

Department of Education Rulemaking Process

STEP	DESCRIPTION	PROCESS TIME	Estimated Time
Rule Revision – Stakeholders and Professional Standards Board (PSB)	Rules are opened based on a number of factors, including an upcoming expiration date or a new law that requires a revised rule.	Open-ended time frame or a time frame determined by the expiration date of an existing rule or the effective date of a new law.	Open-ended
Initial Proposal to Board of Education (BOE)	Rules cannot enter the rulemaking process without approval by the Board of Education. If the Board approves the proposal, a public hearing is scheduled for two months later at a BOE meeting. If the board does not approve, the rule must go back to the stakeholders for more revision.	Depending on when the next board meeting is scheduled, this process could take a month or up to two months for the rule to be placed on the board’s next agenda.	8 weeks
Initial Proposal to Legislative Budget Assistant (LBA)	NHEd needs to request a Fiscal Impact Statement (FIS) from the LBA in order to continue the rulemaking process. Agencies are required to identify the fiscal impact of any rule for revision or adoption. The LBA determines the FIS based on information provided by the department.	Turnover time from the LBA is 10 business days from the date of submission.	2 weeks
Initial Proposal to Office of Legislative Services (OLS) to be published in rulemaking register	Once the FIS has been completed and sent back from the LBA, NHEd must submit a rulemaking notice form, a copy of the FIS and a copy of the rule text to OLS for publishing in the rulemaking register. The date of publication in the register is the date which starts the 180-day clock on the rulemaking process.	Rulemaking registers are published every Thursday afternoon. Rulemaking notice forms must be submitted by 4pm on the Thursday of the week before the publication. Therefore, this process can take up to a week depending on when the FIS is received from the LBA.	1 week
Public Hearing Scheduled, posted and announced	Public hearing dates and times are posted on the NH Ed website, published in the rulemaking register and sent to a list of stakeholders per RSA 541-A:6, III. The public must be given at least 20 days’ notice.	This is completed within two days of receiving the rulemaking register, but the public hearing date must be at least 20 days in the future.	20-40 days
Public Hearing	The BOE holds the public hearing at the board room in the DOE at the scheduled date and time	One day.	1 day
Public Comment	Written public comment deadline cannot be less than 5 business days from the date of the hearing. Written public comment is submitted to the agency contact listed in the rulemaking register.	The DOE allows 8-10 business days from the date of the public hearing for submission of written public comment	2 weeks

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Final Proposal to BOE	After the deadline of the public comment, NHed staff prepares a final proposal that considers public comment and incorporates edits from OLS staff attorneys for the Joint Legislative Committee on Administrative Rules (JLCAR). The final proposal is placed on the next available BOE agenda for approval.	2 weeks to one month to be revised and placed on the next BOE agenda.	4 weeks
Final Proposal to OLS/JLCAR	If the board approves the final proposal it is submitted to OLS to be heard at the next JLCAR (legislative oversight committee) meeting.	NHed has a maximum of 180 days from the date the rule was published in the rulemaking register to submit the final proposal to OLS, unless an extension is requested giving an additional 30 days. Final proposals must be submitted to OLS no later than 21 days prior to a regularly scheduled JLCAR meeting.	4 weeks
Final Proposal to BOE for adoption	If JLCAR approves the final proposal, NHed staff submits the final proposal back to the BOE at their next scheduled meeting for adoption.	Depending on the date of the JLCAR meeting, this process could take about a month.	4 weeks
Adoption	If the board adopts the rule, the rule becomes effective at midnight the day after the rule is filed with OLS. DOE staff must submit the rule in its final form to OLS with a letter stating that the rule has not been changed since it was reviewed and approved by JLCAR.	One day. The rule is published in its adopted form on the DOE website.	1 day
Certification	A rule is in effect at midnight on the day it is submitted to OLS, which happens no later than the day after the board voted to adopt. The rule still needs to be certified for grammar and editorial changes.	The DOE has 120 days from the day of adoption to certify the rule. DOE staff does not take more than one week to complete this process under typical circumstances. The rule does not get published on the OLS website until it is certified.	N/A

**Total: 6-9 months**

**Total estimated process time for a regular rulemaking process is 6-9 months. There can be delays which can add months to the process time because of pre-scheduled meeting dates.**