

COVER SHEET FOR EMERGENCY RULE

Document Number #14669

Rule Number Ed 321.36

1. Agency Name & Address:
Board of Education
c/o Department of Education
25 Hall St.
Concord, NH 03301

2. RSA Authority: RSA 21-N:9, II(c)

3. Federal Authority: _____

4. Type of Action:

Adoption X

Amendment _____

Repeal _____

5. Date of Filing: **August 13, 2026**

6. Short Title: **Confidentiality of Building Aid Applications**

7. Contact person for copies and questions:

Name: **Julie Shea**

Title: **Administrative Rules
Coordinator**

Address: **Department of Education**
25 Hall St.
Concord, NH 03301

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

**PLEASE ATTACH THE FOLLOWING, numbered to correspond to the numbers on this sheet (a separate sheet is not required for every item):

8. An explanation of the nature of (a) the imminent peril to public health or safety, demonstrating that the emergency rule is necessary to prevent the imminent peril, or (b) the substantial fiscal harm to the state or its citizens which could otherwise occur if the rule were not adopted as an emergency rule.

9. A summary of the effect if the rule were not adopted.

10. A description of those affected.

*PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET and all attachments along with 2 copies of the emergency rule to the Office of Legislative Services, Administrative Rules.

**PLEASE SIGN THE FOLLOWING:

I, the adopting authority,* hereby certify that the attached is an accurate statement explaining why an emergency rule is necessary.

Date: **08/13/2026**

Signature: 

Name: **Andrew Cline**

Title: **Chair, State Board of Education**

*("Adopting authority" is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)

8. Emergency adoption of Ed 321.36 is appropriate under RSA 541-A:18 because an imminent peril to public safety exists that requires the state board of education to act on fewer than the days ordinarily required for rulemaking. Pursuant to existing administrative rules, the department has already accepted building aid applications for the current aid cycle. Applications that have been received by the department potentially contain school safety and security information including details that reflect the school's ability to respond to emergency situations and details concerning the preparation for and carrying out of emergency functions that are considered exempt from disclosure under RSA 91-A:5, VI. If this information were released by the building aid authority or the state board of education, it could reveal the physical vulnerabilities of school facilities and thereby risk the safety of the school buildings, and these acts could result in loss of life or property damage.

9. Because the applications have already been submitted to the department and the ranking process has begun, there is no adequate opportunity to complete ordinary rulemaking before this sensitive information would otherwise be disclosed. The department's ranking must be submitted to the building authority no later than August 1 and the school building authority must submit their ranked list to the state board by October 15 for the approval and publication of the list no later than November 15. Consequently, the timing does not allow for full rulemaking. Absent an enforceable rule governing the designation, redaction, and confidential handling of this information, the department lacks clear authority to withhold from the public, the state board, or the school building authority the material that applicant districts have identified as confidential, leaving school security information at imminent risk of exposure. Emergency rulemaking is therefore necessary to protect the safety of students, staff, and school facilities while the state board has an opportunity to engage in the full rulemaking process.

10. Applicants to the school building aid program under RSA 198:15-a through RSA 198:15-hh.

STATE OF NEW HAMPSHIRE



OFFICE OF LEGISLATIVE SERVICES
ADMINISTRATIVE RULES

STATE HOUSE ANNEX
25 CAPITOL STREET, ROOM 234
CONCORD, NH 03301

Cover Sheet for Emergency Rule

Adoption Number: #14669

Rule Number: Ed 321.36

1. **Agency:** Board of Education
Agency Address: c/o Department of Education 25 Hall St. Concord, NH 03301
2. **RSA Authority:** RSA 21-N:9, II(c)
3. **Federal Authority:**
4. **Action(s):** Adoption
5. **Filing Date:** 2026-08-13
6. **Short Title:** Confidentiality of Building Aid Applications
7. **Contact person for copies and questions including requests to accommodate persons with disabilities:**

Name: Julie Shea	Title: Administrative Rules Coordinator
Address: Department of Education 25 Hall St. Concord, NH 03301	Phone Number: (603) 931-9133
	FAX Number:
	Email: julie.r.shea@doe.nh.gov

****PLEASE ATTACH THE FOLLOWING, numbered to correspond to the number on this sheet (a separate sheet is not required for every item):**

8. **An explanation of the nature of (a) the imminent peril to public health or safety, demonstrating that the emergency rule is necessary to prevent the imminent peril, or (b) the substantial fiscal harm to the state or its citizens which could otherwise occur if the rule were not adopted as an emergency rule.**

Emergency adoption of Ed 321.36 is appropriate under RSA 541-A:18 because an imminent peril to public safety exists that requires the state board of education to act on fewer than the days ordinarily required for rulemaking. Pursuant to existing administrative rules, the department has already accepted building aid applications for the current aid cycle. Applications that have been received by the department potentially contain school safety and security information including details that reflect the school's ability to respond to emergency situations and details concerning the preparation for and carrying out of emergency functions that are considered exempt from disclosure under RSA 91-A:5, VI. If this information were released by the building aid authority or the state board of education, it could reveal the physical vulnerabilities of school facilities and thereby risk the safety of the school buildings, and these acts could result in loss of life or property damage.

9. **A summary of the effect if the rule were not adopted.**

Because the applications have already been submitted to the department and the ranking process has begun, there is no adequate opportunity to complete ordinary rulemaking before this sensitive information would otherwise be disclosed. The department's ranking must be submitted to the building authority no later than August 1 and the school building authority must submit their ranked list to the state board by October 15 for the approval and publication of the list no later than November 15. Consequently, the timing does not allow for full rulemaking. Absent an enforceable rule governing the designation, redaction, and confidential handling of this information, the department lacks clear authority to withhold from the public, the state board, or the school building authority the material that applicant districts have identified as confidential, leaving school security information at imminent risk of exposure. Emergency rulemaking is therefore necessary to protect the safety of students, staff, and school facilities while the state board has an opportunity to engage in the full rulemaking process.

10. **A description of those affected.**

Applicants to the school building aid program under RSA 198:15-a through RSA 198:15-hh.

****PLEASE SIGN THE FOLLOWING:**

I, the adopting authority,* hereby certify that the attached is an accurate statement explaining why an emergency rule is necessary.

Date: 2026-08-13 **Name:** Drew Cline **Title:** Chair, State Board of Education

**('Adopting authority' is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)*

Files Uploaded to Server:

1. Ed 321.36 emergency rule.docx

2. Emergency_Rulemaking_Cover_Ed 321.36.docx

This list shows only files that have already been uploaded.

* denotes files uploaded by Rules

Adopt Ed 321.36 to read as follows:

Ed 321.36 Confidentiality of Building Aid Applications.

(a) At the request of the department, an applicant may designate any portion of the application to be considered confidential because:

- (1) Release of the information and conditions that are the basis for the request for funds would put the safety or security of the building, staff, or students at risk; or
- (2) The information or information that the applicant considers confidential based on safety and security concerns would be considered exempt from disclosure under RSA 91-A.

(b) Portions the applicant may designate as confidential pursuant to (a) above include:

- (1) Security conditions listed in the building aid application submitted in accordance with Ed 321.15(a) and (h);
- (2) The school security assessment required in Ed 321.15(g);
- (3) Details related to safety and security in Ed 321.12(a)(8) for the needs assessment; and
- (4) Any additional details that the applicant determines to be related to the preparation for and carrying out of emergency functions pursuant to RSA 91-A:5, VI.

(c) Only the redacted version of the application shall be released to the public under RSA 91-A in response to a request made to the department, the state board, or the building authority.

(d) The department shall provide the school building authority with both the redacted and unredacted versions of the application for the verification of project ranking, to review with the items submitted in Ed 321.16(i).

(e) When the school building authority submits the descending rank order to the state board pursuant to Ed 321.16(k), the department or the school building authority shall provide the state board with both the redacted and unredacted versions of the application provided to the school building authority under (d) above. Only the redacted versions will be posted by the state board as part of the state board meeting materials.

(f) The unredacted copy of the application shall not be made public by the department, the building authority, or the state board. The department, the building authority, and the state board shall ensure the confidentiality of all information contained in the unredacted version of the application.

(g) Should the state board or the school building authority choose to deliberate the project ranking, the meeting shall enter nonpublic session pursuant to RSA 91-A:3, II(i) if any matters related to the preparation for and carrying out of emergency functions are discussed, or any matter reflected in the redacted version of the application will be discussed. Minutes of any nonpublic session may be sealed consistent with RSA 91-A:3, III.

Appendix I

Rule	Statute
Ed 321.36	RSA 91-A:3, II(i); RSA 91-A:5; RSA 198:15-c, II(a)