

Policy FAA: Annual Facility Plan and Unused District Property Status: ADOPTED

Original Adopted Date: 09/01/2021 | Last Revised Date: 11/13/2025 | Last Reviewed Date:
11/13/2025

Category: Recommended

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### ADOPTION/REVISION NOTES -

**Text between the highlighted lines “~ ~ ~ ~”, and highlights in this sample should be removed prior to adoption.**

- a. **General** – As with all sample policies, NHSBA recommends that each district carefully review this sample prior to adoption/revision to assure suitability with the district’s own specific circumstances, internal coding system, current policies, and organizational structures.
- b. **General – Highlighted language** or blank, underscored spaces indicate areas which Boards should review, change or complete to reflect local personnel titles, internal/external policy references, duty assignments etc.
- c. **General – {\*\*}** indicates a reference to another NHSBA sample policy. A district should check its own current policies and codes to assure internal consistency.
- d. **General** – Withdrawn & earlier versions of revised policies should be maintained separately as part of the permanent records of the District.

**NHSBA history: Revised** - Nov. 2025, May 2024, September 2023; **New policy** – September 2021.

**NHSBA notes, Nov. 2025**, sample revised to include language from 2025's HB484 (amending RSA 188-E:3, II) allowing re-purposing CTE center facilities after 20 years. **May 2024**, revised Section E.5 to more fully reflect the provisions of RSA 194:61, III relative to negotiations with charter schools for sale or lease of unused facilities. **September 2023**, substantial revisions to the former version, including a change to the title. Most importantly, policy was expanded to include specific provisions relating to statutory rights charter schools have to school district property when the district is neither using the property and has no plan to use it within two years. Because of the significance and legal complexity of how the charter school rights impact district property interests, we have included much of the statutory language. **September 2021**, This Sample Policy was developed to encourage districts to maintain annual records of facilities and usage, and to provide for organized long-term planning and efficiency in facility use. It also accounts for new statutory obligations germane to unused facilities lacking in an official plan pursuant to RSA 194:61, as effected in HB 278. Under RSA 194:61, the District is required to submit a list of “unused facilities” to the DOE no later than January 1, 2022, and updated plans each July 1 thereafter.

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A. Drafting and Adoption. The School Board shall adopt and approve an Annual Facility Plan by June 1 of each year.^{1[Delete footnote]}

The Facility Plan shall be developed and drafted by the [insert person or committee responsible for facilities planning, e.g., Superintendent/designee, or Board Facilities Committee], and it shall be proposed to the School Board for comment and adoption at least 30 days prior to the adoption deadline articulated above.

- B. **Contents of Facility Plan.** In preparing the annual Facility Plan, due consideration will be given to the most recent Capital Improvement Program prepared pursuant to Board policy [**] FA. The Facility Plan shall account for each facility owned by the District and document the use of each such facility. For each then unused facility, the plan shall specify any uses intended within the next two years of the annual plan approval relative to academic purposes, extracurricular activities, administrative functions, and/or sports. Facilities for which no current or intended use is included on the plan shall be referred to in this policy as “Unused Facilities”. [{Include if the District maintains a building or portion of building used exclusively as a CTE center}NOTE: Beginning in[state the 18th year after the building or portion thereof began operated/ing as a CTE center ____], the Facility Plan should take into account that pursuant to RSA 188-E:3, II, that after a facility has been used exclusively as a CTE center, the District may repurpose the facility at no cost. When the Board considers re-purposing, it should ensure that stakeholders (including the CTE program, staff, and students) are consulted prior to re-purposing, and should review outstanding RCTEAs, and other applicable contracts.]
- C. **"Unused Facility" Defined.** As used in the policy, “Unused Facility” or “Unused Facilities” shall mean any district-owned school building which is not currently used for academic purposes, extracurricular activities, administrative school functions, or sports, and for which the School Board has not approved a written plan for future use.
- D. **Annual Report to N.H. Department of Education.** The Superintendent shall submit a report of Unused Facilities to the New Hampshire Department of Education no later than July 1 of each year.
- E. **Charter School Rights Relative to Unused Facilities.**
1. **Right of First Refusal:** Pursuant to RSA 194:61, such Unused Facilities are encumbered by a right of first refusal (“ROFR”) available to every approved charter school operating in New Hampshire. If the District has an Unused Facility which it seeks to sell or lease to a party other than an approved charter school, the District will include a ROFR provision in the offer for sale/lease and/or a sale/lease contract.
 2. **Conditional Contract for Sale/Lease.** If a prospective purchaser which is not an approved charter school enters into a contract with the District for purchase, lease or sale, (that is, an offer to sell/lease by the District is accepted by the prospective purchaser), the contract (the “Original Contract”) will be conditioned upon the expiration of the ROFR. **It is essential that the prospective purchaser or lessee is made aware of the ROFR prior to execution of the Original Contract, and that the Original Contract clearly articulates the ROFR with specific reference to RSA 194:61.** The District will promptly notify the Charter School Administrator of the Department of Education (“DOE Charter School Administrator”) in order for the Department to alert all approved charter schools in the state and allow them a chance to respond. The notice provided to the DOE Charter School Administrator shall contain clear language that the Unused Facility is available to any approved chartered public school in this state only, and shall list the offering school district's name and location, the square footage of the Unused Facility, the contact information of the offering school district's representative, and the expiration date of the right of

first refusal which shall be 60 days after the date the District provided notice to the DOE Charter School Administrator.

3. Charter School Rights if No Other Offer Received. If the offering school district has not received an offer to purchase or lease an Unused Facility from a party, other than an approved chartered public school operating in this state, a chartered public school may initiate, and Board shall engage in, good faith negotiations for the purchase or lease of the Unused Facility.
4. Invocation of Rights by One or More Approved Charter Schools. If the District receives an offer on an Unused Facility from an approved charter school prior to the expiration date of the ROFR, the District will respond promptly to the offer and notify the prospective purchaser under the Original Contract and engage in good faith negotiations. If more than one chartered public school makes an offer on the District's Unused Facility, the School Board will make the final selection between the parties based on criteria established by the School Board and in accordance with the best interests of the District.
5. Procedure for Resolution of Negotiation Impasse. The District must continue good faith negotiations with a charter school that has made an offer on an Unused Facility for at least 30 days unless an earlier agreement is reached. If no agreement is reached within the 30 days, the Commissioner of the Department of Education shall engage an independent mediator who shall gather independent appraisals of the value of the property when the chartered public school made an offer to purchase. The appraised value shall determine a fair market price for the offering chartered public school. In situations when the charter school made an offer to lease the property, the appraisals gathered by the mediator shall determine a fair market lease price for the offering chartered public school.
6. District Discretion. In right of first refusal negotiations with a chartered public school, it shall be the option of the Board whether to sell or to lease the property under consideration, at fair market value or less, for a term to be agreed upon by the parties. Any lease terms shall include, among others agreed upon by the parties, any required provisions for such leases as found in RSA 194:61.
7. Expiration of Right of Charter School After Written Offer. The chartered public school shall have 6 months after the date of making a written offer to complete the purchase or lease of the unused facility for a price negotiated with the school district.

state the 18th year after the building or portion thereof began operated/ing as a CTE center

¹ [Delete endnote] This policy and the "Annual Facility Plan" is not intended to replace or even serve the same purpose of a capital improvement or strategic plan. Rather, it is to help assure compliance with newly enacted RSA 194:61. Existing capital improvement, strategic or other such plans should inform the Annual Facility Plan. Under RSA 194:61, the District is required to submit an updated list of "unused facilities" to the DOE no later than July 1 of each year.. The June 1 date used in this policy for the local board to approve is a plan intended to give districts ample time to meet the

statutory reporting time. Districts may use other dates to best suit their local needs.

District Policy History:

First reading:

Second reading/adopted:

District revision history:

Legal References Disclaimer: *These references are not intended to be considered part of this policy, nor should they be taken as a comprehensive statement of the legal basis for the Board to enact this policy, nor as a complete recitation of related legal authority. Instead, they are provided as additional resources for those interested in the subject matter of the policy.*

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NH Statutes Description

RSA 188-E:3 [Construction or Renovation of Regional Career and Technical Education Centers](#)

RSA 194:61 [Unused District Facilities](#)

Cross References

Code Description

FA [Facilities Development Goals and Preparation of Capital Improvement Plan](#)