



**First Discussion
May 3, 2017**

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TO: Members, State Board of Education

FROM: Kimberley Harrington
Acting Commissioner

SUBJECT: N.J.A.C. 6A:21, Marie H. Katzenbach School for the Deaf

REASON
FOR ACTION: Readoption with Amendments

AUTHORIZATION: N.J.S.A. 18A:61-2

SUNSET DATE: November 10, 2017

Summary

The Department of Education (Department) proposes to readopt N.J.A.C. 6A:21, Marie H. Katzenbach School for the Deaf, with amendments. This chapter establishes rules for the Marie H. Katzenbach School for the Deaf (Katzenbach School) and for school districts that apply to the school on behalf of students and/or send students to the school. The rules address student eligibility and admission, as well as graduation of Katzenbach School students, and provide for an appeals process if a student is refused admission to the Katzenbach School. The chapter expires November 10, 2017.

The Katzenbach School, which has been in operation for more than 130 years, serves auditorily impaired (deaf and hard-of-hearing) students of suitable age and capacity for instruction and services, who are legal residents of the State and not over 21 years of age. The Katzenbach School currently enrolls 100 students. The school also provides a residential program that operates four nights per week for students who live too far from the school to commute on a daily basis.

The chapter was most recently readopted effective November 10, 2010. The chapter previously was readopted effective February 10, 2005. N.J.A.C. 6A:21 initially was adopted effective May 1, 2000, when the chapter was moved from Title 6 of New Jersey Administrative Code. The original chapter -- N.J.A.C. 6:78 -- became effective prior to September 1, 1969.

The Department proposes to readopt N.J.A.C. 6A:21 with amendments to align the chapter with current practice of the Katzenbach School.

The following is a summary of the rules proposed for readoption and the proposed amendments. Unless otherwise noted, all proposed amendments are to update the Administrative Code citations or for style, clarity, or grammatical improvement.

Subchapter 1. General Provisions

N.J.A.C. 6A:21-1.1 Purpose and scope of the Katzenbach School

This section provides the purpose of the rules, which currently govern eligibility, admission, transportation, and graduation of students to the Katzenbach School, and provide an appeals process if a student is refused admission to the Katzenbach School. The section also identifies the parties to whom the rules apply.

The Department proposes to delete “of the Katzenbach School” in the section heading because the entire chapter governs the school. The Department proposes the same amendment throughout the chapter.

The Department proposes an amendment at N.J.A.C. 6A:21-1.1(a), which sets forth the chapter’s purpose, to delete “transportation” because the former rules governing the transportation of Katzenbach School students was repealed, effective January 2001. Katzenbach School students are transported in accordance with N.J.A.C. 6A:27-5.2 and their individualized education programs (IEPs), as applicable.

N.J.A.C. 6A:21-1.2 Definitions for the Katzenbach School

This section defines the terms that are used throughout the chapter.

The Department proposes an amendment to the definition of “Marie H. Katzenbach School for the Deaf” or “Katzenbach School” to replace “children from birth through age 21” with “students” for consistency. The Department also proposes to delete the last sentence, which states “[t]he Katzenbach School was established pursuant to N.J.S.A. 18A:61-1 et seq.,” because the authorizing statute already is cited in N.J.A.C. 6A:21-1.1.

The Department proposes to replace the current definition of “residential student,” which means a student who does not arrive at the Katzenbach School at the beginning of each school day and does not leave the Katzenbach School at the end of each school day, with “means a student who boards at the Katzenbach School Monday through Thursday during the school year.” The proposed definition will more accurately describe a residential student at the Katzenbach School.

The Department proposes a definition of “student” to mean “an auditorily impaired (deaf or hard-of-hearing) person of suitable age and capacity for instruction and services, who is a legal resident of the State and not over 21 years of age.”

Subchapter 2. Student Requirements

The Department proposes to replace the subchapter heading with “Admissions, Tuition, and Graduation Procedures” to better reflect the subchapter’s content.

N.J.A.C. 6A:21-2.1 Eligibility for admission to the Katzenbach School

This section specifies the eligibility requirements for admission to the Katzenbach School.

The Department proposes amendments throughout the section to replace references to “applicant” with “student” to clarify that sending district boards of education apply to Katzenbach School to enroll a student rather than a student or his or her parent or guardian applying directly to Katzenbach School.

The Department proposes an amendment at N.J.A.C. 6A:2.1(b), which states no eligible New Jersey applicant shall be denied admission due to the enrollment of out-of-State students, to replace “New Jersey applicant” with “student who is domiciled in New Jersey.” The proposed amendment will clarify the rule applies to students domiciled in the State.

N.J.A.C. 6A:21-2.2 Tuition for students attending the Katzenbach School

This section establishes that the education provided at the Katzenbach School is provided at no expense to auditorily impaired children or their parents or guardians if the parents or guardians reside in the State, the student is domiciled within the State, or the student resides in the home of another person domiciled within the State and is supported gratis by that person as if the student were that person's own child. The section also requires the Commissioner to establish the tuition rate charged to out-of-State students.

N.J.A.C. 6A:21-2.3 Graduation from the Katzenbach School

This section establishes the requirements for Katzenbach School students to be eligible for a State-endorsed high school diploma.

The Department proposes an amendment at N.J.A.C. 6A:21-2.3(a)1, which states that a student has the choice of receiving the State-endorsed high school diploma of the Katzenbach School or the sending district board of education, to add a reference to the authorizing provision in N.J.A.C. 6A:14, Special Education.

The Department proposes N.J.A.C. 6A:21-2.3(b) to require all student records to be maintained in accordance with N.J.A.C. 6A:14-7.9, which are the rules governing the maintenance of records for students who attend receiving schools.

Subchapter 3. Sending District Board of Education Requirements

N.J.A.C. 6A:21-3.1 Admissions process for the Katzenbach School

This section establishes the process by which a sending district board of education applies for a student’s admission to the Katzenbach School.

The Department proposes amendments to N.J.A.C. 6A:21-3.1(a), which sets forth the application procedure, to combine current N.J.A.C. 6A:21-3.1(a) and (a)1 and to recodify N.J.A.C. 6A:21-3.1(a)1i and ii as new N.J.A.C. 6A:21-3.1(a)1 and 2, respectively.

The Department proposes amendments to recodified N.J.A.C. 6A:21-3.1(a)2, which requires a sending district board of education to include in its application to Katzenbach School copies of all assessments and reports as required by N.J.A.C. 6A:14-3.4, 3.5, 3.7, and 3.8, to replace “all assessments and reports as required by N.J.A.C. 6A:14-3.4, 3.5, 3.7 and 3.8” with

“the student’s individualized education program and other supporting documentation as determined and requested by the Katzenbach School” to reflect current practice.

Subchapter 4. Appeals

N.J.A.C. 6A:21-4.1 Appeals process for the Katzenbach School

This section states appeals regarding the chapter’s rules are to be made in writing to the Commissioner in accordance with N.J.A.C. 6A:3, Controversies and Disputes.

The Department proposes amendments to N.J.A.C. 6A:21-4.1 to add the following provision as the first sentence: “A student denied admission to Katzenbach School, or his or her parent or guardian, may seek to initiate a due process hearing in accordance with N.J.A.C. 6A:14-2.7.” The Department also proposes to replace “[a]ppeals” with “[a]ll appeals regarding the chapter’s rules by a party other than a student, or his or her parent or guardian,” in the existing provision to clarify the controversies and disputes process at N.J.A.C. 6A:3 is for all appeals except those made by students or their parents or guardians.

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 rules proposed for readoption with amendments apply to the provision of educational services to students with auditory impairments. The Legislature established the Katzenbach School to ensure sufficient and appropriate services for students with auditory impairments. For more than 130 years, the Katzenbach School has been providing quality educational services to deaf and hard-of-hearing students. The school remains the sole residential educational program in the State for deaf and hard-of-hearing children, and continues to provide residential services during the school week for students who live too far from the school to commute daily.

The Katzenbach School offers deaf and hard-of-hearing students access to communication with both peers and staff throughout the entire school day. The Katzenbach School also offers students an array of support services and activities to meet their educational, emotional, and social needs.

Parents and sending district boards of education benefit from the opportunity to place deaf and hard-of-hearing students in this weekly 24-hour learning environment. The rules describe and clarify the responsibilities of the sending district boards of education to provide educational opportunities to deaf and hard-of-hearing students.

The rules proposed for readoption with amendments provide students with disabilities, parents, sending school districts, and the general public concise rules governing application, admission, provision of services, and tuition for the Katzenbach School.

Economic Impact

The Katzenbach School offers sending district boards of education an opportunity to provide quality educational programs and services to deaf and hard-of-hearing children at a very affordable tuition rate, which compares favorably with the rates of other service providers for the deaf. The rules proposed for readoption with amendments ensure eligible students will continue to receive a free and appropriate education at the Katzenbach School. As such, the rules

proposed for readoption with amendments will not impose a financial burden upon the students enrolled or their families.

Federal Standards Statement

The rules proposed for readoption with amendments will not be inconsistent with or exceed any Federal requirements or standards. The rules proposed for readoption with amendments are in complete compliance with the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. § 1400 et seq. The Katzenbach School provides a free and appropriate public education to students with disabilities. The Katzenbach School also provides all other rights and protections that are applicable to students and their parents.

Jobs Impact

The rules proposed for readoption with amendments will not result in the creation or loss of jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments 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. Therefore, a regulatory flexibility analysis is not required. The rules proposed for readoption with amendments impact solely on the Katzenbach School and sending district boards of education.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have an insignificant impact on the affordability of housing in New Jersey. There is an extreme unlikelihood the proposed for readoption with amendments would evoke a change in the average costs associated with housing because the rules proposed for readoption with amendments govern the Katzenbach School and sending district boards of education.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have an insignificant impact on smart growth. There is an extreme unlikelihood the rules proposed for readoption with amendments 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 rules proposed for readoption with amendments govern the Katzenbach School and sending district boards of education.

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

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CHAPTER 21. MARIE H. KATZENBACH SCHOOL FOR THE DEAF

SUBCHAPTER 1. GENERAL PROVISIONS

6A:21-1.1 Purpose and scope [of the Katzenbach School]

- (a) [The purpose of this] **This** chapter [is to] provides **the** rules regarding eligibility, admission, [transportation,] and graduation of students [to] **at** the Marie H. Katzenbach School for the Deaf (Katzenbach School) in accordance with N.J.S.A. 18A:61-1 **et seq.** The rules also provide **for** an appeals process if a student is refused admission to the Katzenbach School.
- (b) The rules [apply to public] **govern** district boards of education that [make application to the Department of Education (Department)] **apply** to enroll students at the Katzenbach School.

6A:21-1.2 Definitions [for the Katzenbach School]

The following words and terms[, as used in this chapter,] shall have the following meaning **when used in this chapter**, unless the content clearly indicates otherwise.

"Marie H. Katzenbach School for the Deaf" or "Katzenbach School" means the State-operated residential and day education facility [which] **that** provides instruction for auditorily impaired [children from birth through age 21] **students** in the following areas: early intervention, preschool through high school, and vocational education. [The Katzenbach School was established pursuant to N.J.S.A. 18A:61-1 et seq.]

"Residential student" means a student who [does not arrive] **boards** at the Katzenbach School [at the beginning of each] **Monday through Thursday during the** school [day and does not leave the Katzenbach School at the end of each school day] **year**.

"Sending district board of education" means a district board of education that [makes application for] **applies to**, or sends a student to, the Katzenbach School.

"Student" means an auditorily impaired (deaf or hard-of-hearing) person of suitable age and capacity for instruction and services, who is a legal resident of the State and not over 21 years of age.

SUBCHAPTER 2. [STUDENT REQUIREMENTS] ADMISSIONS, TUITION, AND GRADUATION PROCEDURES

6A:21-2.1 [Eligibility] Student eligibility for admission [to the Katzenbach School]

- (a) [An applicant] **A student age three through 21** shall be eligible to attend the Katzenbach School based on the following criteria:
1. All [applicants, ages three through 21,] **students** shall be classified, **in accordance with N.J.S.A. 18A:46-8 and as defined in N.J.A.C. 6A:14-3.5**, as auditorily impaired, preschool-disabled, or [multiply-disabled] **multiply disabled** with an auditory deficit [in accordance with N.J.S.A. 18A:46-8 and as defined in N.J.A.C. 6A:14-3.5].
 2. [Applicants] **Students** shall have a residence other than the Katzenbach School on days when the school is not in operation, including weekends.

- (b) No eligible **student who is domiciled in** New Jersey [applicant] shall be denied admission due to the enrollment of out-of-State students.

6A:21-2.2 Tuition [for students attending the Katzenbach School]

- (a) The education provided at the Katzenbach School shall be provided at no expense to auditorily impaired children[,] **or** their parents or guardians if:
1. The parents or guardians [of such children] reside in the State;
 2. The student is domiciled within the State; or
 3. The student resides in the home of another person domiciled within the State and is supported **gratis** by [such other] **that** person [gratis] as if [he or she] **the student** were [such other] **that** person's own child, subject to [compliance with] the requirements of N.J.S.A. 18A:38-[1(b)]**1.b.**
- (b) The Commissioner shall establish the tuition rate charged to out-of-State students.

6A:21-2.3 Graduation [from the Katzenbach School]

- (a) An enrolled student who completes the high school program at the Katzenbach School and who has satisfied the high school graduation requirements according to N.J.A.C. 6A:8-5.1 and 6A:14-3.7(e)9 and 4.11 shall be eligible for a State-endorsed high school diploma.
1. The student shall have the choice of receiving the State-endorsed high school diploma of the [Marie H.] Katzenbach School [for the Deaf] or [the State-endorsed high school diploma of] the sending district board of education, **pursuant to N.J.A.C. 6A:14-4.11(c).**
- (b) **All student records shall be maintained in accordance with N.J.A.C. 6A:14-7.9.**

SUBCHAPTER 3. SENDING DISTRICT BOARD OF EDUCATION REQUIREMENTS

6A:21-3.1 Admissions process [for the Katzenbach School]

- (a) The sending district board of education shall apply for a student's admission to the Katzenbach School[.
1. The sending district board of education shall submit] **by submitting** a completed application form that includes:
 - [i.] **1.** Information regarding the student and the school district; and
 - [ii.] **2.** Copies of [all assessments and reports as required by N.J.A.C. 6A:14-3.4, 3.5, 3.7 and 3.8] **the student's individualized education program and other supporting documentation as determined and requested by the Katzenbach School.**
- (b) The **Katzenbach School** superintendent [of the Katzenbach School] shall notify the parent/guardian and sending district board of education regarding the disposition of the student's application within 30 calendar days of **the application's** receipt [of the application].

6A:21-3.2 (Reserved)

SUBCHAPTER 4. APPEALS

6A:21-4.1 Appeals [process for the Katzenbach School]

[Appeals] **A student denied admission to Katzenbach School, or his or her parent or guardian, may seek to initiate a due process hearing in accordance with N.J.A.C. 6A:14-2.7. All appeals regarding the chapter's rules [of this chapter] by a party other than a student, or his or her parent or guardian, shall be made in writing to the Commissioner of Education in accordance with N.J.A.C. 6A:3-[1.3]1.2 to 1.17.**