

...  
 "Substance use disorder services" means preventive, treatment or recovery services provided in a culturally sensitive environment to CP&P-supervised adolescents or parents of CP&P-supervised children. Specific services include:

- 1.-3. (No change.)
4. Short-term residential treatment;
5. Long-term residential treatment;
6. Halfway house treatment;
7. Outpatient and intensive outpatient treatment;
8. Medication-assisted treatment; and
9. Recovery supports.

...  
 "Title XIX Medicaid" means medical assistance provided to certain persons with low income and limited resources as authorized under Title XIX (Medicaid) of the Social Security Act (42 U.S.C. § 1396 et seq.).

3A:11-1.4 Rights of applicants and clients

- (a)-(c) (No change.)
- (d) (No change in text.)
- (e) The applicant or client shall receive written information about:
  - 1.-8. (No change.)
  - Recodify existing 10.-12. as 9.-11. (No change in text.)
  12. The Notice of Privacy Practices pursuant to the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§ 1320d.
- (f) (No change in text.)
- (g) The applicant, client, or reporter, if a request is made, shall have the right to receive a written disposition from the Division as soon as practical but not later than 10 calendar days from the date upon which a finding of substantiated, established, not established, or unfounded is made or upon which a decision to provide or not to provide child welfare services is made.
- (h) (No change in text.)
- (i) (No change in text.)

3A:11-1.5 Responsibilities of applicants and clients

- (a) A person applying for or receiving services shall provide information necessary to determine his or her eligibility for services, including requested financial information.
- (b) (No change.)

3A:11-1.6 Responsibilities of the Division

- (a) (No change.)
- (b) The Division may provide services through direct service delivery or through third-party social service contracts with other service providers. The Division may also refer applicants and clients to service providers.
- (c) Within 30 days of a child's out-of-home placement, the Division shall notify each adult relative of the child:
  - 1.-3. (No change.)
  4. Of the requirements to participate in the CP&P Legal Guardianship Subsidy Program in accordance with N.J.A.C. 3A:20.

**MILITARY AND VETERANS' AFFAIRS**

**(a)**

**OFFICE OF THE ADJUTANT GENERAL**

**Division of Veterans Services**

**Readoption with Amendments: N.J.A.C. 5A:6**

Proposed: June 5, 2017, at 49 N.J.R. 1283(a).  
 Adopted: September 12, 2017, by Brigadier General Michael L. Cunniff, The Adjutant General, Commissioner, Department of Military and Veterans' Affairs.  
 Filed: October 2, 2017, as R.2017 d.191, **without change**.  
 Authority: P.L. 1987, c. 444, and N.J.S.A. 38A:3-2.2 and 38A:3-6(o).

Effective Date: October 2, 2017, Readoption;  
 November 6, 2017, Amendments.  
 Expiration Date: October 2, 2024.

**Summary of Public Comment and Agency Response:**

Comments were submitted in a timely fashion by Paul Sutton, Vietnam Veterans of America.

1. COMMENT: With reference to N.J.A.C. 5A:6-4, Vietnam Veterans Tuition Aid Program (VTAP), this chapter should be removed from the rules since the program was closed on April 9, 1990.

RESPONSE: The Department disagrees with the commenter. The five-year open enrollment period for the VTAP program ended on April 9, 1990, but the program is still active. Eligible Vietnam veterans who enrolled in VTAP prior to April 9, 1990, may still take advantage of this program in order to obtain an undergraduate degree from a public institution of higher education in this State or at an independent college or university located in this State licensed by the Secretary of Higher Education or approved for the training of veterans by the Commission on Higher Education.

**Federal Standards Statement**

The rules readopted with amendments are promulgated under the authority of the rulemaking requirements of the Department of Military and Veterans Affairs as established at N.J.S.A. 38A:3-2.2 and 38A:3-6(o). The rules readopted with amendments are not subject to any Federal requirements or standards; therefore, a Federal standards analysis is not required.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 5A:6.

**Full text** of the adopted amendments follows:

SUBCHAPTER 1. GENERAL PROVISIONS

5A:6-1.1 Scope

- (a) (No change.)
- (b) This chapter does not refer to the policies and procedures involved in the admission to and operation of the Department's three veterans memorial homes and two Veterans Havens nor does it cover burial entitlements at the Brigadier General William C. Doyle Veterans' Memorial Cemetery.

SUBCHAPTER 6. TUITION ASSISTANCE FOR WAR ORPHANS  
 (N.J.S.A. 38:20-1 et seq.)

5A:6-6.3 War and time of emergency

- (a) "War" means any of the following:
  - 1.-3. (No change.)
  4. Operation Desert Shield/Desert Storm, August 2, 1990, and prior to February 28, 1991;
  5. Operation Northern Watch and Southern Watch, August 27, 1992, and prior to March 18, 2003;
  6. (No change.)
  7. Operation Iraqi Freedom/New Dawn, March 19, 2003, and ongoing.
- (b) (No change.)

SUBCHAPTER 7. VETERANS' CATASTROPHIC ENTITLEMENT  
 (N.J.S.A. 38:18-1 et seq.; 38:18A-1 et seq.)

5A:6-7.2 Veterans' Catastrophic Entitlement eligibility criteria

- (a) In order to be eligible for a Veterans' Catastrophic Entitlement, a veteran must:
  - 1.-4. (No change.)
  5. Have served during the following:
    - i.-iii. (No change.)
    - iv. Operation Desert Shield/Desert Storm August 2, 1990, and prior to February 28, 1991;
    - v. Operation Northern Watch and Southern Watch, August 27, 1992, and prior to March 18, 2003;
    - vi. (No change.)

vii. Operation Iraqi Freedom/New Dawn, March 19, 2003, and ongoing.

(b)-(d) (No change.)

5A:6-7.8 Spouse Catastrophic Entitlement

(a) (No change.)

(b) The procedure for a change of address within or to another state is the same as those for the veteran as indicated in N.J.A.C. 5A:6-7.5 and 7.6(a) through (j).

1.-2. (No change.)

(c)-(d) (No change.)

## EDUCATION

### (a)

#### STATE BOARD OF EDUCATION

#### Regulatory Equivalency and Waiver

#### Readoption with Amendments: N.J.A.C. 6A:5

Proposed: July 17, 2017, at 49 N.J.R. 1980(a).

Adopted: October 6, 2017, by the New Jersey State Board of Education, Kimberley Harrington, Commissioner, Department of Education, Secretary, State Board of Education.

Filed: October 6, 2017, as R.2017 d.195, **without change**.

Authority: N.J.S.A. 18A:4-15.

Effective Dates: October 6, 2017, Readoption;  
November 6, 2017, Amendments.

Expiration Date: October 6, 2024.

#### Summary of Public Comments and Agency Responses:

Comments were received from Michael A. Vrancik, Director, Government Relations, New Jersey School Board Association (NJSBA).

1. COMMENT: The commenter expressed support for the proposed amendments at N.J.A.C. 6A:5, Regulatory Equivalency and Waiver.

RESPONSE: The Department thanks the commenter for the support.

2. COMMENT: The commenter suggested the State Board provide the Commissioner with the regulatory flexibility to assist district boards of education in providing effective and efficient educational programs through an equivalency and waiver process for both general and special education students.

RESPONSE: While the readoption of N.J.A.C. 6A:5 will continue the Commissioner's authority to provide regulatory flexibility to district boards of education through the equivalency and waiver process for general education, the Department declines to allow waivers or equivalencies of special education rules at N.J.A.C. 6A:14, Special Education.

N.J.A.C. 6A:14 implements the standards set by the Federal Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400 et seq.) and State laws regarding special education. Since N.J.A.C. 6A:5 cannot be used to grant an equivalency to, or waiver of, Federal or State laws, the Department could not approve an equivalency or waiver application for many provisions in N.J.A.C. 6A:14.

Additionally, the special education rules at N.J.A.C. 6A:14-4.9(f) state: "As of July 6, 1998, no waivers or equivalencies pursuant to N.J.A.C. 6A:5 shall be granted to this chapter." As part of a comprehensive review of special education rules in the mid-1990s that aimed to improve special education programs by assuring a balance of flexibility and safeguards, the Department determined that exceptions for age range and class and group size would be granted through the Department's county offices on an individual student or classroom basis and not through the equivalency and waiver process on a districtwide basis. At the time, the Department stated the policy change specifically was "[i]n response to issues raised regarding equivalencies and waivers" (see 30 N.J.R. 1219(b)).

3. COMMENT: The commenter asked if the Department can provide a summary of the number of equivalencies and waivers that have been granted over the years of the program and the number of requests that

have been denied. The commenter also asked if information about the equivalencies and waivers that have been granted is available on the Department's website.

RESPONSE: While the Department does not have readily available data spanning the 22 years the equivalency and waiver process has been available to school districts, the Department has completed the process for more than 600 applications during the past five years. Approximately 96 percent of the applications were approved. The completed applications are not available on the Department's website at this time. The Department will review ways of making the applications, or a summary of them, available online in a universally accessible manner.

#### Federal Standards Statement

The rules readopted with amendments are not inconsistent with and do not exceed Federal requirements or standards as there are no Federal requirements or standards relating to this chapter.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 6A:5.

**Full text** of the adopted amendments follows:

#### SUBCHAPTER 1. EQUIVALENCY AND WAIVER PROCESS

##### 6A:5-1.1 Purpose and scope

(a) This chapter's purpose is to provide regulatory flexibility for school districts to meet the requirements of the rules contained in the New Jersey Administrative Code Title 6A. Regulatory flexibility may be granted as a waiver or equivalency to a specific rule so school districts can provide effective and efficient educational programs. The Commissioner, with authority delegated by the New Jersey State Board of Education, may approve on a case-by-case basis a waiver or equivalency to a specific rule.

(b) Entities covered by the chapter include: school districts; charter schools; renaissance schools; county vocational school districts; county special services school districts; educational services commissions; jointure commissions; regional day schools; Marie Katzenbach School for the Deaf; approved private schools for students with disabilities; college-operated programs; and programs operated by the State Departments of Children and Families, Human Services, and Corrections. Agencies and clinics are excluded.

##### 6A:5-1.2 Definitions

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

...

"Waiver" means approval to avoid compliance either with the specific procedures or the substantive requirements of a specific rule for reasons that are judged educationally, organizationally, and fiscally sound.

##### 6A:5-1.3 Criteria for an equivalency or waiver

(a) An equivalency or waiver to a specific rule must meet the following criteria:

1. The spirit and intent of New Jersey Statutes Title 18A, applicable Federal laws and regulations, and the New Jersey Administrative Code Title 6A are served by granting the equivalency or waiver.

i. (No change.)

2. The provision of a thorough and efficient education to students in the school district is not compromised as a result of the equivalency or waiver; and

3. (No change.)

##### 6A:5-1.4 Equivalency process

(a) The Commissioner, with authority delegated by the State Board, may approve an equivalency to a specific rule based on a Department-developed application submitted by a school district.

(b) The application completed by the school district shall describe, at a minimum:

1. (No change.)

2. The condition(s) or reason(s) for the proposed equivalency, including reference to the specific rule that necessitates the proposal;