

Readopt with amendment Ed 321, effective 6-12-20 (Document #13054), to read as follows:

PART Ed 321 SCHOOL BUILDING CONSTRUCTION

Ed 321.01 Purpose. The purpose of Ed 321 is to provide requirements and standards for the construction of any public school facility to be used for the purpose of providing education to pupils in grades k-12, and to provide requirements for how to apply for school building aid.

~~—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.~~

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) "Architectural and engineering fees" means the expenses that the architect or engineer had to spend money on in order to work on the projects, as well as the customary design services on every project and expenses to augment customary services for a particular project;

(b) "Commissioning" means a systematic documented process by an independent entity which shall include visual examination and functional performance testing to demonstrate that installed components or systems meet the intent of the original design;

(c) "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;

(d) "Department" means the New Hampshire department of education;

(e) "Design capacity" means the maximum total number of students intended to be educated in a school building;

(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, libraries, cafeterias, special education space, and administration space;

(g) "Educational specifications" means a report that describes the facility's anticipated uses and identifies the specific physical characteristics that will be required to house and promote the programmatic needs of the school;

(h) "Emergency project" means a school construction project requiring the replacement of all or a significant portion of a school facility which is declared uninhabitable or is identified as an imminent danger or substantial risk by the state fire marshal or a state or federal agency, and which results from an unanticipated and sudden natural or human disaster;

(i) "Feasibility study" means a report that was completed prior to design that evaluates the physical and programmatic needs of a school's facility and identifies the best uses of existing buildings and makes recommendations on improvements to maintain and upgrade the existing facility or build a new facility, while meeting the school's educational goals;

(j) "Gross square footage" means the total square footage of the school building measured to the outside of the exterior walls;

(k) "Moveable equipment" means equipment, including technology equipment, for a school construction project that supports the educational program. Moveable equipment has an expected life of at least five years and is not attached to the building. Another common term is "furniture, fixtures, and equipment" or "FF&E";

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

(m) "Preliminary design plans" means a set of plans that present the proposed school facility in its earliest stages denoting at a minimum the square footage of each room and the proposed use of each room. Detailed doors, windows, closets, utilities, mechanical functions are not typically shown at this stage;

(n) "Project manager" means "project manager" as described in RSA 198:15-c, (III), and is the professional hired by the project owner to serve as a consultant and adviser to the project owner to ensure the project owner's best interests are carried out. The term also includes "owner's project manager";

(o) "Project contingency" means the project funds that have been set aside or reserved to cover bidding overruns. Construction contingencies are used to cover unforeseen conditions and omissions and miscellaneous project expenditures not part of the initial project budget but necessary to complete the project;

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

(q) "School" means any school building included within one of the organizations outlined in RSA 198:15-a, I-a;

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

(s) "Sufficient" 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;

(t) "Technology equipment" means equipment needed to operate the school, including servers, printers, cameras, audio visual equipment, copiers, phones, intercoms, and computers. It does not include laptops and computers for students and teachers, office or educational software, or infrastructure items such as network and wireless cabling; and

(u) "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.

~~—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" 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. The term includes usable 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(g)-(i);~~

~~—(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" 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. The term includes adequate;~~

~~—(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; and~~

~~——(r) "Utilization rate" means the extent to which school buildings are used by comparing design capacity 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.~~

Ed 321.03 Construction Standards for All Public Schools.

(a) The requirements in this section apply to all public school construction projects, regardless of whether the project is constructed using state building aid.

(b) A school site shall have safe access and sufficient parking, drainage, and security.

(c) There shall be access for emergency vehicles from at least 2 directions, unless waived by the local fire chief or the authority having jurisdiction for enforcement of the state fire code.

(d) Prior to acquisition of a site, the school shall have surveys conducted to ascertain, as much as practicable, that past use of the site has not resulted in conditions hazardous to public health, public safety, or to the environment, or matters of interest for historical preservation under RSA 227-C that cannot be sufficiently removed, abated, or mitigated.

(e) All school construction shall comply with the requirements of the state building code under RSA 155-A.

(f) School design drawings and specifications shall bear the stamp and signature of individuals licensed to perform architecture or engineering in the appropriate disciplines in the state of New Hampshire. The stamp and signature of the design professionals shall be understood to certify that the project has been designed in compliance with all applicable building codes and standards.

(g) Verification that construction has been performed according to state and local building codes and approval of waivers shall be the responsibility of the local code enforcement official in the municipality in which the construction takes place, or the state fire marshal in accordance with RSA 155-A:7.

(h) In addition to being in compliance with the state code for energy conservation in new building construction under RSA 155-D, the design and installation of all lighting systems shall comply with the Illuminating Engineering Society, Recommended Practice: Lighting Educational Facilities, 2020 as referenced in Appendix II. Multiple use school spaces such as cafeterias, gymnasiums, and auditoriums shall have illumination for the highest level required by any planned use.

(i) All school construction shall meet all plumbing code requirements referenced in RSA 155-A.

(j) Educational spaces shall be constructed so as to meet or exceed the requirements of the ANSI S12.60 American National Standard Acoustical Performance Criteria, Design Requirements, and Guidelines for Schools part 1, 2010 edition as referenced in Appendix II.

(k) All schools shall meet the New Hampshire code for barrier-free design under Abfd 300.

(l) All construction, including construction in an existing facility, shall obtain a letter from the state fire marshal stating that the construction drawings and specifications have been evaluated and approved by the state fire marshal for compliance with the state fire code under RSA 153:1, VI-a and Saf-Fmo 300, as amended by the state board of fire control and ratified by the general court pursuant to RSA 153:5;

(m) Prior to student occupancy, the school shall obtain an approval to operate from the department in accordance with Ed 320.

(n) All playgrounds shall meet RSA 155:83 regarding accessibility.

~~— Ed 321.03 Minimum Standards for School Sites.~~

~~— (a) A school site shall have safe access, parking, drainage, security, and sufficient buildable area to accommodate a school facility that complies with the minimum gross site sizes as described in Ed 321.03 (f).~~

~~— (b) There shall be access for emergency vehicles from at least 2 directions unless waived by the local fire chief having jurisdiction for enforcement of the state fire code.~~

~~— (c) The first occupied floor of school buildings located within a 100-year flood plain shall be constructed at an elevation at least 10 feet higher than the base flood elevation for a 100-year flood at that location.~~

~~— (d) Prior to acquisition of a site, the school district shall have surveys conducted to ascertain, as much as practicable, that past use of the site has not resulted in conditions hazardous to public health, public safety, or to the environment, or matters of interest for historical preservation under RSA 227-C that cannot be adequately removed, abated, or mitigated.~~

~~— (e) The following shall not be considered buildable land for the purpose of comparing a given site to the minimum site sizes in Ed 321.03 or to the maximum site sizes in Ed 321.04:~~

~~(1) Wetlands, including required setbacks from wetlands;~~

~~(2) Areas with slopes in excess of 60 percent;~~

~~(3) Areas with extensive amounts of bedrock within 6 feet of the surface; and~~

~~(4) Sites known to be contaminated with hazardous materials.~~

~~— (f) The minimum site size approvable for school building aid for new construction, including additions to existing buildings, for elementary schools, middle schools, and high schools shall be as follows:~~

~~(1) For an elementary school the minimum site size shall be 3 acres of contiguous buildable land for schools with a design capacity of less than 150 students and 5 acres of contiguous buildable land for schools with a design capacity of 150 students or higher;~~

~~(2) For a middle school the minimum site size shall be 10 acres of contiguous buildable land. For middle schools with a design capacity greater than 1000 students there shall be one additional acre for each 300 students or fraction thereof above 1000 students; and~~

~~(3) For a high school the minimum site size shall be 15 contiguous acres of buildable land, plus one additional acre for each 300 students or fraction thereof for the design capacity of the school building.~~

~~— (g) Whenever a district has a school site that does not meet the site size requirements in Ed 321.03(f) for a new building or an addition to an existing building, the school board may request a waiver for the minimum site size under Ed 321.28.~~

~~— (h) Renovations and substantial renovations shall apply only to buildings and specifically shall not include site improvements or modifications.~~

~~— (i) Charter schools shall be exempt from the minimum site sizes in this section.~~

Ed 321.04 Building Aid Eligibility.

(a) To be eligible for building aid, project applications are limited to the following:

- (1) The construction of a new school;*
- (2) Additions to existing buildings;*
- (3) Land and site development associated with (1) or (2) above;*
- (4) Substantial renovation that meets Ed 321.05; and*
- (5) Air quality and energy efficiency projects as described in Ed 321.06.*

(b) If the project requires land acquisition, to be eligible to apply for building aid, land must be acquired before the time of application or have a legal agreement in place subject to receiving building aid.

(c) To be eligible for building aid, applicants shall propose the least costly building project, as shown by a feasibility study completed in accordance with Ed 321.13.

(d) To be eligible for building aid, applicants must have a 5 year or more annual budget history supporting good maintenance and have a preventative maintenance plan in place to support ongoing good maintenance in accordance with Ed 321.15(i).

(e) To be eligible for building aid, projects must receive voter approval from the legislative body of the public school district approving the construction project, even if no local funds are required for the project.

~~— Ed 321.04 Maximum Standards for School Building Aid for Land Acquisition.~~

~~— (a) In accordance with RSA 198:15-b, IV(b)(2) school building aid for land acquisition shall be limited to the cost of:~~

~~(1) Twenty acres of buildable land plus one acre for every 100 students or fraction thereof for elementary schools;~~

~~(2) Twenty five acres of buildable land plus one acre for every 100 students or fraction thereof for middle schools; and~~

~~(3) Thirty acres of buildable land plus one acre for every 100 students or fraction thereof for high schools.~~

~~— (b) Wetlands, including required setbacks, areas with slopes in excess of 60 percent, areas with extensive amounts of bedrock within 6 feet of the surface, or sites known to be contaminated with hazardous materials shall not be considered buildable land for the purpose of comparing a given site to the minimum or maximum site sizes in Ed 321.03 or Ed 321.04.~~

~~— (c) For the purposes of Ed 321.04, design capacity shall be based upon reasonable enrollment projections developed through a statistically valid process. In approved situations, educational space may be built to one design capacity while core space is built to a larger capacity in anticipation of future expansion.~~

~~— (d) Renovations and substantial renovations shall apply only to buildings and specifically shall not include site improvements or modifications.~~

~~— (e) A school board or board of directors of a charter school may request a waiver under Ed 321.28 for the maximum amount of school building aid to which its district is entitled for land acquisition.~~

~~— (f) For purposes of this section, every acre of land in a contiguous building site shall be assumed to have equal value which shall be determined by dividing the total cost of the land by the number of acres.~~

Ed 321.05 Substantial Renovation. Eligibility for school building aid for substantial renovations as authorized by RSA 198:15-b, II(f) shall be determined as follows:

(a) The substantial renovation project must bring the space up to new condition or prepare the space for a new or different use;

(b) The substantial renovation project cost shall exceed 25 percent of the construction cost of a new building or \$5 million, whichever is lower;

(c) For the purposes of determining (b) above, 25 percent of the construction costs of a new building shall be calculated as the maximum building size in square feet per Ed 321.09, multiplied by the maximum allowable construction cost in dollars per square foot per Ed 321.21, and multiplied by 25 percent;

(d) Renovation work done as a result of adding an addition to an existing building or as a result of installing an air quality and energy efficiency projects shall not be subject to (a) and (b) above.

~~— Ed 321.05 Building Aid for School Sites and School Site Development.~~

~~— (a) Aid payments on the purchase price or development costs of a school site shall not begin prior to the authorization of a building project for that site by the legislative body of the school district or board of directors of a charter school and approval for funding by the department.~~

~~— (b) Aid payments shall be made on land acquisitions financed only by the actual expenditure of funds appropriated from taxation. Development costs on these parcels and those acquired by other means and incurred as a consequence of a school building project shall be eligible for aid, however.~~

~~— (c) Aid payments on school sites or school site development shall, upon approval by the department, follow the same protocol as aid payments for building projects.~~

Ed 321.06 Air Quality and Energy Efficiency Projects.

(a) Projects intended to improve air quality or energy efficiency shall be eligible to receive school building aid in accordance with RSA 198:15-b, II(g) and shall not be subject to the requirements of Ed 321.05 or Ed 321.28 (a).

(b) Air quality or energy efficiency projects may be financed through a lease-purchase agreement with a vendor.

(c) A copy of the lease-purchase agreement shall be submitted to the department with the notice of completion information in Ed 321.26, and the agreement shall clearly indicate:

(1) The costs of labor and equipment separate from rental costs;

(2) Utility costs;

(3) Maintenance service costs; and

(4) Interest or any other charges that are not eligible for school building aid under per Ed 321.20.

(d) All grant amounts awarded for lease-purchase agreements shall be returned to the state if such equipment is removed from the school building by the vendor due to the school district's failure to comply with the terms of the lease-purchase agreement per RSA 198:15-b II (e).

(e) Lease-purchase agreements shall be subject to the requirements of RSA 33:7-e.

~~— Ed 321.06 Maximum Sizes for School Buildings. School building aid for new school buildings or additions to existing school buildings shall be limited to the following under RSA 198:15-b, IV, (b)(1) for:~~

- ~~—— (a) Elementary schools, 120 square feet/pupil;~~
- ~~—— (b) Middle schools, 140 square feet/pupil;~~
- ~~—— (c) High schools, not including space in regional vocational centers, 160 square feet/pupil;~~
- ~~—— (d) School buildings with a design capacity of less than 250 students shall be allowed 144 square feet/pupil for an elementary school, 168 square feet/pupil for a middle school, and 192 square feet/pupil for a high school;~~
- ~~—— (e) Individual buildings that house combinations of 2 or more levels shall be subject to the limits for the highest level to be housed in the building;~~
- ~~—— (f) All spaces constructed using building aid in the past 35 years shall be included in the square footage when calculating the limits above. Conditions in the existing building that cause the total project to exceed the maximum size limits shall constitute sufficient justification for a waiver of the limits as authorized by RSA 198:15 b,IV,(d), provided that the size of the newly constructed space is consistent with similar spaces in an entirely new building that meets the limits, there is a financial benefit to the public, or both; and~~
- ~~—— (g) The above limits shall be waived by the commissioner of the department or the commissioner's designee upon a written request for a waiver from the school district under Ed 321.28.~~

Ed 321.07 Maximum Standards for School Building Aid for Land Acquisition.

(a) In accordance with RSA 198:15-b, IV(b)(2), school building aid for land acquisition shall be limited to the cost of:

- (1) Twenty acres of usable land plus one acre for every 100 students or fraction thereof for elementary schools;*
- (2) Twenty-five acres of usable land plus one acre for every 100 students or fraction thereof for middle schools; and*
- (3) Thirty acres of usable land plus one acre for every 100 students or fraction thereof for high schools.*

(b) Land acquisition for school buildings that house combinations of 2 or more levels shall be subject to the limits for the highest level to be educated in that school.

(c) Wetlands areas and required setbacks, areas with slopes in excess of 60 percent, areas with extensive amounts of bedrock within 6 feet of the surface, and areas known to be contaminated with hazardous materials shall not be considered usable land for the purpose of comparing a given site to the maximum site sizes in Ed 321.07.

(d) For purposes of this section, every acre of land in a contiguous building site shall be assumed to have equal value which shall be determined by dividing the total cost of the land by the number of acres.

(e) Land acquisition costs eligible for building aid shall not exceed market value.

~~—— Ed 321.07 Design Standards. For the purposes of standards for school sites and construction projects for school buildings, design capacity shall be based upon reasonable enrollment projections developed through a statistically valid process.~~

Ed 321.08 Calculation of Design Capacity.

(a) Design capacity shall be the projected enrollment determined by (b) below, divided by:

- (1) 0.95 for elementary schools;*
- (2) 0.90 for middle schools; and*
- (3) 0.85 for high schools.*

(b) The projected enrollment shall be the maximum published value in the 5-year projection using a statistically valid process and the most updated birth rates published by the New Hampshire division of vital records administration in the office of the secretary of state.

~~— Ed 321.08 Standards for Educational Capacity of a School Building.~~

~~— (a) Spaces currently used as educational space, but not designed as such, shall not be included in determining the educational capacity of a school building. Space in temporary or relocatable facilities shall not be included in determining the educational capacity of a school building.~~

~~— (b) The educational capacity of a school building shall be based upon the physical dimensions of the educational spaces and the space allowances in Ed 321.10(g) (i). Educational capacity shall not be reduced by applying a limit to the number of students in a class below the maximum class size found in Ed 306.17 even though local policy may establish lower maximum class sizes.~~

~~— (c) The definition of educational capacity in Ed 321.02(e) and the provisions of Ed 321.08 shall not preclude districts from establishing local policies concerning the maximum number of students in a particular class provided, however, that such policies shall not be taken into account when determining the educational capacity of a school building.~~

Ed 321.09 Maximum Sizes for School Buildings.

(a) The maximum size of a school building that is eligible for building aid shall be the sum of the baseline square footage determined by (b) below, plus the special education square footage determined by (d) below, plus the concentration of poverty add-on in (f) below, plus the English language learner (ELL) add-on in (h) below.

(b) Subject to (c) below, for the purpose of determining the maximum building size eligible for building aid, the maximum allowable gross square footage (GSF) per student shall be limited to the following:

Table 321-1 Baseline Gross Square Footage

<i>Design Capacity</i>	<i>Elementary School GSF per Student</i>	<i>Middle School GSF per Student</i>	<i>High School GSF per Student</i>
<i>100 students or less</i>	<i>167</i>	<i>180</i>	<i>200</i>
<i>101-150</i>	<i>161</i>	<i>180</i>	<i>200</i>
<i>151-200</i>	<i>156</i>	<i>176</i>	<i>200</i>
<i>201-250</i>	<i>152</i>	<i>172</i>	<i>198</i>
<i>251-300</i>	<i>149</i>	<i>169</i>	<i>195</i>
<i>301-350</i>	<i>147</i>	<i>167</i>	<i>193</i>
<i>351-400</i>	<i>146</i>	<i>166</i>	<i>192</i>
<i>401-450</i>	<i>145</i>	<i>165</i>	<i>191</i>
<i>451-500</i>	<i>144</i>	<i>164</i>	<i>190</i>

501-550	143	163	189
551-600	142	162	188
601-650	141	161	187
651-700	140	160	186
701-750	139	159	185
751-800	138	158	184
More than 800 students	137	157	183

(c) *Individual buildings that house combinations of 2 or more levels shall be subject to the limits for the highest level to be educated in the building.*

(d) *The special education add-on, in square feet (sf), shall be based on the table below:*

Table 321-2 Special Education Add-On

<i>Special Education Students</i>	<i>Grades k-12</i>
<i>1-24 students</i>	<i>1,200 sf</i>
<i>24 or more students</i>	<i>50 sf per student</i>

(e) *The number of special education students with an Individuals with Disabilities Educational Act (IDEA) shall be used in Table 321-2 above.*

(f) *The number of special education students for (e) above shall be averaged over the previous 5 years and rounded up.*

(g) *The concentration of poverty add-on, in square feet (sf), shall be based on the table below:*

Table 321-3 Concentration of Poverty Add-On

<i>Free or Reduced Cost Meal Rate</i>	<i><600 students</i>	<i>600-900 students</i>	<i>>900 students</i>
<i>Below 55%</i>	<i>0 sf</i>	<i>0 sf</i>	<i>0 sf</i>
<i>55%</i>	<i>1,000 sf</i>	<i>1,500 sf</i>	<i>2,000 sf</i>
<i>60%</i>	<i>1,300 sf</i>	<i>1,800 sf</i>	<i>2,300 sf</i>
<i>65%</i>	<i>1,600 sf</i>	<i>2,100 sf</i>	<i>2,600 sf</i>
<i>70%</i>	<i>1,900 sf</i>	<i>2,400 sf</i>	<i>2,900 sf</i>
<i>75%</i>	<i>2,200 sf</i>	<i>2,700 sf</i>	<i>3,200 sf</i>
<i>80% or more</i>	<i>2,500 sf</i>	<i>3,000 sf</i>	<i>3,500 sf</i>

(h) *The free or reduced cost meals rate for (g) above shall be averaged over the previous 5 years and the square footage add-on for rates that fall between the published values shall be scaled proportionally and rounded up to the nearest square foot.*

(i) *The ELL add-on, in square feet (sf), shall be based on the table below:*

Table 321-4 ELL Add-On

<i>ELL Rate</i>	<i><600 students</i>	<i>600-900 students</i>	<i>>900 students</i>
<i>Below 10%</i>	<i>0 sf</i>	<i>0</i>	<i>0</i>

10%	500 sf	1,000 sf	1,500 sf
20%	750 sf	1,250 sf	1,750 sf
30%	1,000 sf	1,500 sf	2,000 sf
40% or more	1,250 sf	1,750 sf	2,250 sf

(j) *The ELL rate for (j) above shall be averaged over the previous 5 years, and the square footage added for rates that fall between the published values shall be scaled proportionally and rounded up to the nearest square foot.*

(k) *For the purposes of determining the maximum size of a school building that is eligible for building aid, the following shall apply:*

(1) *The size of a school building is measured as a gross area from the outside face or exterior walls, and shall include all enclosed areas including existing spaces, except as specified in (2) below;*

(2) *For renovations, existing areas open to below and areas dedicated to mechanical systems, shall not be included in the size of the school building; and*

(3) *For new construction, areas open to below, except for gymnasiums, auditoriums, and other areas which require open areas to function as its intended use, shall be included in the calculation of the maximum building size.*

(l) *Selected areas within a school facility may be constructed in a size large enough to accommodate use of the facility for community purposes other than education. School building aid, however, shall be limited to the maximum allowable size and maximum allowable construction cost limits as described in Ed 321.09 and Ed 321.21.*

(m) *Required educational space shall not be eliminated or reduced in order to provide community use space within the maximum size and cost limits.*

(n) *The GSF baselines shall be used for determining the maximum building size eligible for building aid. The baselines are intended to support all of the spaces required to deliver the educational programs required by the state of New Hampshire and to encourage multiple uses of spaces and other utilization-maximizing strategies that can reduce facility size and therefore the long-term costs of ownership.*

(o) *A school board may challenge the baselines for a given project by submitting a waiver request in accordance with Ed 321.32 at least 90 days prior to submitting a building aid application.*

(p) *The limits in this section shall not apply to projects that were funded with appropriation from fiscal years 2024 and 2025. These projects shall be limited to the maximum eligible building size listed in the “intent to fund letter” per Ed 321.17.*

~~— Ed 321.09 Calculating Utilization Rate. The utilization rate of a school building shall be calculated by dividing the design capacity by the educational capacity and expressing the figure as a percentage. A 100 percent utilization rate shall not be required. For a proposed new building or addition to an existing building, the educational capacity shall be calculated by dividing the design capacity by the planned utilization rate. For purposes of determining eligibility for school building aid, planned utilization rates shall not be less than 85% for high schools, 90% for middle schools, and 95% for elementary schools. The minimum utilization rate shall not apply when only one general purpose classroom is assigned per grade.~~

Ed 321.10 Minimum Safety Construction Standards for School Building Aid Recipients.

(a) School building aid projects for the construction of a new school shall implement, at a minimum, the following best practices:

(1) The project shall have the following site planning and traffic flow measures in place, including but not limited to:

- a. In consultation with the local police and local fire departments, fencing with site security gates at fire lanes to prevent non-authorized vehicles from driving around the sides or back of the building;*
- b. Exterior signage at all exterior doors to clearly indicate where the front office is located;*
- c. Traffic patterns in the parking lot that are clearly marked and lead visitors to the main entrance;*
- d. Proper staging areas for emergency operations;*
- e. Traffic flow that separates regular vehicles and bus traffic;*
- f. Well lighted parking areas, primary entrance, and pedestrian pathways; and*
- g. If supported by the local emergency personnel, a secure lock box in a safe location away from the building, such as near the driveway entrance that allows the school to store entrance keys, access cards, and critical documents such as blueprints, floor plans, pre-fire plans, evacuation procedures, shut-off valve locations, and disclosures of hazardous materials;*

(2) The project shall have the following building entry control measures in place, including but not limited to the following:

- a. An electronic door locking system that can control access with a proximity reader, or similar, and allows administrators to effectively restrict access remotely;*
- b. A secure and monitored single point of entry;*
- c. Internal and external cameras as part of a surveillance system that school officials have access to onsite and remotely;*
- d. All exterior emergency egress doors equipped with alerting systems that signals if the doors are opened;*
- e. All windows and doors labeled with identifiers such as a number or letter that is clearly visible to first responders to assist them to effectively respond to an emergency;*
- f. If the building will be used as a polling place, a way to secure the offices and classrooms from the voting area;*
- g. A locked security vestibule at the main entrance of the building that allows visitors to enter the vestibule and be identified by the main office before they are approved for entrance into the school;*
- h. At a minimum, a dehumidification system for temperature and comfort control; and*
- i. Consider installing ballistic glass on the first floor exterior windows;*

(3) The project shall have the following communication and alarm systems installed and in place, including but not limited to the following:

- a. A fire alarm system that incorporates a positive alarm sequence to clearly and quickly inform building occupants how to take action;*
- b. A security alarm system that incorporates intrusion detection, access control, video surveillance, and fire alarm testing into one system;*
- c. The necessary transmitters, receivers, and repeaters to ensure radio communications by emergency personnel;*
- d. A public address (PA) system that can be accessed from inside of the main office, classrooms, and common areas, with interior and exterior speakers to be properly heard, and that have the ability to make an all call in the event of an emergency. The PA system shall be interoperable with the first responders' system, if applicable;*
- e. Panic buttons to notify the authorities and put out a message to the rest of the school; and*
- f. Fire doors that are programmed to remain locked upon fire alarm activation and power loss so they allow exiting the building but not entry; and*

(4) The project shall have the following classroom features in place, including but not limited to the following:

- a. Door locking mechanisms on all interior doors to education spaces that students can access such that the door can be locked from both sides and unlocked from inside without a key, tool, or special knowledge; and*
- b. Where possible, an established area in the classroom that is not readily visible when looking into the classroom from the hallway.*

(b) School building aid for additions to existing buildings shall include the items listed in (a)(1)-(4) above for the addition section of the building, where applicable.

(c) School building aid for substantial renovation projects, as defined by Ed 321.05, shall include the items listed in (a)(1)-(4) above for the areas that are being substantially renovated.

(d) A school board may request a waiver under Ed 321.32 for the minimum safety construction standards, provided that the local police and fire departments support the request.

~~— Ed 321.10 Standards for Educational Space:~~

~~— (a) Educational space shall include, but not be limited to, classrooms, laboratories, gymnasiums, and libraries.~~

~~— (b) School facilities shall provide educational space sufficient to meet the requirements identified in the educational specifications in Ed 321 and the New Hampshire minimum standards for public school approval as specified in Ed 306.~~

~~— (c) Approval of the size of classrooms or instructional spaces shall be determined by the acceptable number of square feet per student established in Ed 321.10(g) (k), multiplied by the total projected number of the class or group or the minimum size specified in Ed 321.10 whichever is larger.~~

~~—(d) The requirements of Ed 321.10 shall be waived by the commissioner of the department or the commissioner's designee upon a written request for a waiver from the requesting school district under Ed 321.28.~~

~~—(e) Every educational space, except gymnasiums and music rooms, shall contain a seat and work surface for each student, teacher, and teacher's aide, appropriate for the normal activity conducted in that space.~~

~~—(f) Every general purpose classroom shall:~~

~~(1) Contain an erasable surface of at least 32 square feet and a surface suitable for projection purposes; and~~

~~(2) Be furnished with:~~

~~a. Desks for students and teachers;~~

~~b. Bookshelves; and~~

~~c. Other common furniture and equipment.~~

~~—(g) A kindergarten classroom shall provide at least 1,000 square feet, including storage, or 50 square feet per child, whichever is greater.~~

~~—(h) For the elementary and middle schools, a general purpose classroom shall provide a minimum of 900 square feet, including storage, or 36 square feet per child, whichever is greater.~~

~~—(i) For high schools, a general purpose classroom shall contain a minimum of 800 square feet, including storage, or 32 square feet per student, whichever is greater.~~

~~—(j) Science laboratories and combination lab classrooms shall be sized according to the joint recommendation of the National Association of Science Teachers and the Laboratory Safety Institute at 45 square feet per pupil for separate labs and 60 square feet per pupil for combination lab classrooms or a minimum of 900 square feet for separate labs and 1200 square feet for combination lab classrooms. There shall be a maximum of 24 laboratory work stations, at least one of which shall be suitable for students with disabilities and in compliance with RSA 275-C.~~

~~—(k) Library media centers shall be sized at 4 square feet per student times the design capacity or a minimum of 1800 square feet.~~

~~—(l) When an area in a school building is used as multi purpose space, standards for educational space shall take precedence over standards for support space. Multi purpose space includes, but is not limited to, an area used for physical education that becomes the dining area at meal time.~~

~~—(m) Required educational space shall not be reduced or eliminated in order to provide additional support space or space for extracurricular activities.~~

~~—(n) Charter schools shall be exempt from the minimum space sizes in this section.~~

Ed 321.11 Educational Specifications.

(a) Educational specifications shall be established by the school district with input from the community, educators, the facility manager, school board members, and school administration.

(b) Educational specifications shall include the following:

(1) The goals and objectives of the project;

- (2) Policies that relate to space needs such as class size limits, grade configurations, and multi-age classrooms;*
 - (3) The number of people to be housed and how that number was determined;*
 - (4) A description of the programs to be housed;*
 - (5) A description of the general facility needs to meet the goals and objectives of the project, including:*
 - a. The individual spaces needed in the building and the desired characteristics of each space in general terms;*
 - b. The desired adjacencies between spaces;*
 - c. Clear objectives and priorities for design elements such as minimum requirements for acoustics, daylighting, energy efficiency, indoor air quality, thermal and visual comfort, use of environmentally preferable materials, siting considerations, and any other factors which the school considers important;*
 - d. Other facility characteristics such as limits on exterior glass or glass in high-capacity areas, space needs for check-in procedures, and space needs for voting use or other community uses; and*
 - e. The necessary site considerations.*
 - (c) Educational specifications submitted as part of the building aid application shall be approved by the local school board prior to submitting the application.*
- ~~— Ed 321.11 Special Education Space.~~
- ~~— (a) In addition to the requirements of Ed 321.10, space shall be provided in every school to meet the unique requirements of special education students, and to meet the requirements of Ed 1119.06.~~
- ~~— (b) Exclusive use space shall be provided for speech therapy, physical therapy, occupational therapy, and private counseling. Physical and occupational therapy may be co-located.~~
- ~~— (c) The minimum total amount of exclusive use space for special education shall be 600 square feet. An area for private meetings with parents and staff shall be available, although it need not be used exclusively for special education use.~~
- ~~— (d) Locked, fire proof containers shall be provided for record storage.~~
- ~~— (e) A private office shall be provided for the special education coordinator if there is a position on the school staff.~~
- ~~— (f) Charter schools shall be exempt from the minimum space sizes in this section.~~

Ed 321.12 Needs Assessment.

- (a) The needs assessment shall assess the current condition of the facility including by not limited to, the following:*
- (1) Building envelope and interior spaces;*
 - (2) Life safety code;*

- (3) *Building code;*
- (4) *Mechanical, electrical, plumbing, and structural systems;*
- (5) *Accessibility;*
- (6) *Environmental conditions, including but not limited to:*
 - a. *Indoor air quality;*
 - b. *Lighting;*
 - c. *Acoustics; and*
 - d. *Sanitation;*
- (7) *Building systems and equipment;*
- (8) *Safety and security; and*
- (9) *Energy use.*

(b) *The condition of the facility shall be assessed by a third-party licensed engineer, a licensed architect, or other qualified professional.*

(c) *In addition to the above, the needs assessment shall assess, including but not limited to, the following:*

- (1) *The suitability of the facility to meet the educational needs of the school, as identified in the educational specifications;*
- (2) *A summary of the space needed; and*
- (3) *The gap that exists between the current state and desired state of the school's programmatic needs, and the factors that can be attributed to this gap.*

~~— Ed 321.12 Standards for Support Space.~~

~~— (a) Support space shall include, but shall not be limited to, offices, the nurse suite, kitchens, cafeterias, teacher preparation areas, gym locker rooms, team rooms, weight training rooms, storage areas, parking, and restrooms.~~

~~— (b) The following standards shall apply to offices:~~

~~(1) The school principal, each assistant principal, and each guidance counselor shall be provided a private office;~~

~~(2) The chief building maintenance individual, chief food service individual, and each administrative staff person shall be provided with administrative space exclusive of storage space and waiting areas;~~

~~(3) All offices and administrative areas shall be provided with sufficient furniture appropriate to the work performed at that location; and~~

~~(4) The minimum total amount of administrative office space in a school building shall be 1200 square feet. The minimum size shall be based on an administrative staff of 6 individuals. For schools with more than 6 staff members who require office space, the minimum total amount of administrative office space shall be increased~~

by 120 square feet for each additional person requiring a private office and by 60 square feet for each additional person in an open-office arrangement.

~~—(c) The following standards shall apply in schools that have a school nurse:~~

~~(1) The nurse shall be provided with:~~

~~a. Exclusive administrative space;~~

~~b. A waiting area;~~

~~c. Space for examining patients that includes a sink with hot and cold water;~~

~~d. Secure dry and refrigerated storage for medications; and~~

~~e. A patient isolation area which includes one cot for every 200 pupils in the design capacity;~~

~~(2) A separate restroom shall be provided which meets current accessibility requirements; and~~

~~(3) The minimum size of the nurse suite shall be 625 square feet for schools with a design capacity greater than 750 pupils. The minimum size of the nurse suite for schools with a design capacity of 750 pupils or less shall be 300 square feet.~~

~~—(d) The following standards shall apply to kitchens and cafeterias:~~

~~(1) The kitchen and cafeteria shall be sized so as to allow each student a minimum of 10 minutes, not including serving time, to sit at a table and consume his or her meal during a specified lunch period;~~

~~(2) The cafeteria shall be sized based upon 12–15 square feet per student for the maximum number of diners in any given lunch period. The throughput of the serving line or lines shall ensure that all students can be served in the allotted time and that no student has to wait for a seat to become vacant before eating; and~~

~~(3) The kitchen shall be of sufficient size to allow the proper installation of all necessary equipment with the necessary spacing between appliances to meet the applicable safety requirements as specified by the manufacturer, the state building code under RSA 155-A, and the New Hampshire department of labor.~~

~~—(e) Each teacher shall be provided with at least 64 square feet of shared administrative space to be used for lesson preparation and grading student work during periods when that teacher is not conducting classroom instruction. Shared administrative space shall include a desk or other work surface, a seat, and task lighting. This requirement may be fulfilled within educational space if that space is exclusively assigned to one teacher.~~

~~—(f) Sufficient lockers, changing areas, and showers shall be provided for the maximum number of students in any scheduled physical education class for grades 7–12.~~

~~—(g) One team room may be provided for each athletic team in season.~~

~~—(h) One weight training room may be provided for grades 9–12.~~

~~—(i) The following standards shall apply to storage space:~~

~~(1) Each student and staff member shall be provided with adequate space to store outer garments, books, and other personal items for the duration of the school day. Food service workers, custodians, and other staff who require special clothing shall be provided sufficient storage as required;~~

~~(2) Sufficient storage space shall be provided for general office supplies, text books, classroom equipment and similar items as required for administrative purposes;~~

~~(3) Sufficient space shall be provided to properly store athletic equipment, musical instruments, uniforms and other items of school property used by students or activities;~~

~~(4) Sufficient storage shall be provided to properly store cleaning supplies, tools, spare parts, unused furniture, equipment not in use, and other like items required for custodial and maintenance activities;~~

~~(5) Adequate dry and cold storage shall be provided to meet the requirements of the food service program for food storage and shall be sufficient to allow foodstuffs and paper products to be purchased in bulk; and~~

~~(6) Sufficient dumpsters or other type containers shall be provided to adequately handle refuse based upon the refuse collection schedule.~~

~~—(j) The following standards shall apply to parking space:~~

~~(1) Outside vehicle parking space shall be provided for at least 100 percent of the staff and 75 percent of the students eligible to drive a vehicle; and~~

~~(2) Additional parking areas shall be provided for visitors, parents, and school buses as required;~~

~~(3) A waiver of these requirements may be requested by the school district under Ed 321.28. The waiver request shall include detailed information and statistics which shall demonstrate that a lesser amount of parking will meet the needs of the facility in question.~~

~~—(k) Charter schools shall be exempt from the minimum space sizes in this section.~~

Ed 321.13 Feasibility Study.

(a) A feasibility study shall be created to evaluate alternatives to consider.

(b) The feasibility study shall include at least the four options, including but not limited to, renovation only, renovation with new construction, new construction only, and not constructing at all.

(c) The feasibility study shall include but not be limited to:

(1) A life-cycle cost estimate for each option that considers the following costs:

a. Capital;

b. Maintenance;

c. Transportation;

d. Energy;

e. Staff salary and benefits; and

f. Any other costs associated with the operation and maintenance of the building; and

(2) The pros and cons for each option based on the educational specifications created in accordance with Ed 321.11 and the needs assessment completed in accordance with Ed 321.12.

(d) The feasibility study shall be completed by a licensed architect, or other qualified professional.

~~—Ed 321.13 Fire Safety Requirements.~~

~~—(a) All construction of school facilities shall meet the requirements of the state fire code under Saf C 6000 as adopted by the commissioner of the department of safety under RSA 153 and as amended pursuant to RSA 153:5, I by the state fire marshal with the board of fire control. The drawings and specifications of public school construction shall be evaluated by the state fire marshal according to the state fire code. Pursuant to RSA 153, the state fire marshal shall judge the drawings and specifications according to other related parts and standards of the Life Safety Code under NFPA Doc. No. 101, and the state building code under RSA 155-A.~~

~~—(b) The certificate of substantial completion shall not be issued to the construction contractor prior to receipt of a letter of approval of the design from the state fire marshal.~~

~~—(c) Variances for the provisions of Ed 321.13 may be granted by the state fire marshal in accordance with the provisions of Saf C 6005 as adopted by the commissioner of the department of safety under RSA 153 and as amended pursuant to RSA 153:5, I by the state fire marshal with the board of fire control.~~

Ed 321.14 School Building Aid Application Submittal.

(a) To be considered for building aid, complete applications shall be filed with the department no later than April 1.

(b) The application submitted shall include the information identified in Ed 321.15.

(c) Hard copies of the application and attachments shall be submitted upon request of the department.

(d) The department shall notify the applicant within 30 days of receipt of an application that either:

(1) The application is complete and approved for project ranking; or

(2) The application is incomplete and is not approved for project ranking.

~~—Ed 321.14 Construction Costs.~~

~~—(a) For a new building or addition to an existing building, construction cost shall include the cost of labor and materials to erect the building and foundation. The cost of site development shall not be included in construction cost.~~

~~—(b) Equipment that is normally fastened to the structure shall be included in construction costs. Components of heating, ventilating, and air conditioning (HVAC) systems, electrical wiring and equipment, plumbing fixtures, components of fire protection systems, and door hardware shall be included in construction costs, as defined in Ed 321.02(b).~~

~~—(c) In renovation projects, construction costs shall include the cost of labor and materials for repairing, replacing, remodeling, or altering the existing structure or building systems.~~

Ed 321.15 School Building Aid Application Information. The following information shall be included when submitting a building aid application:

(a) General project information including:

(1) Project location;

(2) Contact person;

(3) Estimated cost of the project;

(4) Grade span; and

- (5) Brief description of the project;*
- (b) Identification of architect and the owner's project manager, if required by RSA 198:15-c;*
- (c) Identification of the total number of students, full-time staff, student drivers, and the anticipated number of parking spaces after project completion;*
- (d) The educational specifications in accordance with Ed 321.11;*
- (e) A needs assessment of the existing building in accordance with Ed 321.12;*
- (f) A feasibility study in accordance with Ed 321.13;*
- (g) If seeking ranking points for school security per Ed 321.16(b)(2), a copy of a school security assessment not more than 3 years old, completed by the New Hampshire homeland security and emergency management;*
- (h) A description of the current deficiencies, a statement of how the proposed project will correct the deficiencies, and a citation of where those deficiencies are called out in the needs assessment;*
- (i) A summary the of the district's commitment to good maintenance including, but not limited to:*
 - (1) A description of the capital reserves program;*
 - (2) The history of the district's annual budget for the past 5 years, to support good maintenance; and*
 - (3) A description of how the district budgets for preventative maintenance and long-term capital improvements;*
- (j) The design capacity and the calculations and data used to determine the design capacity in accordance with Ed 321.08;*
- (k) Square footage of the building before and after construction;*
- (l) Budget and financial information, including but not limited to, the following:*
 - (1) Estimated project budget and unit costs;*
 - (2) Anticipated funding sources and anticipated amounts from each source;*
 - (3) Amount of district debt;*
 - (4) Total assessed valuation; and*
 - (5) Percent debt to valuation;*
- (m) A statement of assurance, signed by the chair of the school board, which indicates the following:*
 - (1) The school intends to maintain and service all installed equipment according to the manufacturer's instructions;*
 - (2) The school shall maintain property insurance to pay for damages resulting from weather and other natural events;*
 - (3) That ongoing operations and maintenance shall be provided in accordance with Ed 321.29;*

- (4) That plans shall be submitted to the state fire marshal's office for a plan review prior to construction; and*
- (5) That energy efficiency reimbursement applications shall be submitted to the regulated utility under RSA 374-F, as required by RSA 198:15-c;*
- (n) School board meeting minutes approving the project, which clearly identify the following:*
 - (1) The project as described in the building aid application;*
 - (2) The total project costs listed in the building aid application; and*
 - (3) A statement that the project shall be put forth for voter consideration subject to receiving building aid;*
- (o) A plan view of the existing building(s) with the total square footage and the year of construction labeled for the original building and any additions;*
- (p) Site plan which indicates the boundaries of school-owned property to be developed, the location of proposed construction, location of wetlands and bodies of water, and location of existing structures;*
- (q) Preliminary design plans that have the following:*
 - (1) Labels for the proposed use of each space;*
 - (2) Labels for the square footage of each space, excluding spaces less than 100 square feet;*
 - (3) The total square footage of each level; and*
 - (4) The overall exterior building dimensions;*
- (r) A plan with each space color coded by the primary use as follows:*
 - (1) General studies shaded green;*
 - (2) Specialized educational spaces such as world language, art, and music, shaded blue;*
 - (3) Special education areas such as speech and language pathology, occupational therapy and physical therapy rooms, and case manager rooms, shaded purple;*
 - (4) Core spaces such as library and media center, kitchen, cafeteria, and gymnasium spaces shaded yellow;*
 - (5) Administrative areas such as reception areas, vestibule areas, copy and storage rooms, nurse's office, guidance offices, social worker offices, staff rooms, conference rooms, shaded orange; and*
 - (6) Building services and miscellaneous areas such as bathrooms, server rooms, custodial closets, mechanical rooms, corridors, stairs shaded gray;*
- (s) A summary table of the total square footage for each of the color-coded categories listed in (q) above;*
- (t) If the project includes a new site location, site information including but not limited to:*
 - (1) The total usable area;*
 - (2) Descriptions of the restrictions the site might have;*

- (3) The status of any necessary testing and permitting; and*
- (4) The proposed grading plan; and*
- (u) A digital copy of the application.*

~~— Ed 321.15 Total Cost of School Building Construction.~~

~~— (a) For purposes of calculating school building aid, total eligible costs include:~~

~~(1) The costs for acquisition of land and site development;~~

~~(2) Construction costs;~~

~~(3) Planning and design costs, including:~~

~~a. Architectural fees;~~

~~b. Engineering fees; and~~

~~c. Project manager fees if required by RSA 198:15-e IV;~~

~~(4) Purchase of furniture, fixtures, and equipment necessary for the completion of a building, including commissioning fees, computers and software necessary to operate the security, HVAC, or other building system components, fire retardant window treatments, seating, lockers, clock systems, sound systems, and other equipment that is integral to the building and educational services; and~~

~~(5) Purchase or lease purchase of mechanical, structural, or electrical equipment, including the cost of installation of such equipment, which is designed to improve energy efficiency or indoor air quality in buildings.~~

~~— (b) Costs related to financing such as bonding charges and interest shall not be included in the total cost of school building construction and shall not be eligible for inclusion in the calculation of school building aid.~~

~~— (c) Costs for construction work that is not located on school property shall not be eligible for inclusion in the calculation of school building aid. This shall include, but not be limited to, costs for construction of municipally owned sidewalks, costs for improvements to municipally owned roadways, costs for installation of traffic control devices, and costs to construct or improve utility plant to bring service to the school.~~

Ed 321.16 Steps in the Procedure for Approval of School Building Aid.

(a) The department shall conduct a site visit to the location of each application, subject to the availability of time and funds for making such visits, and award a score using the criteria in (b) below.

(b) Projects shall be scored according to the following criteria:

(1) Correcting unsafe conditions that are identified in the needs assessment submitted as part of the application per Ed 321.15(e), 200 points possible;

(2) Correcting building or site deficiencies that involve construction or substantial site modifications and that are identified in the school security assessment submitted as part of the application per Ed 321.15(g), 100 points possible;

(3) Updating obsolete, inefficient, and unsuitable mechanical, electrical, plumbing, or structural building systems, including correcting deficiencies with ADA, identified in the needs assessment submitted as part of the application per Ed 321.15(e), 100 points possible;

- (4) Updating obsolete, inefficient, and unsuitable educational spaces, identified in the educational specifications and needs assessment submitted as part of the application per Ed 321.15(d) and (e), 100 points possible;*
 - (5) Correcting overcrowding conditions and associated influences to instructional areas and programming, as identified in the needs assessment submitted as part of the application per Ed 321.15(e), 75 points possible;*
 - (6) Addressing enrollment projections and population shifts, as identified in the needs assessment submitted as part of the application per Ed 321.15(e), 50 points possible;*
 - (7) Contributing to operational cost efficiencies which reduce the school budget such as consolidating buildings, reducing transportation costs, and updating to modern mechanical equipment, as identified in the feasibility study submitted as part of the application per Ed 321.15(f), 75 points possible;*
 - (8) Total student enrollment eligible for free or reduced cost meals, averaged over the previous 5 years, expressed as a percentage multiplied by 80, 80 points possible;*
 - (9) Building aid rate expressed as a whole number multiplied by 2; 120 points possible; and*
 - (10) Designing a high-performance facility that provides an environment that is energy and recourse efficient, 100 points possible.*
- (c) Projects shall be ranked in descending order with the project receiving the highest score ranked first, with the following exceptions:*
- (1) An emergency project, defined by RSA 198:15(e), I(c), shall rank ahead of all the others;*
 - (2) Except as allowed by (1) above, an application that was on the prioritized list in the previous year and has provided the required items in Ed 321.17(k) shall be ranked ahead of any application that was not on the list in the previous year;*
 - (3) If 2 or more applications receive the same number of points, the tie scores shall be ranked according to the number of points scored in (b)(1) above, the unsafe conditions category;*
 - (4) If a tie score remains after ranking for unsafe conditions, the remaining tie scores shall be ranked according to the sum of the points scored in (b)(8) above, the free and reduced lunch category and (b)(9) above, building aid rate category; and*
 - (5) If a tie score remains after ranking for in (4) above, the school building authority shall determine the ranking of those applications.*
- (d) Conditions that result from insufficient maintenance or neglect as described in Ed 321.30(g) shall not be considered for points.*
- (e) By August 1, the department shall submit a prioritized list of applications to the school building authority, along with the scoring results of each criterion in (b) above, and the maximum award amount calculated in accordance with Ed 321.18.*
- (f) The school building authority shall verify the ranking submitted by the department.*
- (g) By October 15, the school building authority shall submit a list in descending rank order to the state board.*

(h) If the school building authority determines that the department failed to comply with the requirements of Ed 321 or RSA 198:15-c in developing the prioritized list, the list shall be returned to the department for appropriate corrective actions.

(i) By November 15, the state board shall approve and publish the descending rank ordered list.

(j) Projects listed on the descending rank order list approved by the state board on November 10, 2022, shall be placed on the prioritized list in 2025 in the same rank order ahead of any new applications received, provided that the applicant submits the items in Ed 321.17 (k) and Ed 321.33 by May 1, 2025.

(k) Schools shall have 14 calendar days following the publication of the prioritized list of applications to file a motion for reconsideration of the prioritized list to the state board.

(l) The state board shall consider any motions for reconsideration of the prioritized list at the next regularly scheduled meeting of the state board.

~~— Ed 321.16 Construction Standards.~~

~~— (a) All school construction shall comply with the requirements of the state building code under RSA 155-A. School design drawings and specifications shall bear the stamp and signature of individuals licensed to perform architecture or engineering in the appropriate disciplines in the state of New Hampshire. The stamp and signature of the design professionals shall be understood to certify that the project has been designed in compliance with all applicable building codes and standards.~~

~~— (b) Verification that construction has been performed according to state and local building codes and approval of variances shall be the responsibility of the local code enforcement official in the municipality in which the construction takes place, or the state fire marshal in accordance with RSA 155-A:7.~~

Ed 321.17 Intent to Fund (ITF) Letter and Grant Award Notification (GAN).

(a) The department shall issue an ITF letter for the top-ranked projects until all building aid funds available are allocated, or until no projects remain on the list.

(b) The ITF letter shall include the following:

- (1) Name and address of the school;*
- (2) Project title;*
- (3) Maximum grant amount calculated pursuant to Ed 312.18;*
- (4) Documentation of building aid rate pursuant to RSA 198:15-b;*
- (5) Approved design capacity in accordance with Ed 321.08;*
- (6) Maximum eligible land size in accordance with Ed 321.07;*
- (7) Maximum eligible building size in accordance with Ed 321.09;*
- (8) Maximum allowable construction cost standard in accordance with Ed 321.21;*
- (9) Documentation of any waiver decisions requested as part of the application in accordance with Ed 321.32; and*
- (10) Any other information the department deems necessary to ensure a successful project.*

(c) The superintendent shall have 14 calendar days to sign and submit the ITF letter to the department before the funds are offered to the next highest-ranked project.

(d) Except as allowed in (g) below, project applicants that did not sign and submit the ITF letter within 14 calendar days shall not return to the prioritized list, but the school may reapply.

(e) By submitting the signed ITF letter, the school shall have 30 months to obtain approval from the school district's legislative body.

(f) For applicants that signed and submitted the ITF letter, the superintendent or designee shall submit to the department quarterly updates on the project status until construction begins.

(g) Project applicants that were offered a reduced award due to the lack of state building aid funds and did not sign and submit the ITF letter within 14 calendar days, shall return to the prioritized list.

(h) The department shall issue a GAN to a school upon submittal of:

(1) A copy of the signed ITF letter submitted in accordance with (c) above;

(2) Proof of voter approval from the legislative body of the public school district approving the construction project and appropriating the local share of funds necessary to complete the project;

(3) Updated construction plans and specifications as prepared by a licensed architect and engineers as required for the project scope;

(4) Final project budget for review and approval;

(5) A copy of a signed construction contract between the school district and a contractor authorized to conduct construction business in New Hampshire by the secretary of state; and

(6) Proof of federal, state, and local permits necessary to start construction.

(i) The GAN shall include required items for initial and final payment in accordance with Ed 321.24 and Ed 321.25.

(j) The GAN shall include the maximum eligible costs calculated in accordance with Ed 321.21 and may be adjusted each year.

(k) Projects that did not receive an ITF letter but were on the prioritized list the previous year, and projects that declined a reduced award described in (g) above, shall remain on the prioritized list in the same ranked order of applications provided the following is submitted by May 1 each year:

(1) An attestation that construction has not started;

(2) Updated estimated project costs and documents, if applicable;

(3) Meeting minutes from the school board or board of trustees approving the following:

a. The boards desire to have the project remain on the prioritized list;

b. The estimated project cost listed on the application or as revised in (2) above; and

c. A statement that if the project is selected for building aid, the project shall be put forth for voter consideration subject to receiving building aid; and

(4) If applicable, an updated project scope, revised plans, and a description of why these changes do not impact the ranking.

(l) Projects that fail to have the items requested in (k) above updated, shall not return to the prioritized list but may reapply.

(m) Changes to the proposed project that impact the ranking shall not return to the prioritized list but may reapply.

(n) Projects that have a signed ITF letter but were unable to obtain approval from the school district's legislative body within 30 months of the date of issuance shall forfeit the award and not return to the prioritized list, but the school may reapply.

(o) Willful failure to follow any requirement of these rules shall be grounds for withdrawal of the GAN to the school district and includes repayment of funds previously disbursed to the school district, if so ordered by the state board.

~~— Ed 321.17 Heating, Ventilating, and Air Conditioning (HVAC) Requirements.~~

~~— (a) Schools shall be designed, constructed, and maintained to provide:~~

~~(1) Code compliant outside air ventilation and exhaust systems to aid in the maintenance of indoor air quality; and~~

~~(2) Code compliant heating temperatures throughout occupied building areas.~~

~~— (b) In cases where air conditioning is provided, schools shall be designed, constructed, and maintained to provide code compliant cooling temperatures throughout all air conditioned spaces.~~

~~— (c) The design and installation of all HVAC systems shall comply with:~~

~~(1) The state building code under RSA 155-A;~~

~~(2) The code for energy conservation in new building construction under RSA 155-D; and~~

~~(3) The state fire code under Saf C 6000 as adopted by the commissioner of the department of safety under RSA 153 and as amended pursuant to RSA 153:5, I by the state fire marshal with the board of fire control.~~

~~— (d) A school district may use energy recovery ventilation equipment in its school buildings for transfer of sensible and latent or sensible or latent energy from exhaust air to outside air. For the purposes of this paragraph, the transfer of sensible and latent or sensible or latent energy from exhaust air to outside air means the practice of extracting heat from exhaust air to limit the amount of new energy that is used to heat additional air from outside.~~

~~— (e) Project construction documents shall require the HVAC contractor to provide the school maintenance personnel with record drawings, appropriate training, operating and maintenance manuals, and any other relevant information concerning the HVAC systems and components thereof.~~

~~— (f) Project construction documents shall require a formal commissioning process for HVAC systems start up and initial operation. At a minimum, the construction documents shall identify the requirement for the development of a written commissioning plan specific to the project. The commissioning plan shall identify a process of ensuring that prior to completion of a construction project, new and/or modified HVAC systems perform in accordance with the design intent and the construction documents. The commissioning process shall include, but shall not be limited to, verification and functional performance testing on all HVAC equipment and controls, in all operating modes.~~

~~—(g) Verification that construction has been performed according to state and local building codes and approval of variances shall be the responsibility of the local code enforcement official in the municipality in which the construction takes place, or the state fire marshal in accordance with RSA 155-A:7.~~

Ed 321.18 Maximum Building Aid Award Amount.

(a) The maximum building aid award amount shall be the maximum amount of building aid the school is eligible for based on the application submitted to the department.

(b) The maximum building aid award amount shall be the estimated project costs multiplied by the building aid rate or the balance of the building aid appropriation that fiscal year, whichever is lower.

(c) The estimated project cost is the sum of the following:

(1) Eligible site costs per Ed 321.19;

(2) Eligible construction costs per Ed 321.20;

(3) Eligible administrative costs and contingency per Ed 321.22; and

(4) Eligible fees and services costs per Ed 321.23.

(d) Project costs not included in the maximum building aid amount and not eligible for building aid, include the following:

(1) Site acquisition and site development costs that exceed Ed 321.07 maximum standards for school building aid for land acquisition;

(2) Project costs for buildings that exceed Ed 321.09 maximum sizes for school buildings;

(3) Construction costs that exceed Ed 321.21 maximum allowable construction costs; and

(4) Costs for ineligible items known at the time of the application, including but not limited to items in Ed 321.30.

(e) If available building aid funds in a given fiscal year are insufficient to meet the maximum building aid award, the maximum building aid award shall be reduced to the balance of funding available in that fiscal year.

(f) The actual amount of building aid granted shall be determined upon completion of construction and by a review of the eligible project costs submitted to the department in accordance with Ed 321.25.

~~—Ed 321.18 Plumbing Requirements.~~

~~—(a) Schools shall be designed, constructed, and maintained to provide code compliant plumbing systems, including potable water, sanitary sewer and vent, storm drain, and other specialty plumbing systems.~~

~~—(b) The design and installation of all plumbing systems shall comply with:~~

~~(1) The state building code under RSA 155-A;~~

~~(2) The code for energy conservation in new building construction under RSA 155-D;~~

~~(3) The state fire code under Saf C 6000 as adopted by the commissioner of the department of safety under RSA 153 and as amended pursuant to RSA 153:5, I by the state fire marshal with the board of fire control; and~~

~~(4) The state code for barrier-free design, Abdf 300.~~

~~—(c) At a minimum, the following plumbing fixture ratios shall be provided for in each school building unless a higher number is required by the state building code under RSA 155-A:~~

~~(1) The ratio of water closets to the number of students shall be one water closet per 30 students or fraction thereof;~~

~~(2) For boys and girls in all grade levels, the ratio of lavatories to the number of students shall be 1-40. Wash fountain sinks may be substituted for lavatories as permitted by the state building code under RSA 155-A;~~

~~(3) If the state plumbing code requires a larger number of fixtures, the number required by the code shall be provided, unless a written waiver is received from an appropriate authority empowered to grant such waivers; and~~

~~(4) Whenever a school building is designed to allow restricted access to parts of the building such as the gymnasium or the auditorium, a sufficient number of restrooms and water closets or urinals shall be included within the restricted area to accommodate the maximum occupancy of the restricted area in accordance with the state building code under RSA 155-A.~~

~~—(d) For the purposes of Ed 321.18(c)(1):~~

~~(1) Fifty percent of the enrollment will be assumed to be girls and 50 percent boys unless there is strong information to indicate that a different ratio is appropriate; and~~

~~(2) Urinals may be used in lieu of water closets as permitted by the state building code under RSA 155-A.~~

~~—(e) Sinks and wash fountain sinks shall be provided in laboratories and other instructional spaces as required. Corrosion resistant fixtures, special waste systems, and waste interceptors shall be provided as required by the project program demands and the state building code under RSA 155-A.~~

~~—(f) A minimum of one custodial sink shall be provided in each school building.~~

~~—(g) A minimum of one school nurse sink compliant with the accessibility requirements under Abdf 300 shall be provided in each school building where a school nurse is assigned.~~

~~—(h) Where integral to hand washing sinks, receptors for drinking fountains shall be directed to a receptor basin separate from the hand washing sink. One drinking fountain or water cooler shall be provided for every 40 students or fraction thereof, unless a larger number is required by the state building code under RSA 155-A, in which case the code requirement shall be met.~~

~~—(i) Emergency shower and eye wash stations shall be provided in all science labs, automotive shops, and other places where hazardous liquids or open flames are frequently used and shall comply with the American National Standards Institute Z-358.1 Eyewash standards 2014 as referenced in Appendix II.~~

~~—(j) Project construction documents shall require the plumbing contractor to provide the school maintenance personnel with record drawings, appropriate training, operating and maintenance manuals, and any other relevant information concerning the plumbing systems and components thereof.~~

~~—(k) Project construction documents shall require a formal commissioning process for plumbing systems start up and initial operation. At a minimum, the construction documents shall identify the requirement for the development of a written commissioning plan specific to the project. The commissioning plan shall identify a process of ensuring that new and modified or new or modified plumbing systems perform in accordance with~~

~~the design intent and the construction documents. The process shall include, but shall not be limited to, verification and functional performance testing on all plumbing equipment and controls, in all operating modes.~~

~~—(1) Verification that construction has been performed according to state and local building codes and approval of variances shall be the responsibility of the local code enforcement official in the municipality in which the construction takes place, or the state fire marshal in accordance with RSA 155-A:7.~~

Ed 321.19 Site Costs Eligibility.

(a) The following site costs are eligible for building aid:

(1) Land acquisition costs, including land purchased in years prior, provided it was purchased for the purposes of constructing a school;

(2) Legal or administrative costs associated with the acquisition; and

(3) Site development costs, including:

a. The work required to prepare the land for construction;

b. Work required to bring and connect utility services from the property boundary to the building; and

c. Work for onsite utility infrastructure such as power, fuel connections and storage, onsite septic, sewer, data and cabling, and site lighting.

(b) Site acquisition costs for land that exceed the maximum site standards in Ed 321.07 are not eligible for building aid and not included in the maximum building aid award.

(c) Only work on the site owned by the school shall be eligible for building aid. Work to bring utilities to the site from locations that are not immediately adjacent to the school property is not eligible for building aid.

(d) For the purposes of calculating the maximum building aid award, site acquisition costs shall be limited to market value.

(e) For the purposes of calculating the maximum building aid award, eligible site development costs shall not exceed 15 percent of the total eligible project costs less site costs.

~~—Ed 321.19 Electrical Requirements.~~

~~—(a) Schools shall be designed, constructed, and maintained to provide code compliant electrical systems that include:~~

~~(1) Power distribution;~~

~~(2) Lighting;~~

~~(3) Fire alarms;~~

~~(4) Telecommunications systems that include but are not limited to the following specialty electrical systems:~~

~~a. Data;~~

~~b. Phone and intercom;~~

~~e. Community access television (CATV); and~~

~~d. Closed circuit television; and~~

~~(5) Security.~~

~~— (b) The design and installation of all electrical systems shall comply with:~~

~~(1) The state building code under RSA 155-A;~~

~~(2) The code for energy conservation in new building construction under RSA 155-D; and~~

~~(3) The state fire code under Saf C 6000 as adopted by the commissioner of the department of safety under RSA 153 and as amended pursuant to RSA 153:5, I by the state fire marshal with the board of fire control.~~

~~— (c) In addition to being in compliance with the state code for energy conservation in new building construction under RSA 155-D, the design and installation of all lighting systems shall comply with the Illuminating Engineering Society of North America (IESNA) *Lighting Handbook* 10th edition—2011 as referenced in Appendix II. Multiple use school spaces such as cafeterias and auditoriums shall have illumination for the highest level required by any planned use.~~

~~— (d) In addition to complying with the state building code under RSA 155-A, the design and installation of all telecommunication systems shall also comply with the Building Industries Consulting Services International (BICSI) standards, the American National Standards Institute (ANSI), and the National Electrical Contractors Association (NECA) standards as follows:~~

~~(1) The BICSI *Telecommunications Distribution Methods Manual* 13th edition 2014 as referenced in Appendix II;~~

~~(2) The BICSI *Outside Plant Design Reference Manual* 6th edition 2018 as referenced in Appendix II;~~

~~(3) ANSI/BICSI 001-2017, *Information and Communication Technology Systems Design and Implementation Best Practices for Educational Institutions and Facilities* as referenced in Appendix II;~~

~~(4) ANSI/NECA/BICSI N1-2019, *Installation Practices for Telecommunications and ICT Cabling and Related Cabling Infrastructure*, June 2019 edition, as referenced in Appendix II;~~

~~(5) BICSI *Information Technology Systems Installation Methods Manual*, 7th edition—2017 as referenced in Appendix II; and~~

~~(6) NECA/BICSI 607-2011, *Standard for Telecommunications Bonding and Grounding Planning and Installation Methods for Commercial Buildings* as referenced in Appendix II.~~

~~— (e) Project construction documents shall require the electrical contractor to provide the school maintenance personnel with record drawings, appropriate training, operating and maintenance manuals, and any other relevant information concerning the electrical systems and components thereof.~~

~~— (f) Project construction documents shall require a formal commissioning process for electrical systems start up and initial operation. At a minimum, the construction documents shall identify the requirement for the development of a written commissioning plan specific to the project. The commissioning plan shall identify a process of ensuring that new and modified or new or modified electrical systems perform in accordance with the design intent and the construction documents. The process shall include, but shall not be limited to, verification and performance testing on all electrical equipment and controls, in all operating modes.~~

~~—(g) Verification that construction has been performed according to state and local building codes and approval of variances shall be the responsibility of the local code enforcement official in the municipality in which the construction takes place, or the state fire marshal in accordance with RSA 155-A:7.~~

Ed 321.20 Construction Costs.

(a) The following construction costs shall be eligible for building aid:

(1) For a new building or addition to an existing building, costs of labor and materials to erect the building and foundation. This does not include the cost of site development beyond 4 feet from the foundation;

(2) In renovation projects, costs of labor and materials for repairing, replacing, remodeling, or altering the existing structure or building systems;

(3) Equipment that is normally fastened to the structure; and

(4) Purchase or lease-purchases of mechanical, structural, or electrical equipment.

(b) Construction costs that exceed the maximum allowable construction costs, calculated in accordance with Ed 321.21, shall not be eligible for building aid.

~~—Ed 321.20 Acoustics.~~

~~—(a) Educational spaces shall be constructed so as to meet or exceed the requirements of the ANSI S12.60 American National Standard Acoustical Performance Criteria, Design Requirements, and Guidelines for Schools part 1, 2010 edition and part 2, 2009 edition, as referenced in Appendix II.~~

~~—(b) The school district may request a waiver under Ed 321.28 for meeting or exceeding the requirements in Ed 321.21(a) for educational spaces.~~

~~—(c) Compliance with the acoustics standard shall be certified in writing by the lead architect or engineer.~~

Ed 321.21 Maximum Allowable Construction Cost.

(a) School building aid grants shall be subject to the maximum allowable construction cost under RSA 198:15-b, III (a).

(b) The department shall use construction cost and inflation indices developed by the R.S. Means Company of Kingston, Massachusetts, as the basis for setting the annual maximum allowable construction cost and publish the maximum allowable construction cost no later than November 30 of each year.

(c) Subject to (d) below, for the purposes of calculating the maximum building aid award in Ed 321.18, eligible construction costs shall be forecasted out to the expiration date of the GAN using the 5-year average of the inflation indices reported by the R.S. Means Company of Kingston, Massachusetts.

(d) If the department has sufficient localized and school type specific construction cost data, this data may be used in place of R.S. Means Company of Kingston data.

(e) The actual amount of building aid granted for construction shall be based upon the actual construction cost or the eligible construction costs forecasted in the GAN, whichever is lower.

(f) For areas of renovation, the maximum building aid award shall be calculated as the maximum allowable construction cost as calculated in this section, multiplied by the renovation factor listed in table 321-4 below.

Table 321-5 Renovations Factor for Calculating the Maximum Allowable Building Aid Costs

<i>Age of Renovated Area (years)</i>	<i>Renovation Factor for Maximum Allowable Construction Costs</i>
<i>41 & older</i>	<i>100%</i>
<i>36-40</i>	<i>94%</i>
<i>31-35</i>	<i>83%</i>
<i>26-30</i>	<i>70%</i>
<i>21-25</i>	<i>50%</i>
<i>0-20</i>	<i>0%</i>

~~— Ed 321.21 Steps in the Procedure for Approval of School Building Aid.~~

~~— (a) Approval for a school site by the department shall not be given until the requirements in Ed 321.21(b)-(u) are completed.~~

~~— (b) A letter of intent shall consist of:~~

~~(1) Project information on the name, location, contact person, description, anticipated district approval date, estimated total cost, and anticipated commencement and completion dates for the project;~~

~~(2) Description of the deficiencies in the existing building; and~~

~~(3) A statement to be signed by the superintendent of schools of the district making application which indicates that the school board has reviewed the requirements of RSA 198:15-a, 15-b, and 15-c and Ed 321, and that a copy of Ed 321 has been provided to the lead architect or engineer responsible for design of the project.~~

~~— (c) The letter of intent shall be received no later than 18 months prior to the beginning of the biennium in which school building aid grants are to be dispersed. If requested, the commissioner shall waive the letter of intent or its submittal deadline pursuant to the waiver provisions under Ed 321.28.~~

~~— (d) An application for school building aid shall consist of:~~

~~(1) School building aid application for each building where eligible construction work is to be accomplished, which shall include the following information from the school district:~~

~~a. Project information including the location, contact person, estimated cost of the project, school approval level, project type, and project delivery method;~~

~~b. Identification of architect and project manager, if required by RSA 198:15-c;~~

~~c. Identification of the total number of students, staff, and student drivers, the design capacity, educational capacity, and utilization rate;~~

~~d. A brief description of the project;~~

~~e. Description of the project alternatives considered and rational for selecting the alternative chosen;~~

~~f. Description of the current and proposed energy use of the facility;~~

~~g. A list of the deficiencies and, if applicable, a statement of how the proposed project will correct the deficiencies;~~

- ~~h. A description of the maintenance requirements identified in RSA 198:15-b, I a;~~
- ~~i. Square footage of the building before and after construction;~~
- ~~j. Anticipated project costs and unit costs;~~
- ~~k. Anticipated funding sources and anticipated amounts from each source; and~~
- ~~l. Amount of district debt, total assessed valuation, and percent debt to valuation;~~
- ~~(2) The school building application shall include the following attachments:~~
 - ~~a. A completed and signed “Condition Evaluation Form” dated February 5, 2020;~~
 - ~~b. A statement of assurance, signed by the chair of the school board, which indicates that the district intends to maintain and service all installed equipment according to the manufacturer’s instructions;~~
 - ~~c. A copy of the school or district’s 20-year maintenance plan in accordance with RSA 198:15 I a. (1);~~
 - ~~d. Minutes of the meeting to put forth the project for voter consideration and funding;~~
 - ~~e. Most recent fire and health inspection reports;~~
 - ~~f. Copy of completed request for project review from the department of cultural resource, division of historical resources;~~
 - ~~g. Acknowledgement that plans shall be submitted to the state fire marshal’s office for a plan review prior to construction;~~
 - ~~h. Acknowledgement that the applicant shall submit for energy efficiency reimbursement from their regulated utility under RSA 374-F, as required by RSA 198:15-e;~~
 - ~~i. Copy of engineering reports, space utilization studies, or other appropriate documents that confirm the need to remediate the existing conditions;~~
 - ~~j. Life cycle cost analysis, in accordance with RSA 198:15-b I.(b)(2);~~
 - ~~k. Documentation on the selected design capacity;~~
 - ~~l. Educational capacity calculations;~~
 - ~~m. An aerial view of the existing building(s) with the total square footage and the year of construction labeled for the original building and any additions;~~
 - ~~n. Site plan which indicates the boundaries of school-owned property to be developed, location of proposed construction, location of wetlands and bodies of water, and location of existing structures;~~
 - ~~o. Preliminary architectural drawings including outside elevations, and dimensioned floor plans that are labeled as to the use of each space;~~
 - ~~p. Outline of technical specifications;~~
 - ~~q. The completion of the data collection survey or the general description of major building systems, including but not limited to heating, ventilation, electrical, plumbing, and fire protection;~~

~~r. If the project includes the purchase of land, attach site information such as the total buildable area, descriptions of the restrictions the site might have, the status of any necessary testing and permitting, and the proposed grading plan; and~~

~~s. A digital copy of the application and attachments.~~

~~—(e) To be considered for building aid in the following biennium, complete applications shall be filed with the department no later than July 1 of the year prior to the biennium in which school building aid grants are to be dispersed in accordance with RSA 198:15-e.~~

~~—(f) The department shall notify the applicant within 30 days of receipt of an application that either:~~

~~(1) The application is complete and approved for project ranking; or~~

~~(2) The application is incomplete and is not approved for project ranking.~~

~~—(g) The department shall award a score to each application using the “Condition Evaluation Form” dated February 5, 2020. The department shall conduct a site visit to the location of each application subject to the availability of time and funds for making such visits. The department shall present the applications including the completed condition evaluation to the school building authority.~~

~~—(h) Projects shall be scored according to the following criteria:~~

~~(1) Correcting unsafe conditions, 250 points possible;~~

~~(2) Updating obsolete, inefficient, and unsuitable facilities, including correcting deficiencies with the Americans with Disabilities Act, 100 points possible;~~

~~(3) Correcting overcrowding conditions and addressing increased enrollment projections, 50 points possible;~~

~~(4) Having an active maintenance program that tracks scheduled and unscheduled repairs, upkeep, minor alterations, enhancements to buildings, and preventive maintenance necessary to achieve the design life expectancy of building systems and components, 125 points possible;~~

~~(5) Percent of student enrollment eligible for free or reduced cost meals, 200 points possible;~~

~~(6) Adding and integrating school security systems, 100 points possible;~~

~~(7) Contributing to operational cost efficiencies, consolidation, or reduced property taxes, 50 points possible;~~

~~(8) Designing a high performance facility that provides an environment that is energy and resource efficient, 100 points possible; and~~

~~(9) Preserving historical elements of the facility, as requested by the New Hampshire department of natural and cultural resources, division of historical resources, 25 points possible.~~

~~—(i) Projects shall be ranked in descending order with the project receiving the highest score ranked first with the following exceptions:~~

~~(1) No application which receives at least half of the possible points for unsafe conditions in (h)(1) above shall be ranked below any application that receives fewer than half of the possible points for unsafe conditions;~~

~~(2) Except as allowed by (i)(1) above an application that was on the prioritized list in the previous biennium and approved by the district’s legislative body, but did not receive a grant due to insufficient funds in the previous biennium, shall be ranked ahead of any application that was not on the list in the previous biennium; and~~

~~(3) In the event that 2 or more applications receive the same number of points, they shall be ranked according to the number of points scored in the unsafe conditions category. If a tie score remains after ranking for unsafe conditions, the school building authority shall determine the ranking of those applications.~~

~~—(j) Points for unsafe conditions shall be awarded only for conditions caused by normal wear and tear, code changes since construction of the building, or a natural event. Conditions that result from insufficient maintenance or neglect as described in Ed 321.25(g) or Ed 321.25(h) shall not be considered for points.~~

~~—(k) In accordance with RSA 198:15 c II(a), by December 1 of each year prior to the biennium in which school building aid grants are to be dispersed, the school building authority shall verify the ranking submitted by the commissioner and submit a list in descending rank order to the state board of education for approval. If the submitted list differs from the preliminary ranking from the department of education, the school building authority shall justify the new ranking list using the same criteria identified in (h) and (i) above.~~

~~—(l) The prioritized list of applications shall be approved by majority vote of the school building authority.~~

~~—(m) In accordance with RSA 198:15 c, II.(a), the state board shall approve and publish the descending rank ordered list of applications by January 15 of the year prior to the biennium in which school building aid grants are to be dispersed. If the state board determines that the school building authority or the department failed to comply with the requirements of Ed 321 or RSA 198:15 c in developing the prioritized list, the list shall be returned for appropriate corrective actions.~~

~~—(n) School districts and charter schools shall have 15 business days following the publication of the prioritized list of applications to appeal the prioritization of their applications. Appeals shall be submitted in writing to the state board and signed by the chair of the local school board or chair of the board of directors of a charter school.~~

~~—(o) Final drawings and technical specifications shall be provided to the department for review and approval as soon as they become available.~~

~~—(p) The department shall approve final drawings and technical specifications upon receiving the following information:~~

~~(1) Drawings and technical specifications signed and stamped by individuals licensed in the appropriate disciplines to practice architecture or engineering in the state of New Hampshire;~~

~~(2) A signed letter of certification provided by the designers indicating that the design meets the state building code under RSA 155-A, the code for energy conservation in new building construction under RSA 155-D, the New Hampshire code for barrier free design under Abfd 300, the requirements of Ed 321, and that no asbestos containing materials have been specified; and~~

~~(3) Certification that reference any properly approved code or permit variances or waivers.~~

~~—(q) Certification that the design meets the state energy code shall be provided to the public utilities commission as required by Pue 1803.03.~~

~~—(r) The department shall provide review comments in writing. Corrections shall be made if the review comments indicate that the design fails to meet one or more state requirements. Documentation of the corrections shall be provided to the department.~~

~~—(s) Drawings and specifications shall be provided to the office of the state fire marshal. A letter of approval by the state fire marshal shall be issued and distributed upon the fire marshal's approval of drawings and specifications. A copy of the letter of approval shall be provided to the department.~~

~~——(t) If the project involves construction or extensive renovations of food service facilities, drawings and specifications shall be reviewed and approved by the bureau of food protection in the department of health and human services as required by He P 2304. A copy of the letter of approval shall be provided to the department.~~

~~——(u) If the project includes a well or septic system, approval shall be obtained from the department of environmental services as required by RSA 485 and Env Dws 406 and RSA 485-A and Env Wq 1000, respectively. A copy of the approval(s) shall be provided by the applicant to the department.~~

~~——(v) If the project includes an addition to a building using an existing well or septic system, but does not expand the capacity of the system, certification that the existing system is adequate shall be provided by an individual properly licensed in New Hampshire to give such certification.~~

~~——(w) Upon receipt and approval of all required documents, the department shall approve a project for a school building aid grant and disburse funds to a school district or charter school as described in Ed 321.22.~~

~~——(x) Following completion of all construction work and final actual costs have been determined, the school district or charter school shall submit a request for final payment with the following information:~~

~~(1) Project information including the name of the project, contact person, the contracted date for project completion, and overall cost of the project;~~

~~(2) Final space information;~~

~~(3) Actual project costs;~~

~~(4) Final unit costs;~~

~~(5) Actual project funding sources and documentation of each source;~~

~~(6) Explanation of all deviations from the approved design and cost;~~

~~(7) A summary of invoices with date of invoice, vendor, description of item, amount of invoice, and category of item type such as a site acquisition or development cost, a construction cost, a planning and design cost, or a furniture, fixtures and equipment cost;~~

~~(8) A signed statement from the school administrator, the person in charge of finances, and school board members or board of trustees, that the project is complete, the summary of invoices submitted are accurate, and that the project was built in accordance with all applicable building aid rules and law to the best of their knowledge;~~

~~(9) Other information on code compliance, income sources, and required approval from other state agencies, not previously submitted; and~~

~~(10) A digital copy of the information in (1) through (9) above.~~

~~——(y) After review and verification of the information submitted in Ed 321.21(z), the department shall issue a project completion letter stating that all necessary requirements have been met and that all payments are final.~~

Ed 321.22 Administrative Costs and Contingency.

(a) The following administrative costs and contingency shall be eligible for building aid:

(1) Moveable equipment costs;

(2) Advertising and legal costs; and

(3) Project contingency.

(b) For the purposes of calculating the maximum building aid award, eligible administrative costs and contingency shall not exceed 20 percent of the total eligible project costs, less site acquisition and site development costs.

~~— Ed 321.22 School Building Aid Payments.~~

~~— (a) School building aid shall be provided by the department from funds appropriated by the legislature to eligible local school districts and charter schools in accordance with RSA 198:15-a and Ed 321. School building aid shall be paid for construction as authorized by RSA 198:15-b,II on property owned by a school district or, city in cities with school departments, or a charter school.~~

~~— (b) By April 30 of each year, the department shall verify with each district the anticipated amount of school building aid to be provided in the following fiscal year.~~

~~— (c) For applications approved prior to July 1, 2013 school building aid payments shall be made semi-annually in October and April of each fiscal year. Semi-annual payments shall be in approximately equal amounts. In the event that payments are prorated in accordance with RSA 198:15-e, the October payment shall be 50 percent of the annual total with the full prorated reduction occurring in the April payment.~~

~~— (d) For applications approved after July 1, 2013, school building aid payments shall be made in 2 increments. The department shall encumber the full eligible amount of the grant in the fiscal year in which construction is expected to begin. Eighty percent of the estimated eligible grant shall be paid upon approval for payment by the department. The balance of the total grant shall be paid upon completion of construction and verification by the department. The amount of the total grant shall be calculated based on the actual cost of construction financed from eligible sources. Payment for actual costs that exceed the amount estimated at the time of approval for payment shall be subject to the availability of funds.~~

~~— (e) Approval for payment by the department shall be given upon completion of all of the following:~~

~~(1) Vote of the legislative body of the district or the board of directors of a charter school approving the construction project and appropriating the local share of funds necessary to complete the project;~~

~~(2) Approval of the project by the state board;~~

~~(3) Receipt of all project documentation required by the department;~~

~~(4) Approval of the project design, technical specifications, and cost estimate by the department;~~

~~(5) Availability of funds in the state budget according to the priorities established by the state board pursuant to RSA 198:15-e; and~~

~~(6) Receipt by the department of a copy of a signed construction contract between the school district or charter school and a contractor authorized to conduct construction business in New Hampshire by the secretary of state.~~

~~— (f) The department shall disburse 80% of the estimated school building aid grant to the school district or charter school. The remainder of the grant shall be encumbered until the completion of the project.~~

~~— (g) School districts shall submit quarterly project status updates to the department until the project is completed.~~

~~— (h) The department shall disperse the final grant payment based on actual costs of the project after review and verification of the information submitted with the request for final payment identified in Ed 321.21(x).~~

Ed 321.23 Fees and Services Costs.

(a) The following fees and services costs shall be eligible for building aid:

- (1) Architectural and engineering fees;***
- (2) Permitting and approval fees;***
- (3) Site survey and site soil fees;***
- (4) Construction testing fees;***
- (5) Owner's project manager, if required by RSA 198:15-c IV;***
- (6) Commissioning fees; and***
- (7) Subject to (b) below, other professional services.***

(b) Fees paid to a cost estimator, construction manager, or a construction manager at risk may only be included as fees and services costs if they are incurred prior to the start of construction. Fees incurred after the start of construction shall be included under construction costs.

(c) When hiring consultants such as an architect, engineer, or owner's project manager, preference may be given to consultants registered to conduct business and with headquarters in the state of New Hampshire.

(d) For the purposes of calculating the maximum building aid award, eligible fees and services costs shall not exceed 10 percent of the total eligible project costs.

~~— Ed 321.23 Building Aid for Planning and Design of School Facilities. Building aid for architectural, engineering, and other services associated with the planning and design of new school facilities or modifications to existing facilities as authorized by RSA 198:15-b, II(b) and (d) shall not be paid until construction has been approved by the legislative body of the school district or board of directors of a charter school and the project has been approved for funding by the department.~~

Ed 321.24 School Building Aid Payments for Projects Approved After July 1, 2023. For projects that were approved after July 1, 2023, the following shall apply:

(a) School building aid shall be provided by the department from funds appropriated by the legislature to eligible local schools in accordance with RSA 198:15-a and Ed 321;

(b) School building aid shall be paid for construction as authorized by RSA 198:15-b, II on property owned by a school district or a city in cities with school departments;

(c) For public school district construction projects, the department shall disburse a sum equal to 80 percent of the maximum building aid award subject to (f) below, and the balance of the total grant paid upon completion of construction and verification by the department in accordance with Ed 321.25;

(d) Approval for initial payment by the department shall be given upon receipt of the following:

(1) Updated cost estimates and proof of funding sources for the project, including but not limited to:

- a. A copy of the bond schedules;***

b. Proof of approval for capital revenue expenditures; or

c. Proof of other sources of funding;

(2) A letter from the state fire marshal's office approving the construction project; and

(3) Proof of federal, state, and local permits necessary, including but not limited to wetlands, alteration of terrain, and water and sewer;

(e) For projects that were funded with fiscal 2024 or fiscal 2025 funds, project eligibility and final building aid grant amount shall be calculated in accordance with the project's ITF letter and shall be subject to the Ed 321 regulations in place at the time of application; and

(f) For projects that received a GAN after July 1, 2025, final building aid grant amount shall be calculated as the building aid rate multiplied by the eligible project costs or the maximum amount of building aid award calculated in accordance with Ed 321.18, whichever is less.

~~— Ed 321.24 Maximum Allowable Construction Cost.~~

~~— (a) School building aid grants shall be subject to the maximum allowable construction cost under RSA 198:15-b, IV(a).~~

~~— (b) School building aid shall be calculated based upon the actual construction cost or the maximum allowable construction cost, whichever is lower. The department shall publish the maximum allowable construction cost no later than November 1 of each year. The annually published maximum allowable construction cost shall apply to construction which begins after March 31 of the following year.~~

~~— (c) The department shall use construction cost and inflation indices developed by the R.S. Means Company of Kingston, Massachusetts as the basis for setting the annual maximum allowable construction cost. The department shall compare the R.S. Means data to actual construction costs for the previous 3 years, and shall adjust the maximum allowable cost upward if the R.S. Means data is lower than the average cost for the previous 3 years after adjusting the actual costs for inflation.~~

~~— (d) The school district may request a waiver under Ed 321.28 for the maximum construction cost allowed under Ed 321.24.~~

Ed 321.25 Notice of Project Completion Submittal.

(a) Upon completion of the project, the school shall submit a notice of project completion to the department with the information described in Ed 321.26.

(b) Schools shall have 5 years from the initial payment to complete the project and submit a notice of project completion to the department, otherwise the award shall be forfeited and the district will be required to repay the state 100 percent of the state grant received.

(c) After review and verification of the information in (a) above, the department shall:

(1) Determine the final building aid grant as the building aid rate multiplied by the eligible projects costs or the maximum amount of building aid award cited in the signed GAN, whichever is less; and

(2) Issue a project completion letter stating that all necessary requirements have been met.

(d) A school board may request a waiver under Ed 321.32 for the amount of time needed to complete (b) above.

~~— Ed 321.25 Substantial Renovation. Eligibility for school building aid for substantial renovations as authorized by RSA 198:15-b, II(f) shall be determined as follows:~~

~~— (a) The construction cost of the renovation project shall be compared to the construction cost of a complete new building equal in size to the building to be renovated using the maximum allowable construction cost as set by Ed 321.24.~~

~~— (b) The construction cost of the renovation project shall exceed 25 percent of the construction cost of a new building or \$5 million, whichever is lower.~~

~~— (c) In order to allow school districts to complete large renovation projects without borrowing, school districts may propose projects to be funded over several years through direct appropriations. A complete building aid application identified in Ed 321.21(e), including design drawings and technical specifications for all phases of the project shall be submitted in the fiscal year prior to the start of construction. The scope of work and estimated cost of each phase shall be attached to the building aid application. The total cost of all phases shall be used to determine the eligibility of projects which are scheduled to be phased over 2 or more consecutive years, subject to the approval of funding for subsequent phases by the legislative body of the school district. In the event the district fails to fund subsequent phases of the project, school building aid payments shall cease and the district shall return all state funds received for the project. A lapse of one year shall be approved upon request of the district. Multi-year projects shall be evaluated for prioritization under Ed 321.21(g)-(n) in the first year in which funding is requested. Grants shall be calculated each year based on the amount appropriated by the district in that year.~~

~~— (d) If the construction cost of the renovation project exceeds 60 percent of the cost of new construction, the following additional criteria shall be met:~~

~~(1) The school district shall provide documentation that new construction was considered in lieu of renovation and explain why the renovation alternative was chosen; and~~

~~(2) The scope of the renovation project shall provide that all building systems shall be upgraded to the most current codes and standards and that the building shall be fully accessible to individuals with disabilities.~~

~~— (e) Renovation work done in conjunction with additions to existing buildings shall not be subject to paragraphs (a) through (c) above, but shall be subject to paragraphs (f) through (j) below.~~

~~— (f) School districts shall maintain adequate property insurance to pay for damages resulting from weather and other natural events. School building aid shall not be provided for work that is covered by insurance or that should reasonably be expected to be covered by insurance.~~

~~— (g) School building aid shall not be paid for repairs to equipment or structures that are covered by a valid warranty or guarantee. If a warranty has been invalidated by the actions of a school district or its staff, school building aid shall not be paid for damages incurred during the warranty period.~~

~~— (h) School building aid shall not be paid for repairs to buildings, systems, or components that result from failure to perform proper maintenance. In making this determination, the department shall compare the age of the damaged materials or equipment to the expected useful life of the materials or equipment based on commonly accepted industry standards. School districts shall provide maintenance records and other documentation concerning their maintenance program if necessary for the department to clearly understand the cause of equipment or system damage.~~

~~— (i) School building aid shall not be paid for work that results from failure to follow building codes or previous guidance from the department.~~

~~—(j) School building aid shall not be paid for repairs for which the school district makes a legal claim for damages until the legal proceeding has been resolved. In such cases, any portion of the claim that is not satisfied by the legal proceeding shall be eligible for school building aid subject to the limitations in Ed 321.25(a) to (i).~~

~~—(k) A school district may request a waiver under Ed 321.28 for how eligibility for school building aid for substantial renovations is determined under Ed 321.25.~~

Ed 321.26 Notice of Project Completion Information. The following information shall be provided in the notice of project completion:

- (a) General project information, including the name of the project and contact person;***
- (b) The contracted date for project completion;***
- (c) The actual cost of the project with supporting invoices that identify the following:***
 - (1) Amount of invoice;***
 - (2) Date of invoice;***
 - (3) Vendor;***
 - (4) Description of item; and***
 - (5) The eligible category type:***
 - a. Site acquisition or development cost, as defined by Ed 321.19;***
 - b. Construction cost, as defined by Ed 321.20;***
 - c. Administrative costs and contingency cost, as defined by Ed 321.22; or***
 - d. Fees and services cost, as defined by Ed 321.23;***
- (d) Final building square footage and final unit cost per square foot;***
- (e) Project funding sources and documentation of each source;***
- (f) Explanation of all deviations from the approved design and cost;***
- (g) A signed statement from the superintendent, business administrator, and the chair of the school board that:***
 - (1) The project is complete;***
 - (2) The summary of invoices submitted is accurate; and***
 - (3) The project was built in accordance with all applicable building aid rules and law to the best of their knowledge;***
- (h) Record drawings signed and stamped by individuals licensed in the appropriate disciplines to practice architecture or engineering in the state of New Hampshire;***
- (i) Commissioning plan, if applicable;***
- (j) Copy of any energy efficiency rebates or if not eligible, a copy of the application submitted in accordance with Ed 321.15 (m)(5);***

- (k) Copy of the food service license in accordance with RSA 143-A, if applicable;*
- (l) Copy of the certificate of occupancy issued by the municipality;*
- (m) Copy of the septic system approval by the department of environmental services (DES), if applicable, in accordance with Env-Wq 1000;*
- (n) Copy of the water system design approval from the drinking water and groundwater bureau at DES, in accordance with Env-Dw 406;*
- (o) A statement that the drinking water has been tested for lead in accordance with RSA 485:17-a;*
- (p) A statement that an updated emergency operations plan has been submitted to homeland security and emergency management, and updated floor plans have been submitted to local emergency personnel;*
- (q) A signed letter by a licensed architect or engineer stating that the project has been designed to meet the following:*
 - (1) State building code in accordance with RSA 155-A;*
 - (2) State building energy code in accordance with RSA 155-A:1, IV;*
 - (3) Barrier-free access regulations in accordance with Abfd 303;*
 - (4) Acoustical standards as outlined in this section; and*
 - (5) School building construction standards outlined in Ed 321;*
- (r) Certification that no known asbestos containing building material was used in construction in accordance with 15 U.S.C. § 2641-2656;*
- (s) Certification that references any properly approved code or permit waivers;*
- (t) A copy of the lease-purchase agreement required by Ed 321.06(c), if applicable;*
- (u) An approval to operate required by Ed 320; and*
- (v) A digital copy of the information in (a) through (u) above.*

~~— Ed 321.26 Community Use.~~

~~— (a) Selected areas within a school facility may be constructed in a size large enough to accommodate use of the facility for community purposes other than education. School building aid, however, shall be limited to the maximum allowable size and maximum allowable construction cost limits as described in Ed 321.04, Ed 321.06, and Ed 321.24.~~

~~— (b) Required educational space shall not be eliminated or reduced in order to provide community use space within the maximum size and cost limits.~~

~~— (c) A school district may request a waiver under Ed 321.28 for the limitation on school building aid and required educational space under Ed 321.26(a) and (b).~~

Ed 321.27 School Building Aid Payments for Projects Approved Before July 1, 2013. For projects that were approved before July 1, 2013, the following shall apply:

(a) School building aid payments shall be made semi-annually, in October and April of each fiscal year;

(b) Semi-annual payments shall be in approximately equal amounts; and

(c) In the event that payments are prorated in accordance with RSA 195:15-e, the October payment shall be 50 percent of the annual total, with the full prorated reduction occurring in the April payment.

~~— Ed 321.27 Ineligibility for School Building Aid.~~

~~— (a) The following shall be considered ineligible for school building aid under RSA 198:15-e unless a waiver is granted under Ed 321.28:~~

~~(1) Swimming pools or natatoriums;~~

~~(2) Field houses;~~

~~(3) Indoor tennis courts;~~

~~(4) Indoor tracks except suspended tracks that do not increase the overall size of the building;~~

~~(5) Ice rinks;~~

~~(6) Artificial turf on athletic fields;~~

~~(7) Auditoriums with a seating capacity including seating capacity for staff greater than 50 percent of the building support space design capacity;~~

~~(8) All auditoriums in elementary schools;~~

~~(9) Resurfacing of tracks, courts, and playing fields;~~

~~(10) Motor vehicles;~~

~~(11) School administrative unit facilities;~~

~~(12) Career and technical centers receiving project funding under RSA 188-E; and~~

~~(13) Text books;~~

~~(14) Computers and software that are not integral to the building systems;~~

~~(15) Portable classrooms; and~~

~~(16) Leases.~~

~~— (b) The following one-time expenses for newly formed schools shall be eligible for school building aid under RSA 198:15-e:~~

~~(1) Library books;~~

~~(2) Computer software; and~~

~~(3) Outdoor athletic facilities.~~

~~— (c) School districts may submit a written request to the commissioner for inclusion of such items in their school building aid grant. The request shall include an explanation of how approval of the request will support~~

~~the educational needs of the school district. The written request shall be submitted according to the waiver provisions in Ed 321.28.~~

~~—(d) Appeals of decisions concerning eligibility may be made to the state board of education under Ed 200. Nothing in this section shall preclude a school district from constructing such facilities or purchasing items with local funds.~~

Ed 321.28 Owner's Project Manager.

(a) Pursuant to RSA 198:15-c, III, a school that accepts school building aid for construction shall engage the services of an owner's project manager for construction or reconstruction projects of \$1,000,000 or more.

(b) The owner's project manager shall provide the following services and have responsibilities, including, but not limited to the following:

- (1) Evaluate the project master schedule submitted to the superintendent of schools and provide the school a written recommendation on whether to approve such schedule;***
- (2) Take and maintain or receive from the contractor photographic records of construction activities and project progress on a regular basis;***
- (3) Prepare and distribute monthly reports to the superintendent of schools from information provided by the architect and the contractor on the project budget, the status of the project schedule, and on general project information;***
- (4) Submit quarterly reports to the department through the superintendent of schools until a notice of completion has been submitted to the department in accordance with Ed 321.25;***
- (5) Work with the assistance of the architect, the contractor, and other consultants, to confirm that all permits necessary for construction of the project are obtained in a timely manner prior to the commencement of applicable construction and shall inform the superintendent of schools of any failure to timely obtain such permits;***
- (6) Coordinate the district's consultants and contractors on the design and purchase of items such as telephone, internet, and furniture;***
- (7) Assist the assigned responsible party of the school in arranging for and overseeing the delivery, storage, protections, and security of any school-purchased materials, systems, and equipment that are part of the project until such items are incorporated into the project;***
- (8) While on-site, observe the work of contractors and observe the quantity and quality of materials and equipment received and stored on-site to protect the school against defects, deficiencies, noncompliance with the contract documents, or failures of performance by contractors, including recommendations to avoid any potential cost overruns or delays caused by sequencing. The above shall not relieve the architect of duties for site observations detailed above and for providing site inspection reports to the superintendent of schools and the owner's project manager;***
- (9) Review the inspection and test reports provided, with the recommendations of the architect, making recommendations to the superintendent of schools and the architect regarding inspection and test results, and maintain copies of all inspection and test results;***

- (10) Confer with the superintendent of schools and the architect in assisting to resolve contractor's suggestions and any problems or concerns that arise on the project;*
 - (11) In consultation with the superintendent of schools and the architect, and with the review and written review comments of the architect, evaluate and make recommendations to the superintendent of schools on change orders, including making investigations and recommendations on the value and validity of proposed change orders, and discussing proposed change orders with contractors;*
 - (12) Assist the architect in the architect's duties to determine whether substantial completion and final completion have been achieved, assist in maximizing warranty deadlines, identify any items remaining to be completed or repaired, regardless of whether the contractor has identified such items, and identify the cost to repair or complete remaining work;*
 - (13) Assist the architect in monitoring the contractor's requirements to collect and catalog all operating and instruction manuals for equipment and building systems and submit this information and all warranty documentation to the superintendent of schools;*
 - (14) In consultation with the superintendent of schools and assisting the architect, coordinate close-out activities including the completion of deficiencies, submittals of close-out documents, resolution of change orders, and recommendations for payment of retainage;*
 - (15) Assist the superintendent of schools to ensure the architect has gathered and submitted to the superintendent of schools all project documentation including files, records, drawings, submittals, samples, and other information in an organized and usable form;*
 - (16) Notwithstanding anything to the contrary listed above, assist the superintendent of the school to ensure the architect, upon completion of the project, certifies that, to the best of their professional knowledge, the building conforms to the approved plans, specifications, and shop drawings; and*
 - (17) Continue to provide all applicable services listed in (b) above throughout construction and close-out until notice of completion has been submitted to the department in accordance with Ed 321.25.*
- (c) Minimum qualifications for an owner's project manager shall include the following:*
- (1) An architect or professional engineer registered by the state of New Hampshire with at least 5 years' experience in the construction and supervision of construction of buildings; or*
 - (2) An individual with at least 7 years' experience in the construction and supervision of construction of buildings.*
- (d) The owner's project manager shall not be an individual currently employed by the school unless that individual is given sufficient time by the school district to complete the requirements identified in this section.*
- (e) No individual or employee of any business which has a contract with the school district to complete any portion of the design or construction of the project shall be designated as the owner's project manager.*
- (f) The owner's project manager may be hired before entering into a contract for design services in order to represent the school throughout the design process, including assisting the superintendent of schools with hiring the architect, analyzing the project feasibility, and selecting a project delivery system.*

(g) Projects that don't involve the construction of a new building, an addition to an existing building, or a substantial renovation shall be exempt from (a)-(e) above.

~~— Ed 321.28 Waiver Provisions.~~

~~— (a) The commissioner of the department or the commissioner's designee may grant waivers for the standards required in Ed 321.03, Ed 321.04, Ed 321.06, Ed 321.10, Ed 321.12, Ed 321.20, Ed 321.21(bc), Ed 321.24, Ed 321.25, Ed 321.26, and Ed 321.27.~~

~~— (b) All waiver requests shall:~~

~~(1) Be submitted in writing;~~

~~(2) Be signed by the superintendent of schools of the district requesting the waiver;~~

~~(3) Include:~~

~~a. Reference to the specific section of Ed 321 for which a waiver is requested;~~

~~b. A detailed explanation of the standard to be waived and the degree to which the standard will be met if the request for waiver is approved;~~

~~c. A detailed explanation of the conditions that prevent compliance with the standards of Ed 321, or an explanation of how the waiver is in the best interest of education or is the most effective use of resources;~~

~~d. An explanation of the district's attempts to achieve compliance with the standard;~~

~~e. Maps, drawings, or diagrams as appropriate to illustrate and clarify the waiver request;~~

~~f. An explanation of the impact of a denial of the request for a waiver; and~~

~~g. Other information to support the request that the district would like to have considered.~~

~~— (c) Waiver requests for Ed 321.03(f) shall also include the following information:~~

~~(1) A site utilization plan showing all pertinent features for meeting the requirements of the educational specifications that includes:~~

~~a. The location for parking;~~

~~b. Outdoor play areas;~~

~~c. Other municipal playing fields; and~~

~~d. Any other spaces available for student use;~~

~~(2) A long range plan for any planned expansion of future spaces, such as additions, playing fields, parking lots and any other spaces available for student use; and~~

~~(3) Any pertinent data relative to land values and the availability of other property, contiguous or not, that can be acquired to enlarge a school site.~~

~~— (d) The commissioner or the commissioner's designee shall request additional information as necessary for a ruling on the request for a waiver.~~

~~— (e) A written ruling shall be provided to the district by the department within 60 days of receipt of the request for a waiver or following receipt of any additional information requested by the department. A waiver~~

~~shall be approved if in the determination of the commissioner of the department or the commissioner's designee, approval of the request for a waiver will not compromise the quality of education required in Ed 306 and is the best use of available resources.~~

~~—(f) Any part of construction work that is dependent upon or otherwise affected by the results of the request for waiver shall not proceed until a ruling on the request has been received from the department.~~

~~—(g) School districts may appeal the decision of the commissioner or the commissioner's designee to the state board as provided in Ed 200.~~

Ed 321.29 Ongoing Operation.

(a) Building systems shall be operated and maintained with the manufacturers' instructions.

(b) Schools shall be maintained to provide code compliant outside air ventilation and exhaust systems to aid in the maintenance of healthy indoor air quality.

(c) School buildings shall be approved and maintained in accordance with Ed 320.

~~—Ed 321.29 Air Quality and Energy Efficiency Projects. Projects intended to improve air quality or energy efficiency shall be eligible to receive school building aid in accordance with RSA 198:15 b,II,(g) and shall not be subject to the requirements of Ed 321.25. Air quality or energy efficiency projects may be financed through a lease purchase agreement with a vendor. A copy of the lease purchase agreement shall be submitted to the bureau of school approval and facility management, with the final application for school building aid. The agreement shall clearly indicate the costs of labor and equipment separate from rental costs, utility costs, maintenance service costs, interest, or any other charges that are not eligible for school building aid under RSA 198:15 b,II.~~

Ed 321.30 Ineligibility for School Building Aid.

(a) The following shall be considered ineligible for school building aid under RSA 198:15:

- (1) Swimming pools or natatoriums;***
- (2) Field houses;***
- (3) Indoor tennis courts;***
- (4) Indoor tracks, except suspended tracks that do not increase the overall size of the building;***
- (5) Ice rinks;***
- (6) Resurfacing of tracks, courts, and playing fields;***
- (7) Motor vehicles, lawn mowers, tractors, or similar machines;***
- (8) School administrative unit facilities;***
- (9) Career and technical center spaces that are eligible for funding for aid under RSA 188-E;***
- (10) Textbooks and library books;***
- (11) Computers and software that are not integral to the building systems;***
- (12) Portable, temporary, or modular classrooms;***

- (13) Leases, except for lease-purchases of mechanical, structural, or electrical equipment which is designed to improve energy efficiency or indoor air quality in buildings;*
 - (14) Items not affixed to the building, including but not limited to sports equipment, television, vending machines, and air conditioner wall units, unless identified as eligible for reimbursement elsewhere in this rule;*
 - (15) Cell phones;*
 - (16) Storage units and storage containers;*
 - (17) Tools;*
 - (18) Travel and associated costs;*
 - (19) Moving expenses;*
 - (20) Food and party supplies for grand openings; and*
 - (21) Building dedication plaques or time stones.*
- (b) Construction work started prior to signing the GAN per Ed 321.17(g) shall not be eligible for building aid.*
- (c) Costs related to financing, such as bonding charges and interest, shall not be eligible for inclusion in the calculation of school building aid.*
- (d) Fees paid to local municipalities and other state agencies, including but not limited to wetland mitigation fees, building permit fees, alternation of terrain fees, and planning board or zoning fees, shall not be eligible for inclusion in the calculation of school building aid.*
- (e) School building aid shall not be provided for work that is covered by insurance or should reasonably be expected to be covered by insurance.*
- (f) School building aid shall not be used to pay for any of the following:*
- (1) Repairs for damages incurred to equipment or structures that are covered by a valid warranty or guarantee that has been invalidated by the actions of a school district or its staff;*
 - (2) Repairs to buildings, systems, or components that result from failure to perform proper maintenance, which shall be determined by:*
 - a. The department comparing the age of the damaged materials or equipment to the expected useful life of the materials or equipment based on commonly accepted industry standards; and*
 - b. The school district providing maintenance records and other documentation concerning their maintenance program, if necessary for the department to clearly understand the cause of equipment or system damage;*
 - (3) Work that results from failure to follow building codes or previous guidance from the department; or*
 - (4) Repairs for which the school district makes a legal claim for damages until the legal proceeding has been resolved.*

(g) In such cases as described in (f)(4) above, any portion of the claim that is not satisfied by the legal proceeding shall be eligible for school building aid subject to the limitations in Ed 321.18.

Ed 321.31 Reporting Requirements.

(a) By November 30 of each year, the department shall publish:

- (1) The school building aid rates as calculated according to RSA 198:15-b and RSA 198:15-v;*
- (2) The maximum allowable construction cost under RSA 198:15-b, III(a) per Ed 321.21; and*
- (3) The ranked list of school building aid applications approved by the state board in accordance with Ed 321.16 (i).*

(b) By April 30 of each year, the department shall verify with each district the anticipated amount of school building aid to be provided in the following fiscal year.

Ed 321.32 Waiver Provisions.

(a) The commissioner of the department or the commissioner's designee may grant waivers for the standards required in Ed 321.09, Ed 321.10, and Ed 321.25 (b).

(b) All waiver requests shall be submitted in writing and signed by the superintendent;

(c) All waivers shall include in the following:

- (1) A reference to the specific section of Ed 321 for which a waiver is requested;*
- (2) A detailed explanation of the standard to be waived and the degree to which the standard will be met if the request for waiver is approved;*
- (3) A detailed explanation of the conditions that prevent compliance with the standards of Ed 321, or an explanation of how the waiver is in the best interest of education or is the most effective use of resources;*
- (4) An explanation of the school's attempts to achieve compliance with the standard;*
- (5) An explanation of the impact of a denial of the request for a waiver; and*
- (6) Other information to support the request that the school would like to have considered.*

(c) Waivers for Ed 321.09 shall be submitted at least 90 days prior to submitting the building aid application and shall also include the following information:

- (1) A table of each room, room number or name, the square footage of each individual space, and the number of students anticipated to be educated in that space;*
- (2) An explanation of how that space meets the minimum requirements and what regulation requires the program to be provided;*
- (3) An explanation of what utilization-maximizing strategies were considered such as multi-grade education and multiple uses of spaces and why these strategies were not sufficient to reduce the total gross square footage of the building; and*
- (4) Other information sufficient that the department can analyze the proposed spaces and uses.*

(d) The commissioner or the commissioner's designee shall request additional information as necessary for a ruling on the request for a waiver.

(e) A written ruling shall be provided to the school by the department within 60 days of receipt of the request for a waiver or following receipt of any additional information requested by the department.

(f) A waiver shall be approved if, in the determination of the commissioner of the department or the commissioner's designee, approval of the request for a waiver will not compromise the quality of education required in Ed 306 and is the best use of available resources.

(g) Any part of construction work that is dependent upon or otherwise affected by the results of the request for waiver shall not proceed until a ruling on the request has been received from the department.

Ed 321.33 Requirements for Projects Listed on the November 2022 Rank Order List.

(a) Project applicants on the November 10, 2022, rank order list approved by the state board shall submit the following documentation to the department by May 1, 2025:

(1) A summary of the district's commitment to good maintenance in accordance with Ed 321.15(i); and

(2) If the project requires land acquisition, an attestation that the land has been acquired or that a legal agreement is in place for acquisition that is subject to receiving building aid.

(b) Projects that fail to have the items requested in (a) above updated, shall not return to the prioritized list but may reapply.

(c) Projects listed on the descending rank order list shall comply with all the rules that are currently in place, regardless of when the rank order was approved.

APPENDIX I

Rule	Statute
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
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 – Ed 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 – Ed 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 – Ed 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

APPENDIX II

Rule	Title	Obtain at
Ed 321.03(h)	Illuminating Engineering Society. ANSI/IES RP-3-20, <i>Recommended Practice: Lighting Educational Facilities</i> . New York: IES; 2020.	https://store.ies.org/product/rp-3-20-recommended-practice-lighting-educational-facilities/?v=7516fd43adaa Available as downloadable secure PDF only. \$120; member price \$84.
Ed 321.03(j)	ANSI S12.60 <i>American National Standard Acoustical Performance Criteria, Design Requirements, and Guidelines for Schools</i> Part 1, 2010 edition	ANSI/ASA S12.60/Part 1-2010 (R2020) - Acoustical Performance Criteria, Design Requirements, and Guidelines for Schools, Part 1: Permanent Schools Available as downloadable PDF, \$143.