receive building aid;**
- **Ed 321.11, “Educational Specifications”, outlines what shall be included in the educational specifications report that is required as part of the building aid application;**
- **Ed 321.12, “Needs Assessment”, outlines what shall be included in the needs assessment report that is required as part of the building aid application;**
- **Ed 321.13, “Feasibility Study”, outlines what shall be included in the feasibility study that is required as part of the building aid application;**
- **Ed 321.14, “School Building Aid Application Submittal”, identifies the requirements, including dates and timelines, for school building aid applications;**
- **Ed 321.15, “School Building Aid Application Information”, identifies the information to be submitted when applying for school building aid;**
- **Ed 321.16, “Steps in the Procedure for Approval of School Building Aid”, outlines the responsibilities of the Department of Education (Department) relative to awarding scores to school building aid projects, the criteria used to score school building aid projects, and the timelines in which the process takes place;**
- **Ed 321.17, “Intent to Fund (ITF) Letter and Grant Award Notification (GAN)”, outlines the Department’s responsibilities regarding the issuance of ITFs and GANs, the items included in an ITF, and what schools need to submit to receive the GAN, and the process for projects that do not receive ITFs;**
- **Ed 321.18, “Maximum Building Aid Award Amount”, outlines how the maximum grant amount for any application is calculated, including costs that are not eligible for building aid;**
- **Ed 321.19, “Site Costs Eligibility”, identifies the site costs eligible for building aid;**
- **Ed 321.20, “Construction Costs”, identifies the construction costs eligible for building aid;**

- **Ed 321.21, “Maximum Allowable Construction Cost”, outlines how the maximum allowable construction costs are calculated, including renovations;**
- **Ed 321.22, “Administrative Costs and Contingency”, identifies the administrative costs and contingency eligible for building aid;**
- **Ed 321.23, “Fees and Services Costs”, identifies the fees and services eligible for building aid;**
- **Ed 321.24, “School Building Aid Payments for Projects Approved after July 1, 2023”, outlines the procedure for the disbursement of funds that were approved after July 1, 2023;**
- **Ed 321.25, “Notice of Project Completion Submittal”, outlines the responsibilities of the school and the Department upon completion of a project;**
- **Ed 321.26, “Notice of Project Completion Information”, identifies the information to be submitted by schools in the notice of project completion;**
- **Ed 321.27, “School Building Aid Payments for Projects Approved Before July 1, 2013”, outlines the procedure for the disbursement of funds that were approved prior to July 1, 2013;**
- **Ed 321.28, “Owner’s Project Manager”, outlines the qualifications, responsibilities, and services provided by an individual hired as an owner’s project manager;**
- **Ed 321.29, “Ongoing Operation”, outlines the requirements for maintenance and day-to-day operations of the school;**
- **Ed 321.30, “Ineligibility for School Building Aid”, identifies projects or items that are ineligible for school building aid;**
- **Ed 321.31, “Reporting Requirements”, outlines the Department’s reporting responsibilities and timelines for the reports;**
- **Ed 321.32, “Waiver Provisions”, outlines the procedure to request a waiver for any of the standards eligible to be waived; and**
- **Ed 321.33, “Requirements for Projects Listed on the November 2022 Rank Order List”, outlines the requirement documentation which projects on the rank order list must submit by May 1, 2025.**

6. (b) Brief description of the groups affected:

**Groups affected by these rules include local school boards, public schools and school districts, school administrations, cities and towns in which a school is approved for school building aid, and the owners’ project managers who are hired for projects approved for school building aid.**

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

<b>Rule</b>	<b>Statute</b>
Ed 321.01	RSA 21-N:9, II(c); RSA 198:15-a, V
Ed 321.02	RSA 21-N:9, II(c); RSA 198-15-a, V

<b>Rule</b>	<b>Statute</b>
Ed 321.03	RSA 198:15-c, I(a)
Ed 321.04	RSA 198:15-a, III; RSA 198:15-b, II;
Ed 321.05	RSA 198:15-b, II(f)
Ed 321.06	RSA 198:15-b, II(g); RSA 198:15-b II(e)
Ed 321.07	RSA 198:15-b, IV(b)(2)
Ed 321.08	RSA 21-N:9, II(c)
Ed 321.09	RSA 198:15-b, III(a)-(b)
Ed 321.10	RSA 21-N:9, II(c)
Ed 321.11	RSA 198:15-c, I(a)-(b)
Ed 321.12	RSA 21-N:9, II(c); RSA 198:15-c, I(a)-(b)
Ed 321.13	RSA 198:15-c, I(a)-(b)
Ed 321.14 – 321.15	RSA 198:15-c, I(a)-(b); RSA 198:15-c, II(a)
Ed 321.16	RSA 198:15-c, II(a)-(b)
Ed 321.17	RSA 198:15-c, II(a)
Ed 321.18	RSA 198:15-a, II; RSA 198:15-c, III
Ed 321.19 – 321.23	RSA 198:15-b, II; RSA 198:15-b, III
Ed 321.24	RSA 198:15-a, I; RSA 198:15-b, I(b)
Ed 321.25 – 321.26	RSA 198:15-c, I
Ed 321.27	RSA 198:15-b, I(a)
Ed 321.28	RSA 198:15-c, III
Ed 321.29	RSA 21-N:9, II(c)
Ed 321.30	RSA 21-N:9, II(c); RSA 198:15-a, II
Ed 321.31	RSA 198:15-b, III(a); RSA 198:15-c, II(a)
Ed 321.32	RSA 198:15-b, III(e)
Ed 321.33	RSA 21-N:9, II(s); RSA 198:15-c

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	<b>Julie Shea</b>	Title:	<b>Administrative Rules Coordinator</b>
Mailing Address:	<b>Department of Education 25 Hall St. Concord, NH 03301</b>	Phone #:	<b>603-931-9133</b>
		Fax#:	<b>n/a</b>
		E-mail:	<b>Julie.r.shea@doe.nh.gov</b>

TTY/TDD Access: Relay NH 1-800-735-2964  
or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Friday, February 23, 2024**

Fax                                       E-mail                                       Other format (specify):

9. Public hearing scheduled for:

Date and Time:	<b>Thursday, February 15, 2024, 12:30 p.m.</b>
Physical Location:	<b>Granite State College Events Center, 25 Hall St, Concord, NH 03301</b>
Electronic Access (if applicable):	<b>N/A</b>

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant):

FIS # 23:308 , dated 12/22/2023

1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**  
There is no difference in cost when comparing the proposed rules to the existing rules.
2. **Cite the Federal mandate. Identify the impact on state funds:**  
No federal mandate, no impact on state funds.
3. **Cost and benefits of the proposed rule(s):**
  - A. **To State general or State special funds:**  
None.
  - B. **To State citizens and political subdivisions:**  
None.
  - C. **To independently owned businesses:**  
None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

**This proposal does not mandate any new, expanded, or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivisions, and therefore does not violate Part I, Article 28-a of the New Hampshire Constitution.**