

# STATE OF NEW HAMPSHIRE

## Inter-Department Communication

**DATE:** January 13, 2022

**FROM:** Michael A. Morrell  
Administrative Rules Director

**AT (OFFICE):** Legislative Services

**SUBJECT:** Final Proposal 2021-102 Education Freedom Accounts Program

Attached are Kim Reeve's comments on Final Proposal 2021-102 from the Board of Education (Board) relative to the re-adoption with amendments of Part Ed 324 on the Education Freedom Accounts (EFA) Program and renumbering as Chapter Ed 800. The existing rule is an interim rule which is scheduled to expire February 23, 2022. The interim rule implemented Chapter 91:431-432 of the Laws of 2021 (HB 20). 91:431 was codified as RSA 194-F, effective August 27, 2021.

Most of the substantive comments relate to the public interest due to lack of clarity and not being capable of uniform application and to legislative intent due to the possibility of oral rulemaking in violation of RSA 541-A:22, I. However, as noted on pages 9-11, there are also issues of legislative intent or authority due to apparent inconsistencies with RSA 194-F.

Additionally, there is a comment on page 15 regarding a potential need for legislation regarding ambiguities in RSA 194-F.