

Readopt with amendment Ed 318, effective 7-1-15 (Document #10873), to read as follows:

PART Ed 318 CHARTERED PUBLIC SCHOOLS

Ed 318.01 Purpose and Scope.

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

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

(1) Those persons and entities listed in RSA 194-B:3,V, as eligible to establish a charter school;

(2) An existing public school which is eligible to become a charter conversion school in accordance with RSA 194-B:3,VI;

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

(4) Charter schools authorized under RSA 194-B:3-a.

Ed 318.02 Definitions. In addition to the terms defined in RSA 194-B:1, unless context makes another meaning manifest, the following terms shall have the meaning stated:

(a) “Local school board process” means the approval process set forth in RSA 194-B:3, II; and

(b) “State board process” means the approval process set forth in RSA 194-B:3-a.

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

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

(a) The local school board process in accordance with RSA 194-B:3, III; and

(b) The state board process in accordance with RSA 194-B:3-a.

Ed 318.05 Waiver Provision.

(a) For good cause shown, meaning a hardship which is outside of the control of the applicant, a local school board and the state board shall waive any deadlines applying in RSA 194-B:3 to their respective actions for specific periods of time, provided that a request for a waiver shall:

(1) Be in writing and be signed by the waiver applicant;

(2) Specify the provisions of RSA 194-B:3 to be waived, the duration of the waiver, and the hardship which is outside of the control of the applicant which caused the applicant to ask for a waiver; and

(3) Include a certification that the waiver applicant has made a good faith effort to comply with said provisions.

(b) For the purposes of (a) above, a hardship which is outside of the control of the applicant shall include, but not be limited to:

- (1) Serious illness of the applicant or a member of the applicant team;
- (2) Records or documentation required for application are destroyed or damaged by fire or other accidental cause; or
- (3) A local, state, or federal emergency declaration which causes a process delay.

Ed 318.06 Applications to the Local School Board.

(a) A prospective board of trustees seeking approval for a charter school shall apply to the local school board by July 1 of the year preceding intended opening and in accordance with all of the provisions of RSA 194-B:3.

(b) In accordance with the review procedures described in RSA 194-B:3, III(c), by September 15 of the year in which the application is received, the local school board shall complete its review of the application and either approve or deny the charter application.

(c) In accordance with RSA 194-B:3, IV, the board of trustees may appeal a denial by the local school board to the state board by September 30 of the application year.

Ed 318.07 Local School Board Decision.

(a) In accordance with RSA 194-B:3, III(c), by September 15 of the year in which an application is received, the local school board shall:

- (1) Either approve or deny the charter application; and
- (2) Forward the proposed application, contract, and a written statement of its decision, as outlined in (b) and (c) below, to the state board and to the applicant's prospective board of trustees.

(b) If the application, including a proposed contract as described in RSA 194-B:3, is approved, the local school board shall file the application with the state board with a cover letter indicating the date of the local school board meeting at which the application was approved.

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

- (1) Suggested amendments or additions to the application or contract to correct any areas deemed deficient, numbered to correspond to the list of criteria in RSA 194-B:3, II;
- (2) Any legal questions the local school board wishes the state board to address, including those issues which might require an opinion to the state board by the department of justice; and

(3) Any other matters which might be pertinent concerning the operation of the proposed charter school in the local school board's district.

Ed 318.08 State Board Review of Local Board Process and Application.

(a) In accordance with RSA 194-B:3, III(d), by December 31 of the application year, the state board shall review the application for completeness to ensure that each of the statutory requirements of RSA 194-B:3, II has been met, and shall grant or deny its approval.

(b) The state board shall notify the applicant in writing of its decision as follows:

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

- a. A written notification of any suggested additions or amendments to the proposed application to the local school board and the board of trustees to assure compliance with any component of RSA 194-B:3; and
- b. Two copies of the approved contract to the clerk of the local school district for inspection by the voters of the school district as required under RSA 194-B:3, III(e); or

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

- a. A written explanation of the reasons for the denial;
- b. The areas deemed deficient by the state board; and
- c. An explanation that the applicant may reapply under RSA 194-B:3 or RSA 194-B:3-a.

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

Ed 318.09 Applications to the State Board.

(a) An applicant seeking state board authorization for a charter school shall submit a letter of intent to submit a charter school application to the department's office of charter schools which includes:

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

e. Telephone / Fax number.

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

Ed 318.10 Department, Legal, and Peer Review.

(a) An application to the state board shall not be considered complete until it has undergone a thorough and collaborative review by the office of charter schools, a legal consultant designated by the office of charter schools, and a committee of peers to ensure compliance and completeness in accordance with RSA 193-B:3.

(b) Within 10 days of initial filing, the office of charter schools shall notify the applicant of receipt of the application materials as well any missing materials required by RSA 193-B:3(a)-(bb) and (dd).

(c) Within 30 days of receipt of notification from the office of charter schools as described in (b) above, the applicant, with assistance and collaboration from and by the office of charter schools, shall submit all requested missing information, or the application shall be closed. The prospective board of trustees may submit the application materials again, which shall reset the timeline for review.

(d) A legal consultant designated by the charter school office shall complete a review and appraisal of the application within 30 days of initial filing.

(e) Within 30 days of completion of the legal consultant's review, the application and legal consultant's appraisal shall be reviewed by a committee of peers which shall consist of 3 persons with experience in charter schools, one of whom has administrative experience and one of whom is licensed by the state board as a New Hampshire educator. Conditional upon the availability of funds, the department shall provide a small stipend and travel costs to the committee of peers.

(f) Within 10 days of completion of the peer review, the department shall provide the applicant with written comments, including suggested amendments or modifications from the legal and peer review, if the department determines that amendments or modifications are needed in order for the application to be deemed complete and to ensure compliance with RSA 194-B:3, II(a)-(bb) and (dd).

(g) The applicant shall submit an amended or modified application within 30 days of receipt of notification in (f) above or the application will be closed. The prospective board of trustees may submit the application materials again, as described in Ed 318.09.

(h) The office of charter schools shall notify the applicant of a complete application within 10 days of receipt of all requested amendments and modifications, if required, or within 10 days of completion of the peer review if no amendments or modifications are requested. The notification shall include the date of the next scheduled state board meeting where the charter application will be reviewed, and the deadline for the state board's decision which shall not exceed 60 days from the date of receipt of the complete application pursuant to RSA 541-A:29, II.

Ed 318.11 State Board Approval.

(a) The state board shall notify the applicant in writing of its approval or denial of a chartered public school application within 60 days of the department's notification to the applicant of a complete application pursuant to RSA 541-A:29, II.

(b) The state board shall request in writing the applicant's presence at the state board meeting for which an approval or denial of the application is scheduled, to ask clarifying questions of the applicant.

(c) The board shall approve the application, after reviewing the application and the department's evaluation under Ed 318.10, if it determines the application is in compliance with RSA 194-B:3, II(a)-(bb) and (dd).

(d) If the board determines that more information is necessary to make a decision regarding the approval or denial of the application, upon written agreement by the applicant, pursuant to RSA 541-A:29, IV, the board shall extend the decision deadline to the next scheduled board meeting or a time agreed to by the applicant, not to exceed 90 days.

(e) The state board shall deny an application if it determines the application is not in compliance with the requirements of RSA 194-B:3, II(a)-(bb) and (dd).

(f) If the state board denies an application, the state board shall include in the notification:

- (1) A written explanation of the reasons for the denial;
- (2) The areas deemed deficient by the state board; and
- (3) An explanation that the applicant may reapply under RSA 194-B:3, RSA 194-B:3-a in a subsequent year.

(g) The board of trustees may appeal a denial by the state board in accordance with Ed 213.

Ed 318.12 Issuance and Amendment of Charter.

(a) If the state board, under the local school board process or the state board process approves an application for a charter school, the state board shall issue a charter for the school.

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

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

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

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

- (1) A charter grantee may apply to the commissioner for amendment to its application;
- (2) After the commissioner's review the proposed amendment shall be placed on the agenda of the next regularly-scheduled state board meeting;
- (3) The state board shall notify the board of trustees in writing of its decision to grant or deny the proposed amendment, based on the charter requirements established in RSA 193-B:3, II, within 10 days of its decision, providing reasons for the decision; and
- (4) An appeal from a denial of the proposed amendment by the state board shall be in accordance with Ed 213.

Ed 318.13 Charter Renewal.

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

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

(c) The renewal application process shall include:

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

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

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

- (1) A concise abstract, of approximately one page, restating mission and goals and addressing what progress the school has made:
  - a. Towards its academic goals defined; and
  - b. In programmatic and organizational goals;
- (2) Current enrollment numbers and anticipated enrollment for the next 3 school years;

(3) A statement describing any changes in curriculum or instruction as a result of anticipated growth; and

(4) A report on school features, curriculum and technology programs, successes and failures in academic attainment including:

- a. A discussion of the efforts to disseminate best practices or in other ways coordinating with local or other school districts;
- b. A discussion of parent involvement to date and future plans for parent involvement;
- c. A report on past fundraising efforts and results, future fund raising goals, and plans for achieving sustainability; and
- d. A proposed budget for the following school year including:
  1. A statement on how the school will use public funds; and
  2. A detailed description of the specific board's reasoning for allocation of funds.

Ed 318.14 Review of Renewal Application.

(a) The process for review of the renewal application shall be as follows:

- (1) The department shall conduct a school review and on-site visit; and
- (2) The department shall complete a review and recommendation to the state board.

(b) Criteria for review of application materials shall include:

- (1) Whether the school is making progress toward achieving its mission;
- (2) Whether the school is using public funds as required by the statute and the rules;
- (3) Whether the school is meeting goals for student attainment of expected knowledge and skills;
- (4) Whether the school is making an effort to disseminate best practices or in other ways coordinate with the local or other school districts; and
- (5) Whether the school is sustainable.

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

Ed 318.15 Revocation and Withdrawal.

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

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

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

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

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

Ed 318.16 Policy Development. The school shall develop policies in accordance with the following:

(a) Records retention in accordance with RSA 189:29-a;

(b) Promoting school safety including:

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

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

Ed 318.17 Charter School Annual Report Requirements.

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

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



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

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

Ed 318.18 Review of Annual Reports. The commissioner shall review the collected data from each authorized charter school in accordance with the requirements of RSA 194-B and Ed 318.16, for the purpose of providing, to the state board, an ongoing status report of each charter school. The data specifically required shall not exceed the reporting requirements of New Hampshire public schools.

Ed 318.19 Deadlines for Pupil Enrollment.

- (a) A charter school approved under the local school board process shall accept applications for students only after the date when the charter school contract was ratified by the school district legislative body under RSA 194-B:3, III(e).
- (b) A charter school approved under the state board process shall accept applications for students only after the charter has received approval from the state board.
- (c) If a pupil accepts admission to a charter school, receipt of student records from the student's previous school shall constitute proper notification of enrollment by the charter school.

Ed 318.20 Assurances Against Discrimination.

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

- (1) Local school board process, be directed to the school board for review and disposition; and
  - (2) State board process, be directed to the state board for review and disposition pursuant to Ed 200.
- (b) A decision of the local school board may be appealed to the state board, in accordance with Ed 200.
- (c) A decision of the state board may be appealed in accordance with Ed 213.

**Appendix I**

<b>Rule</b>	<b>State or Federal Statute or Federal Regulation Implemented</b>
Ed 318.01	RSA 194-B:3
Ed 318.02	RSA 194-B
Ed 318.03	RSA 194-B:5
Ed 318.04	RSA 194-B:3
Ed 318.05	RSA 194-B
Ed 318.06	RSA 194-B:3
Ed 318.07	RSA 194-B:3
Ed 318.08	RSA 194-B:3
Ed 318.09	RSA 194-B:3-a
Ed 318.10	RSA 194-B:3 and RSA 194-B:3-a
Ed 318.11	RSA 194-B:3
Ed 318.12	RSA 194-B:3
Ed 318.13	RSA 194-B:3
Ed 318.14	RSA 194-B:3
Ed 318.15	RSA 194-B:16
Ed 318.16	RSA 194-B:11
Ed 318.17	RSA 194-B:3
Ed 318.18	RSA 194-B:3
Ed 318.19	RSA 194-B:3
Ed 318.20	RSA 194-B:15 and RSA 194-B:16,I