

**This document represents the rulemaking as amended by the State Board of Education on February 1, 2017, and approved for publication in the N.J. Register.**



**State of New Jersey**  
DEPARTMENT OF EDUCATION  
PO Box 500  
TRENTON, NJ 08625-0500

**Proposal**  
**February 1, 2017**

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

KIMBERLEY HARRINGTON  
*Acting Commissioner*

**TO:** Members, State Board of Education

**FROM:** Kimberley Harrington  
Acting Commissioner

**SUBJECT:** N.J.A.C. 6A:11, Charter Schools  
N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency and Budgeting Procedures  
N.J.A.C. 6A:26, Educational Facilities

**REASON FOR ACTION:** Amendments, Repeals and New Rules

**AUTHORIZATION:** N.J.S.A. 18A:1-1, 18A:4-15, 18A:6-38, 18A:7G-26, 18A:23-1 et seq.,  
18A:26-2.10, and 18A:36A-1 et seq.

**SUNSET DATE:** N.J.A.C. 6A:11 – November 5, 2021  
N.J.A.C. 6A:23A – May 24, 2017  
N.J.A.C. 6A:26 – November 20, 2020

### **Summary**

In November 2015, Governor Christie met with State and national charter operators to discuss the state of public charter schools in New Jersey. During this discussion, many charter operators explained that New Jersey's regulatory environment is a major impediment to growth of the charter sector in the State.

During the last several months, the Department of Education (Department) has worked with charter leaders in New Jersey and national charter experts to develop recommendations to offer school operators increased autonomy and opportunities for innovation in exchange for accountability for student outcomes.

The proposed regulatory changes will ensure charter schools have increased flexibility, autonomy, and time to innovate and produce strong educational outcomes for all students. In addition, the proposed changes will incentivize operators both in-State and out-of-State to invest in New Jersey.

The Department proposes to add, amend, repeal, and recodify rules in three chapters of Title 6A of the New Jersey Administrative Code to achieve the following:

- Permit a weighted lottery for charter school enrollment;
- Establish an expedited renewal process for high-performing charters;
- Permit single-purpose charter schools;
- Ease the way for charter schools to secure facilities and capital funding;
- Streamline procedures around budgetary controls and fund monitoring; and
- Enact other regulatory changes.

The following summarizes, by subchapter, the proposed amendments, repeals, recodifications, and new rules.

## **Chapter 11. Charter Schools**

### **Subchapter 1. General Provisions**

#### **N.J.A.C. 6A:11-1.2 Definitions**

This section defines the terms used in the chapter.

The Department proposes a definition for “construction” to mean the building of a wholly new school facility.

The Department proposes a definition for “expansion” to mean an addition to an existing school facility characterized by an increase in the school facility’s square footage.

The Department proposes a definition for “expedited renewal” to mean the granting, on an accelerated basis, of a charter’s continuation for a five-year period by the Commissioner, which will be reserved for high-performing charter schools with no major fiscal or compliance issues.

The Department proposes a definition for “high-performing charter school” to mean a charter school that earns a Tier Rank 1, which is the highest possible rank, based on the metrics set forth in the Academic Performance Framework.

The Department proposes amendments to the definition of “norm-referenced achievement test,” which means the California Achievement Test (CAT); Metropolitan Achievement Test (MAT); Stanford Achievement Test (SAT); or the Comprehensive Test of Basic Skills (CTBS) or one of the tests within the CTBS. The Department proposes to add “any assessment that compares test takers’ results to an average in order to distinguish between high and low performances. Examples include:” to provide a more broad explanation of the term, rather than a list of examples.

The Department proposes amendments to the definition of “Performance Framework,” to update and more clearly outline the criteria the Department uses to evaluate the academic, financial, and organizational performance of each charter school. The current definition, for example, cites New Jersey Assessment of Skills and Knowledge (NJASK) measures of proficiency and Federal No Child Left Behind (NCLB) requirements, which have been or will be replaced by Partnership for Assessment of Readiness for College and Careers (PARCC) assessment measures of grade-level expectations and Every Student Succeeds Act (ESSA)

accountability requirements, respectively. The Department proposes the definition of “Performance Framework” to mean the accountability system the Department must use to evaluate the academic, financial, and organizational performance of each charter school. The Performance Framework shall be shared with all charter schools and posted on the Department’s website. The academic component includes, but is not limited to, measures of: student growth; student achievement; high school graduation rate; leading indicators of school success, such as attendance; and State and Federal accountability requirements. Measures of student growth, student achievement, graduation rate, and leading indicators are evaluated relative to: Statewide results, primary sending district results, and results of similar schools. Additionally, each charter school will be responsible for unique mission-specific goals included in their charter agreement. Criteria for the organizational component consist of, but are not limited to, compliance with statutory requirements in N.J.S.A. 18A:36A-1 et seq. and all applicable statutes in Title 18A, and regulatory requirements that ensure equitable access, pursuant to N.J.A.C. 6A:7, Managing for Equality and Equity in Education, and 6A:11-4.12, Equity in education; and safe and secure learning environments, pursuant to N.J.A.C. 6A:16, Programs to Support Student Services. Criteria for the financial component include, but are not limited to: the generally accepted accounting principles set forth in N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency, and Budgeting Procedures, and indicators of near- and long-term viability.

The Department proposes a definition for “planning year” to mean a one-year period between a charter school’s application approval and the final granting of its charter to prepare for the charter school’s opening.

The Department proposes a definition for “rehabilitation” to mean as defined in N.J.A.C. 6A:26-1.2.

The Department proposes amendments to the definition of “satellite campus,” which means a school facility, located within a school district with a priority school or a former Abbott District as of July 1, 2012, operated by a charter school under the school’s charter that is in addition to the facility identified in the charter school application or charter, if subsequently amended. The Department proposes to delete “located within a district with a priority school or a former Abbott District as of July 1, 2012,” and “under the school’s charter” to clarify charter schools in any school district can operate in multiple facilities, as long as the charter schools gain approval through the amendment process.

The Department proposes to amend the definition of “school year,” which means July 1 to June 30 of any given academic year. If operating with an extended school year, this term means an alternate fiscal school year beginning no later than September 1 and ending no later than August 31 of any given academic year. The Department proposes to delete the second sentence in the definition because the fiscal year for a charter school does not change, regardless of whether it operates with an extended school year.

The Department proposes a definition for “weighted lottery” to mean a random selection process that provides additional weight or increased chances to individual students who are identified as part of a specified set of educationally disadvantaged students, but does not reserve or set aside seats for individual students or sets of students.

## **Subchapter 2. Application and Approval; Reporting; Renewal; Probation and Revocation; Appeal; Amendment and Conversion Processes**

### **N.J.A.C. 6A:11-2.1 Application and approval process**

This section outlines the processes for applications submission and evaluation and notification of approval or denial of a charter by the Commissioner.

The Department proposes new N.J.A.C. 6A:11-2.1(b)5 and 6 to explicitly allow single-purpose charter schools that serve educationally disadvantaged or traditionally underserved students and students of a single gender. N.J.A.C. 6A:11-2.1(b)5 will require an application for a charter school seeking to limit enrollment to a specific population of educationally disadvantaged or traditionally underserved students to demonstrate a compelling need and to ensure compliance with State and Federal laws. N.J.A.C. 6A:11-2.1(b)6 will require an application for a charter school seeking to limit admission on the basis of gender to demonstrate a compelling educational reason for limiting enrollment on the basis of gender and to ensure compliance with State and Federal laws.

The Department proposes to recodify current N.J.A.C. 6A:11-2.1(b)5 as N.J.A.C. 6A:11-2.1(b)7.

The Department proposes new N.J.A.C. 6A:11-2.1(m) to permit a charter school applicant that receives application approval but is not prepared to open in the subsequent school year to request a planning year. The proposed rule also will allow the Commissioner to grant or deny a planning year based upon information submitted by the applicant.

The Department proposes new N.J.A.C. 6A:11-2.1(m)1 to allow the Commissioner to grant a planning year to an applicant that demonstrates a legitimate need for more time to meet the preparedness requirements pursuant to N.J.A.C. 6A:11-2.1(i). The Department proposes N.J.A.C. 6A:11-2.1(m)2 to allow the Commissioner to grant a second planning year based upon an applicant's showing of good cause and to allow a charter school to receive no more than two planning years after application approval to prepare for opening. The proposed rule will codify an existing practice reserved for approved charter schools that the Commissioner determines would benefit from additional time to prepare for the school's opening.

### **N.J.A.C. 6A:11-2.2 Reporting**

This section outlines the format for submission of the annual report and other reporting requirements.

The Department proposes an amendment at N.J.A.C. 6A:11-2.2(b), which requires a charter school board of trustees to submit specific documentation annually to the Commissioner for approval prior to the opening of school on dates specified by and in a format prescribed by the Commissioner, to delete "for approval" after "Commissioner" to clarify the documentation submitted annually by the charter school board of trustees does not require formal approval.

The Department proposes new N.J.A.C. 6A:11-2.2(d) to require the Department to publicly report on each charter school's academic performance based on the Performance Framework. The proposed rule will increase transparency and provide charter schools and the general public with information about how charter schools are performing.

### **N.J.A.C. 6A:11-2.3 Renewal of charter**

This section outlines conditions for granting or denying the renewal of a school's charter by the Commissioner.

The Department proposes to amend N.J.A.C. 6A:11-2.3(b)2, which requires the

Commissioner to grant or deny a charter's renewal based upon the comprehensive review based, in part, on if the charter school failed to meet any standards set forth in its charter agreement or the Performance Framework in its charter. The Department proposes to replace the rule with "[a] review of the charter school based on its charter agreement and the Performance Framework" for better alignment with the lead-in text at N.J.A.C. 6A:11-2.3(b).

The Department proposes new N.J.A.C. 6A:11-2.3(b)12 to include as part of the Commissioner's comprehensive review of a charter school a review of whether the charter school established an escrow account or posted a surety bond of no less than \$75,000 to pay for legal and audit expenses and any outstanding pension benefit(s) that would be associated with dissolution, if it occurs. Proposed new N.J.A.C. 6A:11-2.3(b)12 will codify language that is included in the charter agreement between the charter school and the Department and aligned to national best practices for charter school closure.

The Department proposes new N.J.A.C. 6A:11-2.3(c) to state charter schools that have been deemed high performing, based upon the criteria outlined in the Academic Performance Framework, for three consecutive years during the most recent charter term, and have had no major fiscal or compliance issues, shall be eligible for an expedited renewal review process. The proposed rule also states the Department will notify charter schools prior to October 1 whether they qualify for the expedited review process. Within the Performance Framework, the academic section carries the most weight in high-stakes decision making, including renewal. Therefore, creating an expedited review for charter schools based largely on academic performance aligns with how charter schools are evaluated and streamlines the process for charter schools that have demonstrated strong academic performance.

Proposed new N.J.A.C. 6A:11-2.3(c)1 will require the expedited review process to include the elements set forth in N.J.A.C. 6A:11-2.3(b) and will allow the process to be conducted in an abbreviated format established by the Commissioner. Proposed new N.J.A.C. 6A:11-2.3(c)2 will require the Commissioner to notify, within 75 days of the renewal application submission, the charter school of whether it has been granted renewal of its charter. The proposed amendments will ensure high-performing charter schools are given a comprehensive review but in a more streamlined fashion. For example, the Department may conduct an abbreviated visit to a charter school or perform a desk audit, rather than spending a full day at the charter school. Additionally, high-performing charter schools will be notified of the renewal decision before other charter schools.

The Department proposes to recodify existing N.J.A.C. 6A:11-2.3(c) as new N.J.A.C. 6A:11-2.3(d).

The Department proposes an amendment at recodified N.J.A.C. 6A:11-2.3(d), which requires the Commissioner to notify a charter school regarding the granting or denial of the renewal on or before February 28 of the last school year of the current charter, or on a date prescribed by the Commissioner, to change the renewal decision date to February 1 to better align with school district budgetary timelines.

#### **N.J.A.C. 6A:11-2.4 Probation and revocation of charter**

This section delineates the process whereby the Commissioner may place a charter school on probation. If it is determined a charter school is not operating in compliance with its charter or if findings from a review of a renewal application so warrant, the Commissioner can place a charter school on probation to allow the school to implement a remedial program to correct the deficiencies that caused the probation status. Following probation, the Commissioner can remove

a charter school from probation or revoke its charter. The Commissioner can also summarily revoke a school's charter.

The Department proposes new N.J.A.C. 6A:11-2.4(c)2iv to allow the Commissioner to rescind approval of the appointed independent trustee if he or she is not adequately performing the required duties. The proposed rule also will allow the Commissioner to appoint an independent trustee if the charter school board of trustees fails to appoint one pursuant to the comprehensive closure plan. The proposed rule will codify the Commissioner's ultimate decision-making authority in instances of charter school dissolution.

The Department proposes new N.J.A.C. 6A:11-2.4(c)2v to require a charter school board of trustees to pass a resolution officially dissolving within 30 days of school closure. The proposed rule will ensure an existing charter school board of trustees cannot block necessary closure activities.

#### **N.J.A.C. 6A:11-2.6 Amendment of charter**

This section provides instructions on how a charter school can apply to the Commissioner to amend its approved charter, examples of amendments that can be sought, applicable timelines, and criteria by which requested amendments will be evaluated.

The Department proposes new N.J.A.C. 6A:11-2.6(a)1v to add establishing weighted lotteries to the list of examples of possible charter amendment requests. The proposed rule will establish a process for gaining Commissioner approval and implementing the weighted lottery, which is proposed in new N.J.A.C. 6A:11-4.5.

### **Subchapter 4. Program Implementation**

#### **Proposed N.J.A.C. 6A:11-4.5 Lottery**

The Department proposes new N.J.A.C. 6A:11-4.5(a) through (e) to state the necessity for a random selection process for enrollment and the enrollment preferences guaranteed for students who reside in the charter school's district of residence and students who were enrolled in the charter school in the preceding school year. The proposed rule also permits charter schools to give enrollment priority to siblings and requires charter schools to seek to enroll a cross-section of the community's school age population, including racial and academic factors. N.J.A.C. 6A:11-4.5(a) through (e) provide the necessary context for proposed N.J.A.C. 6A:11-4.4(f).

The Department proposes new N.J.A.C. 6A:11-4.4(f) to permit charter schools to seek Commissioner approval to establish weighted lotteries that favor educationally disadvantaged students, including, but not limited to, students who are economically disadvantaged, students with disabilities, migrant students, limited English proficient students, neglected or delinquent students, or homeless students, in an effort to better represent a cross-section of the community's school-age population.

The Department proposes to recodify N.J.A.C. 6A:11-4.5 through 4.15 as new N.J.A.C. 6A:11-4.6 through 4.16 to reflect the proposed new section,

#### **N.J.A.C. 6A: 11-4.6 Age eligibility for kindergarten**

This section requires a charter school to accept kindergarten students under the same eligible minimum age of five years as the school district(s) in which the students reside.

The Department proposes to recodify the section as new N.J.A.C. 6A:11-4.7.

The Department proposes new N.J.A.C. 6A:11-4.7(b) to allow charter schools to enroll preschool students if the district has a State-funded preschool program and to guarantee the preschool students a seat in the charter school's kindergarten as returning students without re-entering the admission lottery.

#### **N.J.A.C. 6A:11-4.9 Home instruction for students**

This section outlines the requirements of a charter school to provide home instruction for students.

The Department proposes to recodify the section as new N.J.A.C. 6A:11-4.10.

The Department proposes amendments to recodified N.J.A.C. 6A:11-4.10, which requires a charter school to provide home instruction due to temporary illness or injury for an enrolled student in accordance with N.J.A.C. 6A:16-10.1. The Department proposes to delete "due to temporary illness or injury for an enrolled student" and add a reference to N.J.A.C. 6A:16-10.2 to clarify home instruction is required for temporary illness or injury and also for other reasons, which are outlined in N.J.A.C. 6A:16-10.2.

#### **N.J.A.C. 6A:11-4.11 Board of trustees and Open Public Meetings Act**

This section delineates the requirements for the establishment of a charter school board of trustees and for its operation under the Open Public Meetings Act.

The Department proposes to recodify the section as new N.J.A.C. 6A:11-4.12.

The Department proposes amendments at N.J.A.C. 6A:11-4.12(c), which requires the board of trustees to send a copy of all meeting notices and meeting minutes to the respective executive county superintendent, to instead require the charter school board of trustees to post a copy of all meeting notices and minutes on the school's website rather than sending them to the executive county superintendent, who does not review the documents.

#### **Proposed N.J.A.C. 6A:11-4.16 Sports programs**

The Department proposes new N.J.A.C.6A:11-4.16 to allow a secondary charter school student to participate in a sport at his or her school of residence, upon the agreement of both principals, if the charter school he or she attends does not offer the particular sport in which the full-time student wishes to participate, regardless of the number of sports programs offered at the charter school.

Charter school statute and rules are currently silent about charter eligibility and access to extracurricular and interscholastic activities. However, the New Jersey State Interscholastic Athletic Association (NJSIAA) constitution states: "If a secondary Charter School does not offer the particular sport in which one of its full time students wishes to participate, that student may participate in that sport at his/her school of residence upon agreement of both principals, regardless of the number of sports programs offered at the Charter School." Proposed N.J.A.C. 6A:11-4.16 will codify the language in the NJSIAA constitution. .

## **Proposed N.J.A.C. 6A:11-4.17 Facilities**

The Department proposes new N.J.A.C. 6A:11-4.17(a) to prohibit a charter school from constructing a facility with public funds, other than Federal funds, and to allow a charter school to use State and local funds for the rehabilitation or expansion of a facility, provided the charter school submits to the Department a statement assuring adequate funds are allocated to the classroom pursuant to N.J.A.C. 6A:23A-22.4(d). Pursuant to N.J.S.A. 18A:36C-10, a charter school cannot construct a facility with public funds other than Federal funds. The definition of “construct” has not been clearly defined in statute, so proposed new N.J.A.C. 6A:11-4.17(a) will provide clarity in terms of allowing public funds to be utilized for facility rehabilitation and expansion.

The Department proposes new N.J.A.C. 6A:11-4.17(b) to allow a charter school to operate in more than one satellite campus in its district or region of residence, subject to charter amendment approval, pursuant to N.J.A.C. 6A:11-2.6. Proposed new N.J.A.C. 6A:11-4.17(b) is meant to codify existing practice whereby charter schools in any school district can have multiple facilities as long as the charter school gains approval through the amendment process.

### **Subchapter 5. Certification Requirements for Staff**

#### **N.J.A.C. 6A:11-5.1 Certification**

This section sets forth the certification requirements for all classroom teachers, principals, and professional support staff employed by charter school boards of trustees, and the employment requirements for a charter school lead person and school business administrator.

The Department proposes an amendment at N.J.A.C. 6A:11-5.1(b)2, which requires a charter school board of trustees to employ or contract with a person who holds a New Jersey standard or provisional school business administrator certificate in accordance with N.J.A.C. 6A:9B-11.7 and 6A:23A to oversee fiscal operations of the charter school. The Department proposes to replace the cross-reference to “N.J.A.C. 6A:9B-11.7,” which establishes certification requirements for driver education, with “N.J.A.C. 6A:9B-12.7,” which contains school business administrator certification requirements.

### **Chapter 23A. Fiscal Accountability, Efficiency and Budgeting Procedures**

#### **Subchapter 16. Double Entry Bookkeeping and GAAP Accounting**

##### **N.J.A.C. 6A:23A-16.8 Petty cash fund**

This section sets forth the rules for a district board of education or charter school to establish and maintain a petty cash fund and for the final disposition of the funds, pursuant to N.J.S.A. 18A:19-13.

The Department proposes an amendment at N.J.A.C. 6A:23A-16.8(a), which allows a district board of education or charter school to establish on July 1 of each year, or as needed, a petty cash fund or funds for the purpose of making immediate payments of comparatively small amounts, to replace “on July 1 of each year, or as needed,” with “policies for the annual allocation of.” The proposed amendment will remove the necessity for a district board of education or charter school board of trustees to approve a petty cash fund on July 1 of each year. Instead, the district board of education or charter school board of trustees will be able to create



petty cash fund policies and implement them on an annual basis. The proposed amendments will impact both district boards of education and charter school boards of trustees.

### **N.J.A.C. 6A: 23A-16.10 Budgetary controls and overexpenditure of funds**

This section requires a district board of education or charter school board of trustees to implement controls over budgeted appropriations. The section also sets forth guidelines, reporting requirements, and sanctions to be imposed when there are projected overexpenditures, pursuant to N.J.S.A. 18A:7F-1 et seq.

The Department proposes amendments at N.J.A.C. 6A:23A-16.10(b)1, 3, 4, and 5, which dictate how a district board of education or charter school board of trustees must proceed when incurring or projecting a year-end deficit. The Department proposes to add “or the Department in the case of charter schools,” after “executive county superintendent” to clarify that a charter school board of trustees must direct the lead person to notify the Department, and not the executive county superintendent, of a budget deficit, since oversight duties rest with the Office of Charter and Renaissance Schools.

The Department proposes amendments at N.J.A.C. 6A:23A-16.10(c)4iii, which requires certain district boards of education or charter school boards of trustees at the Commissioner's discretion to provide, within 60 days of month-end, a copy of the school business administrator/board secretary's and treasurer's monthly financial reports submitted to the district board of education or charter school board of trustees and as required pursuant to N.J.S.A. 18A:17-9 and 18A:17-36 to the executive county superintendent, to delete “or charter school boards of trustees at the Commissioner's discretion” and “or charter school boards of trustees.” The proposed amendments will provide clarity, as N.J.A.C. 6A:23A-16.10(c)4v specifically states the requirements for charter schools.

The Department proposes an amendment at N.J.A.C. 6A:23A-16.10(c)4v, which requires every charter school board of trustees to provide to the executive county superintendent, within 60 days of the September, December, and March month end, a copy of the monthly financial reports submitted to the charter school board of trustees, to replace “executive county superintendent” with “Department.” The proposed amendment will clarify the Office of Charter and Renaissance Schools collects quarterly financial reports, and not the executive county superintendent.

The Department proposes an amendment at N.J.A.C. 6A:23A-16.10(c)4vi, which requires a school business administrator/board secretary that is more than two months behind in submitting the financial report to a district board of education or charter school board of trustees to immediately report the noncompliance to the executive county superintendent, to delete “or charter school board of trustees.” The proposed amendment will clarify the executive county superintendent does not need to be notified, as the Office of Charter and Renaissance Schools already monitors for compliance.

The Department proposes amendments at N.J.A.C. 6A:23A-16.10(d), which requires the executive county superintendent to report to the Commissioner by August 15, or for charter schools, 45 days after the end of the year, all fund overexpenditures as shown on the school business administrator/board secretary's June report and establishes related requirements, to remove references to charter schools and charter school boards of trustees. The requirement to notify the executive county superintendence of a deficit that is not being remediated is an unnecessary step since oversight duties rest with the Office of Charter and Renaissance Schools.

## **Subchapter 22. Financial Operations of Charter Schools**

### **N.J.A.C. 6A:23A-22.4 Financial requirements**

This section sets forth financial requirements for charter schools in the areas of debt, property acquisition, charter school aid, and monitoring.

The Department proposes to delete N.J.A.C.6A:23A-22.4(b)1, which requires the term of a charter school facility's lease to not exceed the length of the charter. The proposed deletion will provide charter schools more flexibility to negotiate favorable terms without term restrictions.

The Department proposes to recodify N.J.A.C. 6A:23A-22.4(b)2 and (b)3 as N.J.A.C. 6A:23A-22.4(b)1 and (b)2, respectively, to reflect the deletion of N.J.A.C. 6A:23A-22.4(b)1.

The Department proposes amendments at N.J.A.C. 6A:23A-22.4(d), which requires a charter school to be subject to monitoring by the Commissioner to ensure the percentage of school funds spent in the classroom is at least comparable to the average percentage of school funds spent in the classroom in all other public schools in the State, to instead to require the Commissioner to monitor whether adequate funds are allocated to the classroom. The Department also proposes to delete the statement that the calculation for this percentage in both the annual budget and the Comprehensive Annual Financial Report is based on National Center for Educational Statistics as published by the U.S. Department of Education. The proposed amendment will offer charter schools more budgetary latitude, with the understanding the Department monitors their budgets and performance.

### **N.J.A.C. 6A:23A-22.6 Public relations and professional services; board policies; efficiency**

This section requires charter school boards of trustees to develop policies and strategies to minimize the expenditures for public relations and professional services.

The Department proposes amendments at N.J.A.C. 6A:23A-22.6(a)3, which requires charter schools with legal costs that exceed 130 percent of the Statewide average charter school per pupil amount to establish stipulated procedures and, if not established, to provide evidence the procedures would not result in a reduction of costs. The current threshold of 130 percent of the Statewide average of charter school per pupil amount is unclear and unnecessary since charter schools have no incentive to overspend on legal fees. Moreover, the threshold language has the potential to hamper a charter school's ability to obtain quality legal advice. Therefore, the Department proposes to replace the current rule with "[c]harter schools shall establish procedures to effectively manage legal costs. Procedures may include:."

### **N.J.A.C. 6A:23A-22.15 Approval of amounts paid in excess of approved purchase orders; board policy**

The section requires charter schools to adopt a policy establishing the approval process for any remittance of payment for invoice amounts greater than the approved purchase order and establishes the program requirements for financial systems.

The Department proposes amendments at N.J.A.C. 6A:23A-22.15(a), which requires, in part, a charter school board of trustees to adopt a policy establishing the approval process for any remittance of payment for invoice amounts greater than the approved purchase order, to add "or assistant school business administrator" after the two mentions of "school business

administrator” to allow the school business administrator to designate another qualified individual to manage the review and approval process of change orders.

## **Chapter 26. Educational Facilities**

### **Subchapter 7. Land Acquisition, School Closing, and Land Disposal**

#### **N.J.A.C. 6A:26-7.5 Approval for the closing of a school facility**

The section establishes procedures for approval of closing school facilities, including a statement that the closing is consistent with the school district's long-range facilities plan and the re-assignment of students will not produce, sustain, or contribute to unlawful segregation of students.

The Department proposes new N.J.A.C. 6A:26-7.5(e) to require the Division of Executive Services, starting in August 2017, to maintain a list of closed, unused, or unoccupied school facilities, consistent with N.J.A.C. 6A:26-2.2, and to make it available on the Department’s website. The proposed rule will provide transparency and assist charter schools in locating viable facilities.

As the Department has provided a 60-day comment period on this notice of proposal, the notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

#### **Social Impact**

The proposed amendments and new rules will positively impact charter schools and their constituents, including students, teachers, staff, board of trustee members, and families. With increased operational autonomy and streamlined procedures in place, charter schools will have the opportunity to innovate and make school-level decisions that improve student achievement.

#### **Economic Impact**

The proposed amendments and new rules will have a positive economic impact on charter schools by allowing them to access public funds for the expansion and rehabilitation of facilities. Rather than diverting substantial portions of their operating revenue into facilities, charter schools will be able to direct spending toward educating students.

#### **Federal Standards Statement**

There are no Federal standards or requirements applicable to the proposed amendments and new rules; therefore, a Federal standards analysis is not required.

#### **Jobs Impact**

The proposed amendments and new rules may encourage more charter school operators to come to New Jersey, thereby creating jobs.

#### **Agriculture Industry Impact**

The proposed amendments and new rules will have no impact on the agricultural industry.

## **Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required because the proposed amendments and new rules do not impose reporting, recordkeeping, or other compliance requirements on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments and new rules apply only to charter schools.

## **Housing Affordability Impact Analysis**

The proposed amendments and new rules will have an insignificant impact on the affordability of housing in New Jersey. There is an extreme unlikelihood the proposed amendments and new rules would evoke a change in the average costs associated with housing because the proposed amendments and new rules govern charter schools.

## **Smart Growth Development Impact Analysis**

The proposed amendments and new rules will have an insignificant impact on smart growth. There is an extreme unlikelihood the proposed amendments and new rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments and new rules govern charter schools.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

# N.J.A.C. 6A:11, CHARTER SCHOOLS

## TABLE OF CONTENTS

### **SUBCHAPTER 1. GENERAL PROVISIONS**

6A:11-1.2 Definitions

### **SUBCHAPTER 2. APPLICATION AND APPROVAL; REPORTING; RENEWAL; PROBATION AND REVOCATION; APPEAL; AMENDMENT AND CONVERSION PROCESSES**

6A:11-2.1 Application and approval process

6A:11-2.2 Reporting

6A:11-2.3 Renewal of charter

6A:11-2.4 Probation and revocation of charter

6A:11-2.6 Amendment to charter

### **SUBCHAPTER 4. PROGRAM IMPLEMENTATION**

#### **6A:11-4.5 Lottery**

6A:11-[4.5]4.6 Waiting list

6A:11-[4.6]4.7 Age eligibility for kindergarten

6A:11-[4.7]4.8 Limited English proficient students

6A:11-[4.8]4.9 Students with educational disabilities

6A:11-[4.9]4.10 Home instruction for students

6A:11-[4.10]4.11 Pupil transportation

6A:11-[4.11]4.12 Board of trustees and Open Public Meetings Act

6A:11-[4.12]4.13 Equity in education

6A:11-[4.13]4.14 Financial operations of a charter school

6A:11-[4.14]4.15 Charter school operations

#### **6A:11-4.16 Sports programs**

#### **6A:11-4.17 Facilities**

## **SUBCHAPTER 5. CERTIFICATION REQUIREMENTS FOR STAFF**

### 6A:11-5.1 Certification

## CHAPTER 11. CHARTER SCHOOLS

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 6A:11-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Administrator" means an employee of a charter school who:

1. Holds a position that requires a certificate authorizing the holder to serve as school administrator, principal, or school business administrator;
2. Holds a position that requires a certificate authorizing the holder to serve as supervisor who is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services of a charter school; or
3. Holds a position that does not require the person to hold any type of certificate but is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services by a charter school.

"Annual review" means the yearly assessment by the Commissioner as to whether the charter school is meeting the goals of its charter.

"Application" means the New Jersey Charter School Application, which includes, but is not limited to, a description of the areas listed in N.J.S.A. 18A:36A-5 and N.J.A.C. 6A:11-2.1(b).

"Approval" means an endorsement by the Commissioner following the review of an eligible

application by the Department and contingent upon the receipt of necessary documentation in accordance with N.J.A.C. 6A:11-2.1(f).

"Board of trustees" means the public agents authorized by the State Board of Education to supervise and control a charter school.

"Certification" means the endorsement of a person who is employed by a district board of education or a charter school board of trustees to perform duties that are regulated by N.J.A.C. 6A:9B and 6A:23A-22, and N.J.S.A. 18A:26-2.

“Charter agreement” means a written agreement between a charter school and the Commissioner that sets forth criteria the charter school shall be expected to satisfy, including, but not limited to, measureable performance goals and indicators in the charter school’s Performance Framework.

"Charter school" means a public school operated under a charter granted by the Commissioner that is independent of the district board of education and managed by a board of trustees.

“Contiguous district boards of education” means school districts that comprise a region of residence that all share a common border.

**“Construction” means the building of a wholly new school facility.**

“Demonstrable experience” means a record of success in engendering student growth and improving the academic performance of at-risk, English language learner, and special education students; and evidence of financial stability.



"District of residence" means the school district in which a charter school facility is physically located; if a charter school is approved with a region of residence comprised of contiguous school districts, that region is the charter school's district of residence.

“Educator evaluation system” means a system by which a charter school measures the effectiveness of an educator through a measurement of student learning growth and educator practice.”

"Eligible applicant" means teaching staff members from anywhere in the State, parents of children attending the schools of the district of residence, a combination of teaching staff members and parents, or an institution of higher education or a private entity located within the State in conjunction with teaching staff members and parents of children attending the schools of the district of residence.

**“Expansion” means an addition to an existing school facility characterized by an increase in the school facility’s gross square footage.**

“Expedited action” means to allow an applicant to apply early and receive an early decision regarding the status of the application for a charter. It also permits an approved applicant to open a charter school on an expedited timeline. The application must be submitted by October 15 to receive a decision in advance of the standard schedule and no later than February 15.

**“Expedited renewal” means the granting on an accelerated basis of a charter’s continuation for a five-year period by the Commissioner, which is reserved for high-performing charter schools with no major fiscal or compliance issues that meet the standards set forth in N.J.A.C. 6A:11-2.3.**

"Failing school district" means a school district identified by the Department as a "district in need of improvement" in the 2010-2011 school year pursuant to the provisions of the No Child Left Behind Act of 2001, Pub. L. 107-110, as identified in the chapter Appendix, incorporated herein by reference, or that has been identified as a "Priority" or "Focus" school (see N.J.A.C. 6A:33-1.2).

"Final granting of a charter" means the written notification in which the Commissioner makes the charter effective as a result of all required documentation being submitted by the charter school and approved by the Department in accordance with N.J.A.C. 6A:11-2.1(f), (h), and (i).

"GAAP" means the generally accepted accounting principles established by the Governmental Accounting Standards Board as prescribed by the State Board of Education pursuant to N.J.S.A. 18A:4-14 and N.J.A.C. 6A:23A-16.1.

**"High-performing charter school" means a charter school that earns a Tier Rank 1, which is the highest possible rank, based on the metrics set forth in the Academic Performance Framework.**

"High-performing nonpublic school" means a nonpublic school that ranked in the 66th percentile or higher on a norm-referenced achievement test in the school year prior to the school year in which a conversion application is submitted pursuant to N.J.A.C. 6A:11-2.7.

"In-depth interview" means the performance assessment of the founders of a charter school during the application and approval process for a charter.

"Initial recruitment period" means the period during which there are the first outreach efforts by a charter school to a cross section of the community for the application, random selection process (if applicable) and enrollment of students for the next school year.

"Lead person" means the person who performs the organizational tasks necessary for the operation of a charter school. Where a group of individuals shares the organizational tasks, the person designated as responsible for completion of the tasks required by the rules is the lead person.

"Monitoring" means an on-site review at a charter school to corroborate and augment the annual reports and to verify compliance with statutes, regulations and the terms of the charter.

"Nonpublic conversion charter school" means a charter school that has been authorized pursuant to N.J.S.A. 18A:36A-4.1.

"Non-resident district" means a school district outside the district of residence of the charter school.

"Non-resident student" means a student from a non-resident district attending a charter school.

"Norm-referenced achievement test" means **any assessment that compares test takers' results to an average to distinguish between high and low performances. Examples include:** the California Achievement Test (CAT)[;], Metropolitan Achievement Test (MAT)[;], Stanford Achievement Test (SAT)[;], or the Comprehensive Test of Basic Skills (CTBS) or one of the tests within the CTBS.

“Performance Framework” means the [standards] **accountability system** that shall be used by the Department to evaluate the **academic, financial, and organizational** performance of each charter school [that has signed a charter agreement]. The Performance Framework shall be [included in every] **shared with all** charter [agreement] **schools** and posted on the Department’s website. The academic [performance section of the Performance Framework is aligned with the New Jersey Department of Education accountability measures as defined in the February, 2012 No Child Left Behind waiver of Adequate Yearly Progress measures granted by the United States Department of Education. Academic performance assessments] **component** includes, but [are] **is** not limited to, [measurement] **measures of: student growth;** student achievement; [data] **high school graduation rate;** leading indicators of [in absolute terms based on Proficiency and Advanced Proficiency scoring in both Language Arts Literacy (LAL) and Math, in comparative terms against the LAL and Math scores of the district of residence, and demographically similar (peer) schools, in terms of student achievement progress over time (individual student achievement over time as compared to similar scoring students), in terms of school-wide growth percentiles and subgroup growth percentiles based on standardized test scores over time, post-secondary readiness, including performance on and participation in national standardized tests and post-secondary enrollment,] **school success, such as attendance;** and all State and Federal accountability requirements. **Measures of student growth, student achievement, graduation rate, and leading indicators are evaluated relative to: Statewide results, primary sending district results, and results of similar schools.** Additionally, each charter school will be responsible for unique mission-specific goals included in their charter agreement. Criteria for the [operations] **organizational** component consist of, but are not limited to, compliance with statutory requirements [set forth] in N.J.S.A. [18A:36C-1] **18A:36A-1** et seq. and all applicable statutes in Title 18A, and regulatory requirements that ensure equitable access, pursuant to N.J.A.C. 6A:7, Managing for Equality and Equity in Education, and 6A:11-4.12, Equity in education; **and** safe and secure learning environments, pursuant to N.J.A.C.

6A:16, Programs to Support Student Services. [The standards for the fiscal management section of the Performance Framework] **Criteria for the financial component** include, **but are not limited to:** the generally accepted accounting principles set forth in N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency and Budgeting **Procedures**, and [contain near-term] indicators [that include debt to asset ratio, total margin and cash flow measures, and sustainability indicators that include current ratio, unrestricted days cash on hand, enrollment variance and default on loans measures] **of near- and long-term viability.**

**“Planning year” means a one-year period between a charter school’s application approval and the final granting of its charter to prepare for the charter school’s opening.**

“Preparedness visit” means the on-site inspection by Department personnel that gauges readiness for school opening. The preparedness visit shall include a review of program, facility and fiscal documentation and interviews with board of trustee members and staff members of the proposed charter school to assess organizational leadership and capacity.

“Qualified applicant” means an applicant determined by the Department to have submitted an application in the first phase of the application process that met the charter school application quality standards as set forth at N.J.A.C. 6A:11-2.1(b)3ii.

“Qualified founder” means an individual who can establish a charter school pursuant to N.J.S.A. 18A:36A-4. A charter school may be established by teaching staff members, parents with children attending the schools of the district, or a combination of teaching staff members and parents.

"Region of residence" means contiguous school districts in which a charter school operates and

is the charter school's district of residence.

**“Rehabilitation” means as defined in N.J.A.C. 6A:26-1.2.**

"Renewal" means the granting of the continuation of a charter for a five-year period by the Commissioner following a comprehensive review conducted by the Commissioner.

"Resident student" means a student who resides in the area served by the district board of education that is the same as the district of residence of the charter school.

"Revocation" means the withdrawal of a charter by the Commissioner from a charter school's board of trustees.

“Satellite campus” means a school facility[, located within a district with a priority school or a former Abbott District as of July 1, 2012,] operated by a charter school [under the school's charter] that is in addition to the facility identified in the charter school application or charter, if subsequently amended.

“School-closure protocols” means procedures set forth at N.J.A.C. 6A:11-2.4(c) for the revocation, non-renewal or surrender of a charter.

"School Ethics Act" means the statute N.J.S.A. 18A:12-21 et seq. designed to set standards to guide the conduct of school officials and ensure maintenance of those standards to ensure and preserve public confidence in the integrity of elected and appointed school board members and school administrators.

"School official" means a member of the board of trustees or an administrator of a charter school.

"School year" means July 1 to June 30 of any given academic year. [If operating with an extended school year, this term means an alternate fiscal year beginning no later than September 1 and ending no later than August 31 of any given academic year.]

"Streamline tenure" means the tenure process for all charter school teaching staff members, janitors, and secretaries who are either newly employed in a charter school or employed in a charter school while on leave from a district board of education.

"Structured interview" means the performance assessment of the accomplishments of a charter school for renewal of the charter.

"Waiting list" means the document identifying the names of grade-eligible students with applications to a charter school pending acceptance for the subsequent school year, based upon the order of random selection from a lottery following a recruitment period.

**“Weighted lottery” means a random selection process that provides additional weight or increased chances to individual students who are identified as part of a specified set of educationally disadvantaged students but does not reserve or set aside seats for individual students or sets of students.**

**SUBCHAPTER 2. APPLICATION AND APPROVAL; REPORTING; RENEWAL;  
PROBATION AND REVOCATION; APPEAL; AMENDMENT AND CONVERSION  
PROCESSES**

## 6A:11-2.1 Application and approval process

- (a) The Commissioner with the authority of N.J.S.A. 18A:36-1 et seq. may approve or deny an application for a charter after review of the application submitted by an eligible applicant and the recommendation(s) from the district board(s) of education or State district superintendent(s) of the district of residence of the proposed charter school.
- (b) An eligible applicant for a charter school shall:
  - 1. Complete the New Jersey Charter School Application, which shall be annually disseminated by the Department no later than August 31 of each year.
    - i. For application rounds in which the Department requires an online application submission, new charter school applicants shall establish an online account no later than five business days prior to the due date for the application.
  - 2. The application process shall be conducted in two phases: phase one and phase two. The phase one application shall include in an executive summary the following information:
    - i. The name of the proposed charter school;
    - ii. Mission;
    - iii. Educational program overview;
    - iv. Applicant and founder information;
    - v. Enrollment and admission information;
    - vi. Demonstration of need; and
    - vii. Community and parent involvement.
  - 3. The Commissioner shall notify an applicant whether they have been approved or denied for “qualified applicant” status upon completion of the phase one review.
    - i. To participate in phase two, qualified applicants shall be required to



submit the phase two application within 30 days of the date of notification of eligibility by the Department.

- ii. A qualified applicant is one that has submitted an application that has a clear, focused, and results-oriented mission statement that aligns with all parts of the application; demonstrates understanding of the population that the school is likely to serve; has an educational program that is likely to be effective for the student population; has strong and diverse leadership; and has strong financial planning and management.
- iii. The phase two application shall include the following information:
  - (1) Educational program;
  - (2) Goals and objectives;
  - (3) At-risk populations;
  - (4) Staffing information;
  - (5) Financial plan;
  - (6) Governance and organizational plan;
  - (7) Facilities;
  - (8) Daily and annual schedule;
  - (9) Requested waivers; and
  - (10) All required documentation as set forth in the phase two application. Such documentation shall include, but not be limited to: course and curriculum outlines, graduation requirements, school scheduling information, professional backgrounds of administrators and staff, professional development and evaluation plans, an organizational chart, and documentation of fiscal and legal compliance.
- iv. The Commissioner shall notify a qualified applicant about whether it has

been invited to participate in an in-depth interview with the Commissioner or his or her designee. Such interviews will take place within eight to 10 weeks of receipt of phase two applications.

4. If seeking to operate a charter school with a region of residence, the charter school shall:
  - i. Include as qualified founders at least one eligible applicant; and
  - ii. Describe its plan to ensure the enrollment of a cross section of the school-age population of the region of residence, including racial and academic factors. This plan shall include apportionment of available space from each of the district boards of education that comprise the region of residence.
5. **If seeking to open a single-purpose charter school that will limit enrollment to a specific population of educationally disadvantaged or traditionally underserved students, the charter school's application shall demonstrate a compelling need and shall ensure compliance with State and Federal laws.**
6. **If seeking to operate a single-purpose charter school that will limit admission on the basis of gender, the charter school's application shall demonstrate a compelling educational reason for limiting enrollment on the basis of gender and shall ensure compliance with State and Federal laws.**
- [5.] 7. For the March 31 application round, submit a hand-delivered or mailed copy of the completed phase one application to the Commissioner, the respective executive county superintendent of schools, and the district board(s) of education or State district superintendent(s) of the district of residence of the proposed charter school no later than 4:15 P.M. on March 31. If March 31 falls on a weekend, the phase one application is due no later than 4:15 P.M. on the first subsequent work day. For the expedited action round, applications must be

submitted no later than 4:15 P.M. on October 15. If October 15 falls on a weekend, the phase one application for expedited action is due no later than 4:15 P.M. on the first subsequent work day. Phase two applications must be submitted no later than 4:15 P.M. on the designated due date.

- (c) The Department shall review the phase one application. Qualified applicants will be asked to complete the phase two application.
- (d) The district boards of education or State district superintendents of the districts of residence of the proposed charter schools shall review both the phase one and phase two applications, if submitted.
  - 1. The recommendations of the district boards of education or State district superintendents shall be forwarded to the Commissioner within 30 days of receipt of the phase one applications; however, if a district board of education or State district superintendent is unable to respond to the phase one application in this timeframe, upon good cause shown to the Commissioner, comments may be submitted on the phase one application along with comments provided on the phase two application.
  - 2. The recommendations of the district boards of education or State district superintendents shall be forwarded to the Commissioner within 60 days of receipt of the phase two applications.
- (e) Following review of phase two applications, the Commissioner or designee(s) shall conduct an in-depth interview with qualified applicants.
- (f) The Commissioner shall notify applicants regarding approval or denial of applications no later than February 15 for applicants seeking fast track approval through expedited action and no later than September 30 for all other applications. The notification to eligible applicants not approved as charter schools shall include reasons for the denials.
- (g) For phase one of the October 15 expedited application, the Department will review

applications received from founders with demonstrable experience operating an education institution. The application review process for phase two will proceed as set forth in (d) and (e) above.

(h) Prior to final granting of the charter, a preparedness visit to prospective charter schools will be conducted by the Department.

(i) The Commissioner may approve an application for a charter, which shall be effective when all necessary documents and information are received by the Commissioner and following satisfactory completion of the preparedness visit as determined by the Commissioner. The charter school shall submit on or before the dates specified in the letter of approval the documentation not available at the time of the application submission including, but not limited to, copies of:

1. A directory of the current members of the board of trustees;
2. The bylaws of the board of trustees;
3. The certificate of incorporation;
4. The Federal Employer Identification Number;
5. The Credit Authorization Agreement for Automatic Deposits;
6. The lease, mortgage or title to its facility;
7. The certificate of occupancy for "E" (education) use issued by the local municipal enforcing official at N.J.A.C. 5:23-2;
8. The sanitary inspection report with satisfactory rating;
9. The fire inspection certificate with "Ae" (education) code life hazard use at N.J.A.C. 5:70-4;
10. An organizational chart and a list of the lead person, school business administrator, teachers, and professional support staff including required certifications and criminal background check status;
11. A budget summary, budget narrative, and cash flow statement for the following

- fiscal year, based on the most recent enrollment projections;
12. Evidence of a uniform system of double-entry bookkeeping that is consistent with GAAP;
  13. The resolution of the board of trustees naming the affirmative action officer, the Section 504 officer, and the Title IX coordinator;
  14. Evidence of enrollment of at least 90 percent of approved maximum enrollment, as verified by student registrations signed by parent/guardian(s); and
  15. Documentation that ensures compliance with all applicable Federal and State regulations and statutes.
- (j) Prior to the granting of the charter, the Commissioner shall assess the student composition of a charter school and the segregative effect that the loss of the students may have on its district of residence. The assessment shall be based on the enrollment from the initial recruitment period pursuant to N.J.A.C. 6A:11-4.4(a) and (b). The charter school shall submit data for the assessment:
1. In a format prescribed by the Commissioner; and
  2. No later than 4:15 P.M. on February 15, or March 15 for charter schools applicants seeking approval through expedited action.
- (k) All statutorily required documentation shall be submitted to the Department by June 30. The final granting of the charter by the Commissioner shall be effective when all required documentation as listed in (i) above is submitted and approved by the Department no later than July 15 and following satisfactory completion of the preparedness visit as determined by the Commissioner.
- (l) A charter school shall locate its facility in its district of residence or in one of the districts of its region of residence.
- (m) A charter school applicant that receives application approval but is not prepared to open in the subsequent school year may request a planning year. The Commissioner**

**may grant or deny a planning year based upon the information submitted by the applicant.**

- 1. The Commissioner may grant a planning year to an applicant that demonstrates a legitimate need for more time to meet the preparedness requirements pursuant to (i) above.**
- 2. The Commissioner may grant a second planning year based upon an applicant's showing of good cause. A charter school may receive no more than two planning years after application approval.**

### **6A:11-2.2 Reporting**

(a) To facilitate the annual review, each charter school shall submit an annual report to the local board of education, the executive county superintendent, and the Commissioner in the form prescribed by the Commissioner. The board of trustees of a charter school shall submit an annual report no later than 4:15 P.M. on August 1 following each full school year in which the charter school is in operation to the Commissioner, the respective executive county superintendent, and the district board(s) of education or State district superintendent(s) of the district of residence of a charter school. If August 1 falls on a weekend, the annual report is due on the first subsequent work day.

1. The report in a format prescribed by the Commissioner must include, but is not limited to, evidence of the following:
  - i. The school is achieving the mission, goals, and objectives of its charter as measured against the Performance Frameworks;
  - ii. The board of trustees operates in accordance with the School Ethics Act, N.J.S.A. 18A:12-23, and the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.;

- iii. Curriculum that is compliant with the New Jersey Student Learning Standards;
  - iv. Statewide assessment program results and local assessment results of students;
  - v. Parental and community involvement in the school; and
  - vi. A calendar for the upcoming school year.
2. The report must include a copy of the following:
    - i. A directory of the current members of the board of trustees; and
    - ii. Amendments to the bylaws of the board of trustees adopted during the previous year.
  3. The board of trustees of a charter school shall make the annual report available to the parents or guardians of the students enrolled in the charter school.
  4. The district board(s) of education or State district superintendent(s) of the district of residence of a charter school may submit comments regarding the annual report of the charter school to the Commissioner by October 1.
- (b) The board of trustees of a charter school shall submit documentation annually to the Commissioner [for approval] prior to the opening of school on dates specified by and in a format prescribed by the Commissioner. The documentation shall include, but is not limited to, copies of:
1. A new lease, mortgage or title to its facility if the charter school has changed facilities;
  2. A valid certificate of occupancy for "E" (education) use issued by the local municipal enforcing official at N.J.A.C. 5:32-2 if the charter school has changed facilities;
  3. An annual sanitary inspection report with satisfactory rating;
  4. An annual fire inspection certificate with "Ae" (education) code life hazard use at

N.J.A.C. 5:70-4;

5. A list of the lead person, teachers, and professional support staff if any charter school staff has changed;
  6. The authorization for emergent hiring pending completion of criminal history check form or criminal history approval letter for each employee of the charter school if any charter school staff has changed; and
  7. Evidence of a uniform system of double-entry bookkeeping that is consistent with GAAP.
- (c) On an annual basis, the Commissioner shall assess the student composition of a charter school and the segregative effect that the loss of the students may have on its district of residence. The assessment shall be based on the enrollment from the initial recruitment period pursuant to N.J.A.C. 6A:11-4.4(b). The charter school shall submit data for the assessment:
1. In a format prescribed by the Commissioner; and
  2. No later than 4:15 P.M. on June 1.
- (d) **On an annual basis, the Department shall publicly report on each charter school's academic performance based on the Performance Framework.**

### **6A:11-2.3 Renewal of charter**

- (a) The Commissioner may grant a five-year renewal of a charter following the initial four-year charter.
- (b) The Commissioner shall grant or deny the renewal of a charter upon the comprehensive review of the school including, but not limited to:
  1. A renewal application submitted by a charter school to the Commissioner, the respective county superintendent of schools, and the district board(s) of education



or State district superintendent(s) of the district of residence of the charter school no later than 4:15 P.M. on October 15 of the last school year of the current charter, or on a date prescribed by the Commissioner with no less than 30 days notice;

2. [If] **A review of** the charter school [failed to meet any standards set forth in] **based on** its charter agreement [or] **and** the Performance Framework [in a school's charter];
3. The review of a charter school's annual reports pursuant to N.J.A.C. 6A:11-2.2(a);
4. Comments of the annual reports from the district board(s) of education or State district superintendent(s) of the district of residence of the charter school;
5. Student performance on the Statewide assessment program pursuant to N.J.A.C. 6A:8-4.1;
6. Monitoring of the charter school by the executive county superintendent;
7. Monitoring of the charter school by the Commissioner or designee(s);
8. The annual assessments of student composition of the charter school;
9. The recommendation of the district board(s) of education or State district superintendent(s) of the district of residence forwarded to the Commissioner within 30 days of receipt of the renewal application;
10. A structured interview with the Commissioner or designee(s) with:
  - i. A member of the charter school board of trustees;
  - ii. The lead person of the charter school;
  - iii. A teacher at the charter school; and
  - iv. A parent or other representative of the charter school; [and]
11. The review of the charter school's educator evaluation system[.]; **and**
12. **A review to ensure the charter school has established an escrow account or posted a surety bond of no less than \$75,000 to pay for legal and audit**

**expenses and any outstanding pension benefit(s) that would be associated with dissolution if it occurs.**

**(c) Charter schools that have been deemed high performing, based upon the criteria outlined in the Academic Performance Framework, for three consecutive years during the most recent charter term, and have had no major fiscal or compliance issues, shall be eligible for an expedited renewal review process. The Department will notify charter schools prior to October 1 whether they qualify for an expedited review process.**

**1. The expedited review process shall include the elements set forth in (b) above but may be conducted in an abbreviated format established by the Commissioner.**

**2. Within 75 days of the renewal application submission, the Commissioner shall notify the charter school of whether it has been granted renewal of its charter.**

**[(c)] (d) The Commissioner shall notify a charter school regarding the granting or denial of the renewal on or before February [28] 1 of the last school year of the current charter, or on a date prescribed by the Commissioner. The notification to a charter school that is not granted a renewal shall include reasons for the denial.**

#### **6A:11-2.4 Probation and revocation of charter**

**(a) The Commissioner may place a charter school on probationary status for a period of time as determined by the Commissioner to allow the implementation of a remedial plan upon a finding that the charter school is not operating in compliance with its charter, statutes, or regulations.**

**1. The Commissioner shall determine the date on which the probationary status will**

begin and notify the charter school of such date.

2. The charter school must submit a remedial plan to the Commissioner within 15 days from the receipt of the notice of probationary status.
  3. The charter school must provide the specific steps, within the remedial plan, that it shall undertake to resolve the condition(s) not fulfilled and/or the violation(s) of its charter.
  4. The Commissioner may remove the probationary status of a charter school if the school provides sufficient evidence, as determined by the Commissioner, that the terms of the probation have been met and the causes for the probationary status are corrected.
  5. The Commissioner may grant extensions to the probationary status where warranted and extend the probationary period if the charter school has implemented its remedial plan but needs additional time to complete the implementation of its corrections.
  6. The Commissioner may revoke the charter if the remedial plan is deemed to be insufficient or if probation terms have not been met.
- (b) The Commissioner may revoke a school's charter following review by the Department for one or more of the following reasons:
1. Any condition imposed by the Commissioner in connection with the granting of the charter that has not been fulfilled by the school;
  2. Violation of any provision of its charter by the school;
  3. Failure of the remedial plan to correct the conditions that caused the probationary status. The Commissioner may place a school on probation before charter revocation, but probationary status is not necessary for revocation; or
  4. Failure of the charter school to meet any standards set forth in its charter agreement or the Performance Framework.

(c) Upon the decision of the Commissioner to revoke or not renew a school's charter, or upon the decision of the board of trustees to surrender a charter, the board of trustees must implement school closure protocols including, at a minimum:

1. The board of trustees, within 48 hours of receipt of notification, shall:
  - i. Provide in writing to the Commissioner a complete list of names and addresses of all students and staff currently enrolled and working in the school, so the Commissioner may send the appropriate notice to the parents or guardians and staff; and
  - ii. Notify in writing all administrators, staff, parents, guardians, students, and special education providers; and
2. The board of trustees shall implement a comprehensive closure plan:
  - i. Within 10 business days of receipt of notification, the board of trustees shall appoint an independent trustee whose appointment is subject to the approval of the Commissioner. Duties of the independent trustee include, but are not limited to, the following:
    - (1) Review the budget to ensure that funds are sufficient to operate the school through the end of the school year, if applicable, and terminate any spending deemed non-essential to the operation of the school;
    - (2) Maintain all financial records;
    - (3) Notify all entities doing business with the school;
    - (4) Notify retirement and benefits systems in which the school's employees participate;
    - (5) Inventory and evaluate assets;
    - (6) Ensure appropriate payment of outstanding debt; and
    - (7) Ensure appropriate distribution of remaining assets;

- ii. Provide for appropriate enrollment:
  - (1) The district(s) of residence of a charter school undergoing closure proceedings shall, in cooperation with the Department and the charter school, establish dates and times for parents and guardians to enroll students; and
  - (2) The charter school shall make all reasonable efforts to ensure that students enrolled at the time of the receipt of the closure notification have taken action to enroll in another school; [and]
- iii. Ensure transfer of student records:
  - (1) The charter school shall update all student records and have them available upon request for review by the Department;
  - (2) The charter school shall document the transfer of all records, including the number of general and special education records to be transferred, and the printed name and signature of the charter school representative releasing the records; and
  - (3) School districts receiving transferred students shall provide to the appropriate county office of education printed name(s) and signature(s) of representative(s) of the district(s) certifying receipt of the student records[.];
- iv. **The Commissioner may rescind approval of the appointed independent trustee if the Commissioner determines the trustee is not adequately performing the required duties set forth in (c)2 above. In addition, the Commissioner may appoint an independent trustee if the board of trustees fails to appoint one pursuant to the comprehensive closure plan; and**
- v. **Within 30 days of school closure, the board of trustees shall pass a**

**resolution officially dissolving the board.**

**6A:11-2.6 Amendment to charter**

- (a) A charter school may apply to the Commissioner for an amendment to the charter following the final granting of the charter.
1. Examples of what a charter school may seek an amendment for include, but are not limited to, the following:
    - i. Expanding enrollment;
    - ii. Expanding grade levels;
    - iii. Changing or adding a district or region of residence; [or]
    - iv. Opening a new satellite campus[.]; **or**
    - v. **Establishing a weighted lottery.**
  2. The board of trustees of a charter school shall submit in the form of a board resolution the amendment request to the Commissioner and the district board(s) of education or State district superintendent(s) of the district of residence of a charter school. The amendment request shall:
    - i. Include the applicable revised pages to the approved New Jersey Charter School Application; and
    - ii. Be made by December 1 of the previous school year to increase enrollment in the subsequent school year.
- (b) The Department shall determine whether the amendments are eligible for approval and shall evaluate the amendments based on N.J.S.A. 18A:36A-1 et seq. and this chapter. The Commissioner shall review a charter school's performance data in assessing the need for a possible charter amendment.
- (c) The district board(s) of education or State district superintendent(s) of the district of

residence of a charter school may submit comments regarding the amendment request to the Commissioner within 60 days of receipt of the resolution of the board of trustees.

- (d) The Commissioner may approve or deny amendment requests of charter schools and shall notify charter schools of decisions. If approved, the amendment becomes effective immediately unless a different effective date is established by the Commissioner.

#### **SUBCHAPTER 4. PROGRAM IMPLEMENTATION**

##### **6A:11-4.5 Lottery**

- (a) **Pursuant to N.J.S.A. 18A:36A-8, preference for enrollment in a charter school shall be given to students who reside in the school district in which the charter school is located. If there are more applications to enroll in the charter school than spaces available, the charter school shall select students to attend using a random selection process. A charter school shall not charge tuition to students who reside in the school district.**
- (b) **A charter school shall allow any student who was enrolled in the school in the immediately preceding school year to enroll in the charter school in the appropriate grade unless the appropriate grade is not offered at the charter school.**
- (c) **A charter school may give enrollment priority to a sibling of a student enrolled in the charter school.**
- (d) **If available space permits, a charter school may enroll non-resident students. The terms and condition of the enrollment shall be outlined in the school's charter and approved by the Commissioner.**

- (e) **The charter school’s admission policy shall seek, to the maximum extent practicable, the enrollment of a cross-section of the community’s school-age population, including racial and academic factors.**
- (f) **A charter school may seek approval from the Commissioner to establish a weighted lottery that favors educationally disadvantaged students, including, but not limited to, students who are economically disadvantaged, students with disabilities, migrant students, limited English proficient students, neglected or delinquent students, or homeless students, in an effort to better represent a cross-section of the community’s school-age population.**

**6A:11-[4.5]4.6 Waiting list**

- (a) A charter school shall maintain a waiting list for admission of grade-eligible students that:
  - 1. Begins with the close of the annual initial recruitment period and first random selection process and ends with the close of the subsequent school year; and
  - 2. Is divided into two groups: students from the district of residence or region of residence and students from non-resident districts.
- (b) During the recruitment period, a charter school shall notify parents that their children's names remain on the waiting list for enrollment for the subsequent school year only.

**6A:11-[4.6]4.7 Age eligibility for kindergarten**

- (a) A charter school shall enroll a student selected for admission to kindergarten based on the student reaching the age of five in that school year by:
  - 1. October 1 in accordance with N.J.S.A. 18A:38-5; or



2. A date later than October 1 that is established by the district board of education in which the student resides.

**(b) A charter school may enroll students in preschool if the district has a State-funded preschool program. Preschool students shall enroll in kindergarten at the school as returning students and shall not re-enter the lottery.**

#### **6A:11-[4.7]4.8 Limited English proficient students**

A charter school shall provide an enrolled limited English proficient student with all required courses and support services to meet the New Jersey Student Learning Standards in accordance with N.J.S.A. 18A:7A-4 and 18A:7A-5 and N.J.A.C. 6A:15, Bilingual Education.

#### **6A:11-[4.8]4.9 Students with educational disabilities**

A charter school shall provide an enrolled student with educational disabilities with a free, appropriate public education in accordance with the Individuals with Disabilities Education Act, Part B (IDEA-B) at 20 U.S.C. §§ 1400 et seq., 34 C.F.R. 300 et seq., N.J.S.A. 18A:36A-11(b), and N.J.A.C. 6A:14, Special Education.

#### **6A:11-[4.9]4.10 Home instruction for students**

A charter school shall provide home instruction [due to temporary illness or injury for an enrolled student] in accordance with N.J.A.C. 6A:16-10.1 **and 10.2.**

#### **6A:11-[4.10]4.11 Pupil transportation**

In accordance with N.J.S.A. 18A:36A-13 and N.J.A.C. 6A:27-3.1, a district board of education shall provide transportation or aid in lieu of transportation to a student in kindergarten through grade 12 who attends a charter school.

**6A:11-~~[4.11]~~4.12 Board of trustees and Open Public Meetings Act**

- (a) A charter school shall constitute its board of trustees no later than April 15 of the year in which its application is approved.
- (b) The board of trustees of a charter school shall operate in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.
- (c) The board of trustees shall [send] **post** a copy of all meeting notices and meeting minutes to the [respective executive county superintendent of schools] **school's website**.
- (d) The board of trustees shall include a report on changes in student enrollment in the monthly minutes.

**6A:11-~~[4.12]~~4.13 Equity in education**

A charter school shall comply with all applicable laws and regulations governing equity in education including, but not limited to: N.J.S.A. 18A:36-20; N.J.S.A. 10:5-1 et seq.; N.J.A.C. 6A:7, Managing for Equality and Equity in Education; Titles VI and VII of the Civil Rights Act of 1964 at 42 U.S.C. §§ 2000d et seq. and 2000e et seq., respectively; Title IX of the Education Amendments of 1972 at 20 U.S.C. §§ 1681 et seq.; Section 504 of the Rehabilitation Act of 1973 at 29 U.S.C. § 792; the Americans with Disabilities Act of 1990 at 42 U.S.C. §§ 12101 et seq.; and the Individuals with Disabilities Education Act of 2004 at 20 U.S.C. §§ 1400 et seq., and 34 C.F.R. 300 et seq.

#### **6A:11-[4.13]4.14 Financial operations of a charter school**

A charter school shall be subject to the provisions of N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency and Budgeting Procedures.

#### **6A:11-[4.14]4.15 Charter school operations**

- (a) A charter school shall operate in accordance with its charter and the provisions of law and regulation that govern other public schools.
- (b) The board of trustees of a charter school may request that the Commissioner exempt the school from State regulations concerning public schools, except those pertaining to assessment, testing, civil rights, and student health and safety, if the board of trustees satisfactorily demonstrates to the Commissioner that the exemption will advance the educational goals and objectives of the school.

#### **6A:11-4.16 Sports programs**

**If a secondary charter school does not offer the particular sport in which one of its full-time students wishes to participate, the student may participate in the sport at his or her school of residence upon agreement of both principals, regardless of the number of sports programs offered at the charter school.**

#### **6A:11-4.17 Facilities**

- (a) **Pursuant to N.J.S.A. 18A:36A-10, a charter school shall not use public funds other than Federal funds for the construction of a facility. However, a charter school may**

**use State and local funds for the rehabilitation or expansion of a facility, provided the charter school submits to the Department a statement assuring adequate funds are allocated to the classroom, pursuant to N.J.A.C. 6A:23A-22.4(d).**

- (b) A charter school may operate more than one satellite campus in its district or region of residence, subject to charter amendment approval, pursuant to N.J.A.C. 6A:11-2.6.**

## **SUBCHAPTER 5. CERTIFICATION REQUIREMENTS FOR STAFF**

### **6A:11-5.1 Certification**

- (a) All classroom teachers, principals and professional support staff employed by the board of trustees of a charter school shall hold appropriate New Jersey certification in accordance with N.J.A.C. 6A:9B-5.1.
- (b) The board of trustees of a charter school shall employ or contract with:
1. A lead person or another person who holds a New Jersey standard school administrator or supervisor certificate or a New Jersey standard or provisional principal certificate in accordance with N.J.A.C. 6A:9B-8.6 to direct and guide the work of instructional personnel including, but not limited to, the supervision and evaluation of staff and the development and implementation of curriculum; and
  2. A person who holds a New Jersey standard or provisional school business administrator certificate in accordance with N.J.A.C. 6A:9B-[11.7]**12.7** and 6A:23A to oversee fiscal operations of the charter school.

**N.J.A.C. 6A:23A, FISCAL ACCOUNTABILITY, EFFICIENCY  
AND BUDGETING PROCEDURES**

**TABLE OF CONTENTS**

**SUBCHAPTER 16. DOUBLE-ENTRY BOOKKEEPING AND GAAP ACCOUNTING**

6A:23A-16.10 Budgetary controls and overexpenditure of funds

**SUBCHAPTER 22. FINANCIAL OPERATIONS OF CHARTER SCHOOLS**

6A:23A-22.4 Financial requirements

6A:23A-22.15 Approval of amounts paid in excess of approved purchase orders; board policy

## CHAPTER 23A, FISCAL ACCOUNTABILITY, EFFICIENCY

### AND BUDGETING PROCEDURES

#### SUBCHAPTER 16. DOUBLE-ENTRY BOOKKEEPING AND GAAP ACCOUNTING

##### 6A:23A-16.8 Petty cash fund

- (a) Pursuant to the provisions of N.J.S.A. 18A:19-13, a district board of education or charter school board of trustees may establish [on July 1 of each year, or as needed,] **policies for the annual allocation of** a petty cash fund or funds for the purpose of making immediate payments of comparatively small amounts.
- (b) A district board of education or charter school board of trustees establishing a petty cash fund shall:
1. Indicate the amount or amounts authorized for each fund;
  2. Set the maximum expenditure that may be made from each fund;
  3. Designate an employee who shall be responsible for the proper disposition of each fund;
  4. Establish the minimum time period in which the designated person shall report to the district board of education or charter school board of trustees on amounts disbursed from each fund; and
  5. Approve a voucher prepared by the school business administrator/board secretary to replenish each fund.
- (c) Each person designated per (b)3 above shall ensure that all unused petty cash funds are returned to the depository at the close of each fiscal year.

##### 6A:23A-16.10 Budgetary controls and overexpenditure of funds

- (a) A district board of education or charter school board of trustees shall implement controls over budgeted revenues and appropriations as follows:
1. A district board of education or charter school board of trustees shall only approve an encumbrance or expenditure (liability or payment) that, when added to the total of existing encumbrances and expenditures, does not exceed the amount appropriated by the district board of education or charter school board of trustees in the applicable line item account established pursuant to the minimum chart of accounts referenced in N.J.A.C. 6A:23-2.2(g)1.
  2. A district board of education or charter school board of trustees shall only approve the recording of revenues when measurable and available, in accordance with GAAP, unless otherwise authorized pursuant to N.J.S.A. 18A:22-44.2(a). State aid and tax levy approved in the budget certified for taxes shall be recorded in full as of July 1. State restricted and unrestricted grants shall be recorded in full upon signing and execution of the grant agreement or as otherwise directed by the grantor.
  3. When a district board of education or charter school board of trustees adopts an expanded chart of accounts pursuant to N.J.A.C. 6A:23-2.2(g)2, such district board of education or charter school board of trustees shall adopt a policy concerning the controls over appropriations for line item accounts that exceed the minimum level of detail established pursuant to N.J.A.C. 6A:23-2.2(g)1. If a district board of education or charter school board of trustees fails to adopt such a policy, such school district shall apply the restrictions contained in (a)1 above to line item accounts that exceed the minimum level of detail.
  4. A district board of education or charter school board of trustees, unless otherwise restricted by law or Commissioner directive, may transfer amounts from line item

accounts with available appropriation balances to permit the approval of encumbrances or expenditures otherwise prohibited in (a)1 and 3 above. A district board of education or charter school board of trustees shall make these transfers prior to the approval of such encumbrances or expenditures. A district board of education or charter school board of trustees shall make all transfers in accordance with N.J.S.A. 18A:22-8.1, 18A:22-8.2, 18A:7F-6.c, and 18A:7G-31 and N.J.A.C. 6A:23-2.11, 2.13 and 2.14.

(b) A district board of education or charter school board of trustees incurring or projecting a year-end deficit on a budget basis in the general fund, capital projects fund, or debt service fund or for a restricted project in the special revenue fund as designated in N.J.A.C. 6A:23A-16.2(c) shall proceed in the following manner:

1. The district board of education or charter school board of trustees shall direct the chief school administrator, or charter school lead person, to notify the executive county superintendent [of schools], **or the Department in the case of charter schools**, within two working days, of the following:
  - i. The projected amount of the overexpenditure/deficit; and
  - ii. The preliminary findings of the conditions that caused the projected or actual overexpenditure/deficit.
2. The district board of education or charter school board of trustees shall develop, and adopt at a public meeting, an acceptable corrective action plan to eliminate the projected/actual fund deficit within 30 days of the discovery of such fund deficit, but in no circumstance more than 30 days after completion of the CAFR for that year. The corrective action plan shall include:
  - i. The projected or actual amount of the fund deficit;
  - ii. A detailed list of the line items and the actual or projected deficit amount comprising the overall fund deficit;



- iii. The conditions producing the deficit; and
    - iv. The corrective actions taken or to be taken to correct or prevent the deficit and dates or projected dates of such actions.
  3. The executive county superintendent, **or the Department in the case of charter schools**, shall immediately notify the Commissioner, in writing, of a school district or charter school with an actual or projected fund deficit and the amount of said deficit.
  4. The office of the executive county superintendent, **or the Department in the case of charter schools**, shall immediately investigate to determine if the corrective action being taken by the district board of education or charter school board of trustees is sufficient to avoid a fund deficit or correct an actual fund deficit. If necessary, the office of the executive county superintendent **or the Department**, shall assist the district board of education or charter school board of trustees in determining what further corrective action can be taken, or request assistance from the Division of Finance.
  5. The executive county superintendent, **or the Department in the case of charter schools**, shall immediately notify the Commissioner, in writing, should it appear that a fund deficit has occurred or may occur and the district board of education or charter school board of trustees is not taking adequate action to avoid the overexpenditure/deficit.
- (c) Each district board of education or charter school board of trustees shall ensure the following occurs at every regular district board of education or charter school board of trustees meeting:
1. The school business administrator/board secretary shall present to the district board of education or charter school board of trustees a report showing all transfers between line item accounts as well as appropriations, adjustments to

appropriations, encumbrances and expenditures for each line item account shown on the budget form prepared in accordance with N.J.S.A. 18A:22-8. This report is in addition to the report required by N.J.S.A. 18A:17-9.

2. The school business administrator/board secretary shall report to the district board of education or charter school board of trustees any changes in anticipated revenue amounts and revenue sources.
3. A district board of education or charter school board of trustees shall obtain a certification from the school business administrator/board secretary each month that the total of encumbrances and expenditures for each line item account do not exceed the line item appropriation in violation of (a) above.
  - i. If a violation has occurred, the district board of education or charter school board of trustees shall, by resolution, approve by a two-thirds affirmative vote of the authorized membership of the board, pursuant to N.J.S.A. 18A:22-8.1, to either transfer amounts among line items if no department approvals are required pursuant to N.J.A.C. 6A:23A-13, or direct the school business administrator/board secretary, or the chief school administrator or charter school lead person, as appropriate, to request approval pursuant to N.J.A.C. 6A:23A-13 to transfer amounts among line items and/or from undesignated fund balance or other unbudgeted or underbudgeted revenue to eliminate the line item account deficit(s). If the latter option is selected, the appropriate official shall provide a detailed report of approvals granted and the subsequent amounts transferred into and out of the affected line item account(s), undesignated fund balance, or other unbudgeted or underbudgeted revenue account for the board's ratification at the next regularly scheduled meeting.
  - ii. As applicable, the school business administrator/board secretary shall

reflect in the minutes of the board, the certification or a detailed account of all transfers and the board's ratification, when this option is selected. The district board of education or charter school board of trustees shall make such transfers in accordance with this subchapter and N.J.S.A. 18A:22-8.1, 18A:22-8.2, 18A:7F-6.c and 18A:7G-31.

4. A district board of education or charter school board of trustees, after review of the school business administrator/board secretary's and treasurer's monthly financial reports and upon consultation with the appropriate school district or charter school officials, shall certify in the minutes of the board each month that no fund has been overexpended in violation of (b) above, and that sufficient funds are available to meet the district board of education's or charter school board of trustee's financial obligations for the remainder of the fiscal year.
  - i. If the district board of education or charter school board of trustees is unable to make such a certification, the board shall direct the chief school administrator or charter school lead person to initiate the steps outlined in (b) above and shall reflect such directive in the minutes of the board.
  - ii. If the district board of education or charter school board of trustees is able to make such certification, but one or more members of the board votes no to the certification, the district board of education or charter school board of trustees shall provide to the executive county superintendent, the board vote, names of members that voted no, and the reason for the no vote.
  - iii. Within 60 days of month-end, or later upon approval of the executive county superintendent, district boards of education subject to N.J.S.A. 18A:7F-6.b, district boards of education that satisfy less than 80 percent of indicators in the fiscal management section of the district performance review located in the Appendix to N.J.A.C. 6A:30 and other district

boards of education [or charter school boards of trustees at the Commissioner's discretion] shall provide a copy of the school business administrator/board secretary's and treasurer's monthly financial reports submitted to the district board of education [or charter school board of trustees] under (c)1 above and as required pursuant to N.J.S.A. 18A:17-9 and 18A:17-36 to the executive county superintendent.

- iv. Within 60 days of the December month-end, or later upon approval of the executive county superintendent, every district board of education shall provide a copy of the school business administrator/board secretary's and treasurer's monthly financial reports submitted to the board of education under (c)1 above and as required pursuant to N.J.S.A. 18A:17-9 and 18A:17-36 to the executive county superintendent.
- v. Within 60 days of the September, December and March month end, every charter school board of trustees shall provide **to the Department** a copy of the monthly financial reports submitted to the board of trustees under (c)1 above and as required pursuant to N.J.S.A. 18A:17-9 and 18A:17-36 [to the executive county superintendent] .
- vi. Any school business administrator/board secretary that is more than two months behind in submitting the report pursuant to N.J.S.A. 18A:17-9 to a district board of education [or charter school board of trustees] shall immediately report this noncompliance to the executive county superintendent.

- (d) The executive county superintendent shall report to the Commissioner by August 15, [or for charter schools, 45 days after end of year,] all fund overexpenditures as shown on the June report of the school business administrator/board secretary filed pursuant to N.J.S.A. 18A:17-10.

1. A district board of education [or charter school board of trustees] shall immediately develop and adopt an acceptable remedial plan to address any fund(s) deficits consistent with the provisions of (b) above.
  2. If necessary, the executive county superintendent shall assist the district board of education [or charter school board of trustees] in determining what further action can be taken, or request assistance from the Division of Finance.
  3. The executive county superintendent shall immediately notify the Commissioner, in writing, should it appear that the district board of education [or charter school board of trustees] is not taking adequate action to remediate the fund(s) deficit.
- (e) A district board of education or charter school board of trustees that fails to develop a corrective action plan or fails to take adequate action in order to avoid or remediate an overexpenditure or fund deficit may be subject to the following:
1. Comprehensive review pursuant to N.J.A.C. 6A:30-3, improvement activities pursuant to N.J.A.C. 6A:30-5, or intervention activities pursuant to N.J.A.C. 6A:30-6, as deemed warranted by the Commissioner.
  2. Beginning in the second year following the year in which the projected overexpenditure or fund deficit occurred, a reduction in a district board of education or charter school board of trustees cash payment of State aid by the percentage of the sum of the deficits or projected deficit in any fund to its adequacy budget calculated pursuant to the provisions of N.J.S.A. 18A:7F-51, or, in the case of a charter school, a reduction in the charter school aid. Reductions shall be made in the following descending order:
    - i. Equalization aid;
    - ii. Adjustment aid;
    - iii. Transportation aid;
    - iv. Security categorical aid;

- v. Special education categorical aid;
  - vi. Extraordinary special education cost aid; and
  - vii. Preschool education aid.
3. A district board of education or charter school board of trustees shall apply deficits incurred for State and Federal grant projects, enterprise funds such as the school lunch fund, trust and agency funds and student activity funds, to the balance or deficit of the general fund when such overexpended projects and funds should have been balanced by expenditures from or transfers to that fund.
- (f) In those cases where the Commissioner determines that the failure to develop a corrective action plan or take adequate action in order to avoid or address an overexpenditure or fund deficit impacts upon the school district's ability to meet its goals and objectives, the Commissioner may recommend to the State Board of Education that action be taken pursuant to (b) above as deemed warranted by the Commissioner, or in the case of a charter school that its charter be revoked, pursuant to N.J.S.A. 18A:36A-17.

## **SUBCHAPTER 22. FINANCIAL OPERATIONS OF CHARTER SCHOOLS**

### **6A:23A-22.4 Financial requirements**

- (a) A charter school board of trustees may incur debt for a period no greater than 12 months except:
- 1. During the first year that the charter school is approved when the debt is incurred by the charter school board of trustees for a period no longer than January 15 of the preceding school year to June 30 of the first school year of the charter; and
  - 2. For all other years that the charter school is approved when the debt incurred by the charter school board of trustees for a period of 12 months or greater is:

- i. Fully secured by the value of the real property or other asset, so that the total value of all such debt does not exceed the total appraised value of the property or asset by which the debt is secured; and
  - ii. Non-recourse to the charter school.
- (b) A charter school board of trustees may acquire real property by a lease or a lease with an option to purchase for use as a school facility providing that the charter school board of trustees shall ensure:
  - [1. The term of the lease does not exceed the length of the charter;]
  - [2] 1. The lease contains a provision terminating the obligation to pay rent upon the denial, revocation, non-renewal or surrender of the charter; and
  - [3] 2. The lease does not contain a provision accelerating the obligation to pay rent in the event of default.
- (c) A district board of education shall only transmit State and local public funds to a charter school after the final granting of the charter by the Commissioner has occurred. If funds are withheld pending the final granting of the charter, the district board of education shall pay all withheld funds to the charter school with the first scheduled payment after the effective date of the charter.
- (d) A charter school shall be subject to monitoring by the Commissioner to ensure [that the percentage of school] **adequate** funds [spent in] **are allocated to** the classroom. [is at least comparable to the average percentage of school funds spent in the classroom in all other public schools in the State. The calculation for this percentage in both the annual budget and the Comprehensive Annual Financial Report is based on National Center for Educational Statistics as published by the U.S. Department of Education.]
- (e) If, at any time, the Commissioner denies, revokes or does not renew a school's charter, or a charter school board of trustees surrenders its charter or becomes insolvent, all assets of the charter school board of trustees, after satisfaction of all outstanding claims by

creditors, are subject to equitable distribution by the Commissioner among the participating district of residence and non-resident district(s). A charter school board of trustees shall include a provision in its bylaws concerning distribution of assets upon denial, revocation, non-renewal or surrender of its charter or insolvency of the charter school that is consistent with this rule.

#### **6A:23A-22.6 Public relations and professional services; board policies; efficiency**

- (a) Each charter school board shall establish by policy or policies a strategy or strategies in order to minimize the cost of public relations as defined in N.J.A.C. 6A:23A-9.3(c)14, and professional services. The policy or policies shall include, to the extent practicable and cost effective, but need not be limited to, the following provisions:
1. A maximum dollar limit, established annually prior to budget preparation, for public relations, as defined in N.J.A.C. 6A:23A-9.3(c)14, and each type of professional service, with appropriate notification to the board of trustees if it becomes necessary to exceed the maximum. Upon such notification, the board of trustees may adopt a dollar increase in the maximum amount through formal board action;
  2. Establishment of procedures to ensure the prudent use of legal services by employees and board of trustees' members and the tracking of the use of those services.
  3. Charter schools [with] **shall establish procedures to effectively manage** legal costs. [that exceed 130 percent of the Statewide average charter school per pupil amount should establish the following procedures and, if not established, provide evidence that such procedures would not result in a reduction of costs]

**Procedures may include:**



- i. A limitation on the number of contact persons with the authority to request services or advice from contracted legal counsel;
  - ii. Criteria or guidance to prevent the use of legal counsel unnecessarily for management decisions or readily available information contained in charter school materials such as policies, administrative regulations or guidance available through professional source materials;
  - iii. A provision that requests for legal advice shall be made in writing and shall be maintained on file in the business office and a process to determine whether the request warrants legal advice or if legal advice is necessary; and
  - iv. A provision to maintain a log of all legal counsel contact including name of legal counsel contacted, date of contact, issue discussed and length of contact. Legal bills shall be compared to the contact log and any variances shall be investigated and resolved;
4. A provision that requires that contracts for legal services comply with payment requirements and restrictions pursuant to N.J.S.A. 18A:19-1 et seq. and as follows:
  - i. Advance payments shall be prohibited;
  - ii. Services to be provided shall be described in detail in the contract;
  - iii. Invoices for payment shall itemize the services provided for the billing period; and
  - iv. Payment shall only be for services actually provided;
5. Professional services contracts are issued in a deliberative and efficient manner that ensures the charter school receives the highest quality services at a fair and competitive price or through a shared service arrangement. This may include, but is not limited to, issuance of such contracts through a request for proposals (RFP)

based on cost and other specified factors or other comparable process; and

6. Professional services contracts are limited to non-recurring or specialized work for which the charter school does not possess adequate in-house resources or in-house expertise to conduct.
  - i. Charter schools are prohibited from contracting with legal counsel or using in-house legal counsel to pursue any affirmative claim or cause of action on behalf of charter school administrators and/or any individual board members for any claim or cause of action in which the damages to be awarded would benefit an individual rather than the charter school as a whole.
  - ii. Charter school publications shall be produced and distributed in the most cost-efficient manner possible that will enable the charter school to inform and educate the target community. The use of expensive materials or production techniques where lower cost methods are available and appropriate, such as the use of multi-color glossy publications instead of suitable, less expensive alternatives, is prohibited.
  - iii. Public relations activities, such as booths at Statewide conferences, marketing activities and celebrations for opening schools and community events, and TV productions that are not part of the instructional program or do not provide, in a cost-effective way, information about charter school or board operations to the public, that are excessive in nature are prohibited. All activities involving promotional efforts to advance a particular position on elections or any referenda are prohibited.
  - iv. Nothing in this section shall preclude boards of trustees from accepting donations or volunteer services from community members, local private education foundations and local business owners to conduct or assist in

public relations services. Examples include, but are not limited to:

- (1) Providing charter school flyers, newsletters or other materials containing charter school related information of public concern to local businesses, public meeting places or other local organizations to display or make available for dissemination;
- (2) Making charter school related information of public concern available to local newspapers to publish related articles; and
- (3) Utilizing volunteered services of local community members, charter school employees, members of parent organizations or local businesses with expertise in related areas such as printing, advertising, publishing or journalism.

**6A:23A-22.15 Approval of amounts paid in excess of approved purchase orders; board policy**

- (a) A charter school board shall adopt a policy establishing the approval process for any remittance of payment for invoice amounts greater than the approved purchase order. The policy shall require the school business administrator, **or assistant school business administrator**, to identify, and investigate if necessary, the reason for any increase to a purchase order. If it is found that such an increase is warranted, the school business administrator, **or assistant school business administrator**, shall either approve a revision to the original purchase order with the reason noted, approve the issuance of a supplemental purchase order for the difference, or cancel the original purchase order and issue a new purchase order. If it is found that such an increase is not warranted, the purchase order shall be canceled and the goods returned. In no instance shall an adjustment be made to a purchase order that changes the purpose or vendor of the

original purchase order or a bid award.

(b) Financial systems shall be programmed to:

1. Limit system access so that only appropriate business office staff may make purchase order adjustments;
2. Reject adjustments in excess of any established approval thresholds;
3. Prevent unauthorized changes to be processed;
4. Reject payments where the sum of the invoice amount plus any previous invoices charged to the purchase order exceeds the sum of the original purchase order amount plus any authorized adjustments;
5. Reject duplicate purchase order numbers;
6. Reject duplicate invoice numbers; and
7. Prepare an edit/change report listing all payments made in excess of the originally approved purchase order amount.

(c) The school business administrator shall review on a monthly basis edit/change reports listing all payments made in excess of the originally approved purchase order amount to ensure that all payments made are properly authorized.

**N.J.A.C. 6A:26, EDUCATIONAL FACILITIES**

**TABLE OF CONTENTS**

**SUBCHAPTER 7. LAND ACQUISITION, SCHOOL CLOSING, AND LAND DISPOSAL**

6A:26-7.5 Approval for the closing of a school facility

## CHAPTER 26. EDUCATIONAL FACILITIES

### SUBCHAPTER 7. LAND ACQUISITION, SCHOOL CLOSING, AND LAND DISPOSAL

#### 6A:26-7.5 Approval for the closing of a school facility

- (a) To receive approval for the closing of a school, the district board of education shall provide the Division and the executive county superintendent with the following assurances:
1. The proposed closing is consistent with the school district's approved LRFPP because:
    - i. The school district has demonstrated that sufficient school-building capacity exists to house students for the five years following the closing;
    - or
    - ii. The school district has demonstrated through a feasibility study that the benefits of undertaking new construction outweigh those of rehabilitating the school proposed for closure.
  2. The use of temporary facilities in the remaining schools does not result or increase from an overall facilities shortage caused by the school closing; and
  3. The re-assignment of students to other schools in the school district does not produce, sustain, or contribute to unlawful segregation, separation, or isolation of student populations on the basis of race or national origin.
- (b) A request for approval from the Division for the school closing shall include the recommendation of the executive county superintendent.
- (c) A letter of approval from the Division based on the information in (a) above shall be required before the school's closing.

- (d) The Division shall notify in writing the school district of its determination with respect to the requested school closing, with a copy provided to the executive county superintendent.
- (e) **Starting in August 2017, the Division of Executive Services shall maintain a list of closed, unused, or unoccupied school facilities, consistent with N.J.A.C. 6A:26-2.2, and make it available on the Department's website.**