

APPENDIX II-G

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2021-103 Rule Number Ed 306.18 and Ed 306.22

<p>1. Agency Name & Address: State Board of Education c/o Department of Education 101 Pleasant Street Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 21-N:9, I</u> 3. Federal Authority: _____ 4. Type of Action: <input type="checkbox"/> Adopt <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal <input type="checkbox"/> Readoption <input checked="" type="checkbox"/> Readoption w/amendment</p>
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5. Short Title: **School Year and Distance Education**

6. Contact person for copies and questions:

Name: **Amanda Phelps** Title: **Administrative Rules Coordinator**
 Address: **Department of Education** Phone #: **(603) 931-9133**
101 Pleasant Street
Concord, NH 03301

7. Yes No Agency requests review by Committee legal staff in the Office of Legislative Services and delayed Committee review pursuant to RSA 541-A:12, I-a.

8. The rulemaking notice appeared in the Rulemaking Register on

SEE THE INSTRUCTIONS--PLEASE SUBMIT ONE COPY OF THIS COVER SHEET AND ONE COPY OF THE FOLLOWING: (optional to number correspondingly)

9. The "Final Proposal-Fixed Text," including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

10. Yes N/A Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

11. Yes N/A The "Final Proposal-Annotated Text," indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(d).

12. Yes N/A The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

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5. Short Title: **School Year and Distance Education**

6. (a) Summary of what the rule says and of any proposed amendments:

Ed 306.18 regarding the school year and Ed 306.22 regarding distance education are being proposed for readoption with amendment. Ed 306.18 is being amended to clarify how and when distance education shall count toward a school district's required instructional time. Ed 306.22 is being amended to clarify that school districts are required to provide in-person instruction to all students all school year and under what circumstances a district is permitted to offer distance education.

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

School districts, staff, students, and parents of students are affected by these rules.

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

Rule	State or Federal Statute or Federal Regulation Implemented
Ed 306.18	RSA 189:1; RSA 189:24
Ed 306.22	RSA 21-N:9, I; RSA 186:8, I and II

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

Name: **Amanda Phelps**

Title: **Administrative Rules
Coordinator**

Address: **Department of Education
101 Pleasant St.
Concord, NH 03301**

Phone #: **(603) 931-9133**

Fax#:

E-mail: **Amanda.j.phelps@doe.nh.gov**

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

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **November 18, 2021**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **November 10, 2021 @ 11:00 a.m.**
Place: **Department of Education, Walker Building, 21 South Fruit Street,
Concord, NH 03301, Room 100**

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

FIS # 21:108 , dated 9/29/2021

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

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

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

CONSENT

Readopt with amendment, Ed 306.18, effective 3-27-14 (Document #10556), as amended effective 6-5-19 (Document #12814), as amended effective 3-12-20 (Document #13001, Emergency) and expired 9-8-20, as modified effective 8-13-20 by Exhibit P of Emergency Order #29 and expired 6-12-21, and as amended effective 7-29-21 (Document #13245), to read as follows:

Ed 306.18 School Year.

(a) Pursuant to RSA 189:1 and RSA 189:24, each school district shall maintain a school year as provided below:

(1) The school district shall maintain in each elementary school, a school year of at least 945 hours of instructional time and in each kindergarten at least 450 hours of instructional time;

(2) The school district shall maintain in each middle and high school, a school year of at least 990 hours of instructional time. Districts shall provide at least 990 hours of instructional time for grades 7 and 8 in elementary schools that include grades 7, or 8, or both;

(3) The instructional school day of an individual student shall not exceed 5.75 hours of instructional time in elementary schools and 6 hours of instructional time in middle and high schools;

(4) The school shall have in its school year an additional 60 hours in duration to provide for instructional time lost due to inclement weather or unexpected circumstances, staff development, and parent-teacher conferences. At least 30 of the 60 additional hours shall be available for rescheduling hours lost due to inclement weather or other emergencies. Schools shall use these additional hours to reschedule lost instructional time before requesting a waiver of the amount of instructional time under RSA 189:2, unless extraordinary circumstances exist that would place an unreasonable burden on the school or students such as, but not limited to, substantial building damage;

(5) A school may have a shortened day when an emergency condition exists which might adversely affect the health and safety of students, provided that the number of hours of instructional time originally planned for the day shall be credited to the number of hours of instructional time in the school year, if:

a. On that day, the school would normally have had at least 5.25 hours of instructional time; and

b. The school remained open for at least 3.5 hours of instructional time;

(6) There shall be no requirement to reschedule instructional time for kindergarten if morning or afternoon kindergarten sessions are cancelled due to delayed opening or early release for students in grade 1 or higher; and

(7) Distance education conducted in accordance with Ed 306.22(c) shall count toward the required amount of instructional time.

(b) Lunch time, home room periods, passing time, and breaks shall not be counted toward the required amount of instructional time. Elementary schools may count up to 30 minutes of recess per day as instructional time for pupils in kindergarten through grade 6. Advisory periods in middle and high schools shall be counted as instructional time.

(c) The high school graduation date shall be set no more than 5 school days or 30 instructional hours before the end of the scheduled school year without consideration of making up lost time pursuant to Ed 306.18 (a)(4).

Readopt with amendment Ed 306.22, effective 7-29-21 (Document #13245), to read as follows:

Ed 306.22 Distance Education.

(a) All students shall have access to full-year, full-day instruction, in-person ~~instruction~~ as required in RSA 189:1 and RSA 189:24. Distance education, as defined in Ed 306.22(b), shall not satisfy the requirement for in-person instruction except as conducted in accordance with 306.22(c).

(b) In this section, "distance education" means any instructional mode that is not in-person instruction including, but not limited to, correspondence, video-based, internet-based, online courses, remote instruction, or any combination thereof. The term distance education also includes hybrid instructional models that utilize elements of distance education and traditional instruction in any combination.

(c) Distance education may be offered only:

(1) When inclement weather makes it unsafe to safely transport students to or from in-person instruction; or

(2) As an option for a parent or guardian making a request for distance education.

(d) When the district offers distance education, the school board shall be responsible for the development of a policy for the governance and administration of distance education.

(e) If a student participating in distance education is not making educational progress, as determined by the district's educational assessments, the option to participate in distance education may be rescinded by the district.

(f) A parent or guardian may appeal a district determination that a student is not making educational progress pursuant to the district's educational assessments to the state board of education under Ed 200.

(g) A student shall remain in distance education until the conclusion of the appeal in (f) above. If the state board of education upholds the district's conclusion that the student is not making educational progress pursuant to the district's educational assessments, the student shall immediately be disqualified from continued participation in the district's distance education instruction.

(h) School districts may cooperate to share delivery of distance education.

Appendix I

Rule	State or Federal Statute or Federal Regulation Implemented
Ed 306.18	RSA 189:1; RSA 189:24
Ed 306.22	RSA 21-N:9, I; RSA 186:8, I and II