

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

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## CHAPTER 11. CHARTER SCHOOLS

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 6A:11-1.1 Purpose

- (a) The purpose of this chapter is to provide the rules to govern the implementation of the Charter School Program Act, N.J.S.A. 18A:36A-1 et seq. The rules define the processes for: establishing and operating charter schools; complying with the School Ethics Act (N.J.S.A. 18A:12-21 et seq.); implementing programs; certifying classroom teachers, principals, and professional support staff; and applying streamline tenure for teaching staff members, janitors, and secretaries. The rules for conducting the financial operations of the charter schools are set forth in the fiscal accountability rules at N.J.A.C. 6A:23A-22.
- (b) The rules set out the requirements for applying for a charter and operating a school when a charter is awarded by the Commissioner. In addition, the rules affect students who attend charter schools, the parents and legal guardians of the students, the district boards of education where the students reside, the district boards of education in which charter schools are physically located, and the people who serve on the boards of trustees and on the staffs of charter schools.

#### 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.

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

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

“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 accountability system that shall be used by the Department 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 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 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 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.

“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 operated by a charter school 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.

"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.
  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 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:
- i. A new lease, mortgage or title to its facility if the charter school has changed facilities;
  - ii. 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;
  - iii. An annual sanitary inspection report with satisfactory rating;
  - iv. An annual fire inspection certificate with "Ae" (education) code life hazard use at N.J.A.C. 5:70-4;
  - v. A list of the lead person, teachers, and professional support staff if any charter school staff has changed;
  - vi. 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
  - vii. 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. A review of the charter school based on its charter agreement and the Performance Framework;
  - 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:
    - viii. A member of the charter school board of trustees;
    - ix. The lead person of the charter school;
    - x. A teacher at the charter school; and
    - xi. A parent or other representative of the charter school;
  - 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.
- (d) The Commissioner shall notify a charter school regarding the granting or denial of the renewal on or before February 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;
- 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:11-2.5 Charter appeal process**

An eligible applicant for a charter school, a charter school, or a district board of education or State district superintendent of the district of residence of a charter school may file an appeal according to N.J.S.A. 18A:6-9.1.

### **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;
- 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.

#### **6A:11-2.7 Nonpublic conversion charter schools; applicable law**

Except as otherwise provided in this section through N.J.A.C. 6A:11-2.11, the provisions of P.L. 1995, c. 426 (N.J.S.A. 18A:36A-1 et seq.) and this chapter shall apply in the case of a nonpublic school applying for conversion or having undergone conversion to charter school status.

#### **6A:11-2.8 Eligibility of a nonpublic school to convert to a charter school**

- (a) To be eligible for conversion to a charter school, a nonpublic school must be a high-performing nonpublic school and must be located in one of the failing school districts included in the chapter Appendix.
- (b) A school district seeking to be removed from the list of failing school districts shall apply to the Commissioner for removal via the waiver process pursuant to N.J.A.C. 6A:5, Regulatory Equivalency and Waiver. If the Commissioner determines that a school district should not be considered a district in need of improvement based on evidence presented in the waiver application, the school district shall be removed from the list of failing school districts, and nonpublic schools located in that school district shall no longer be eligible for conversion to a charter school.

#### **6A:11-2.9 Application of a nonpublic school to convert to a charter school**

- (a) The governing body of a nonpublic school meeting the criteria established in N.J.A.C. 6A:11-2.8(a) may submit an application to convert to a charter school pursuant to N.J.A.C. 6A:11-2.1(b)5. As of September 3, 2013, nonpublic schools applying to convert to charter school status shall apply only within the expedited action round pursuant to N.J.A.C. 6A:11-2.1(b)3. An application for the expedited action round must be submitted by October 15 to receive a decision in advance of the standard schedule and a decision

will be made no later than February 15. In addition to the criteria laid forth in N.J.A.C.

6A:11-2.1(b)5, the application must include:

1. The nonpublic school's norm-referenced achievement test scores;
  2. Assurances and a valid plan for an educational program and culture that prohibits religious instruction, events, and activities that promote religious views, and the display of religious symbols; and
  3. A name that does not include any religious reference.
- (b) An applicant that receives initial approval also shall meet the preparedness visit requirements set forth in N.J.A.C. 6A:11-2.1(h) applicable to all charter schools. The preparedness visit includes: an on-site inspection by Department personnel that gauges readiness for school opening; 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. All nonpublic conversion schools shall be held to the requirements set forth in N.J.A.C. 6A:11-2.1(i), as well as evidence of removal of all religious symbols and materials within the facility.
- (c) The final granting of the charter by the Commissioner shall be effective when all required documentation set forth in N.J.A.C. 6A:11-2.1(i) and 2.8(b) is provided and following satisfactory completion of the preparedness visit as determined by the Commissioner.

#### **6A:11-2.10 Enrollment of students in a nonpublic conversion charter school**

- (a) A nonpublic conversion charter school shall allow any student enrolled in the nonpublic school in the school year preceding its conversion to enroll in the nonpublic conversion charter school.
- (b) For any remaining enrollment spaces in the nonpublic conversion charter school for the first year of operation and for all enrollment spaces in each successive year, the

nonpublic conversion charter school shall provide enrollment preference pursuant to section 8 of P.L. 1995, c. 426 (N.J.S.A. 18A:36A-8).

### **6A:11-2.11 Employment of staff in a nonpublic conversion charter school**

- (a) A nonpublic conversion charter school may continue to employ teaching staff and other employees of the nonpublic school upon its conversion. However, any employee who is not certified in accordance with the provisions of subsection c of section 14 of P.L. 1995, c. 426 (N.J.S.A. 18A:36A-14) shall take immediate action toward receiving appropriate New Jersey certification and shall be in full compliance with all certification requirements as per N.J.A.C. 6A:9B within two years of the school's conversion.
- (b) Any employee hired following the conversion of the nonpublic school to charter school status shall meet the requirements of subsection c of section 14 of P.L. 1995, c. 426 (N.J.S.A. 18A:36A-14).

## **SUBCHAPTER 3. SCHOOL ETHICS ACT**

### **6A:11-3.1 Board of trustees and administrators**

- (a) For the purposes of implementation of the Charter School Program Act, the members of the board of trustees of a charter school shall be school officials as defined in the School Ethics Act (N.J.S.A. 18A:12-23). The trustees shall comply with the provisions of the School Ethics Act and the rules promulgated pursuant thereto at N.J.A.C. 6A:28.
- (b) Each administrator shall hold the certificate or perform the tasks as defined in N.J.A.C. 6A:11-1.2 and in the School Ethics Act (N.J.S.A. 18A:12-23) and the rules promulgated thereto at N.J.A.C. 6A:28.

- (c) Each school official shall file financial and personal/relative disclosure statements annually on or before April 30 or within 30 days of his or her election or appointment in accordance with N.J.A.C. 6A:28-1.5.
- (d) Each member of the board of trustees of a charter school shall, during the first year of his or her first term on the board, complete a training program prepared and offered by the New Jersey School Boards Association that shall include in its content instruction relative to the board member's responsibilities under the School Ethics Act in accordance with N.J.A.C. 6A:28-1.6.

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

##### **6A:11-4.1 Local education agency**

A charter school shall be a local education agency only for the purpose of applying for Federal entitlement and discretionary funds.

##### **6A:11-4.2 Student records**

- (a) A district board of education or a State district superintendent shall forward to the lead person of a charter school records of a student transferring to the charter school in accordance with N.J.A.C. 6A:32-7.
- (b) The lead person of a charter school shall forward to the district board of education or the State district superintendent records of a student transferring from the charter school in accordance with N.J.A.C. 6A:32-7.
- (c) A charter school shall create, maintain, and dispose of student records in accordance with N.J.A.C. 6A:32, School District Operations.

### **6A:11-4.3 Student attendance**

A charter school shall record in the school register student attendance during school hours on each day that the school is in session in accordance with N.J.A.C. 6A:32-8.1(c).

### **6A:11-4.4 Initial recruitment period**

- (a) No later than June 1 of subsequent school years, a charter school shall submit to the Commissioner the number of students by grade level, gender and race/ethnicity from each district selected for enrollment from its initial recruitment period for the following school year.
- (b) The number of students by grade level from each district selected for enrollment from the initial recruitment period of a charter school is used to establish a per-pupil amount for the specific grade level at the charter school rate in accordance with N.J.A.C. 6A:23A.
- (c) A charter school may conduct subsequent recruitment and enrollment periods if vacancies remain in its enrollment after the initial recruitment period.

### **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:11-4.6 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:11-4.7 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:11-4.8 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:11-4.9 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:11-4.10 Home instruction for students**

A charter school shall provide home instruction in accordance with N.J.A.C. 6A:16-10.1 and 10.2.

#### **6A:11-4.11 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:11-4.12 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 post a copy of all meeting notices and meeting minutes to the school's website.
- (d) The board of trustees shall include a report on changes in student enrollment in the monthly minutes.

#### **6A:11-4.13 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:11-4.14 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:11-4.15 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-12.7 and 6A:23A to oversee fiscal operations of the charter school.

## **SUBCHAPTER 6. STREAMLINE TENURE**

### **6A:11-6.1 Tenure acquisition**

An employee of a charter school shall acquire streamline tenure pursuant to guidelines developed by the Commissioner. The charter school shall specify the security and protection to be afforded to the employee in accordance with the Commissioner's guidelines.

### **6A:11-6.2 Acquisition of streamline tenure**

- (a) All teaching staff members, janitors, and secretaries shall acquire streamline tenure in a charter school after five consecutive full academic years of effective employment as

determined by the Department-approved educator evaluation system established by each charter school and in accordance with the charter school's uniform policies and procedures. Streamline tenure policies shall be developed and adopted by each charter school's board of trustees prior to June 30, 2013.

- (b) All teaching staff members, janitors, and secretaries who have acquired streamline tenure prior to June 30, 2013, shall retain streamline tenure status and shall not be dismissed or reduced in compensation except for inefficiency, incapacity, or conduct unbecoming.
- (c) The Commissioner may void acquired streamline tenure status for all applicable charter school employees if stipulated in the terms of probation pursuant to N.J.A.C. 6A:11-2.4.

### **6A:11-6.3 Process for tenure disputes**

- (a) The charter school board of trustees shall adopt a policy that establishes a uniform process, including procedures and timelines, for hearing streamline tenure disputes. The policies shall include, at a minimum:
  - 1. Written notice to the employee of the charges;
  - 2. An opportunity for the tenured employee to respond to the charges, including the right to request a hearing to dispute the charges; and
  - 3. A process for the board of trustees to receive and consider, prior to issuing a decision, a record of the case's proceedings.
- (b) If a hearing is requested pursuant to (a)2 above, the tenured employee shall be provided with:
  - 1. An opportunity to be represented by legal counsel;
  - 2. A list of the charter school administration's witnesses no later than five days before the hearing; and
  - 3. An opportunity to confront and cross-examine witnesses of the administration and

to produce his or her own witnesses or affidavits.

- (c) If disputed, the party issuing the tenure charges shall have the burden of substantiating the charges by a preponderance of competent and credible evidence.
- (d) A hearing held pursuant to (a) above shall be completed no later than 30 days after the charter school board of trustees' receipt of the tenured employee's response to the charges, barring any unforeseen circumstances warranting an extension of such time. The hearing shall result in a determination by the board of trustees as to whether the charges have been substantiated by a preponderance of competent and credible evidence in the record and whether the tenured employee shall be dismissed or reduced in compensation.
- (e) A written decision reflecting the board of trustees' determination whether to dismiss or reduce in compensation the tenured employee must be issued within 10 days of the determination. The written decision shall include, at a minimum:
  - 1. A summary of evidence considered;
  - 2. Factual findings relative to each charge; and
  - 3. A determination whether each charge was substantiated.

#### **6A:11-6.4 Appeals of tenure disputes**

- (a) Upon receipt of the board of trustees' written decision finding that a charge has been substantiated, the aggrieved party shall have 15 days to submit to the Commissioner a written appeal of the board of trustees' decision. The aggrieved party shall serve the board of trustees with all briefs or papers filed with the Commissioner in connection with the appeal. The Commissioner may extend the time period for filing an appeal upon finding good cause if the request for an extension is received within the 15-day period provided for filing an appeal.
- (b) Upon filing an appeal, the board of trustees may submit a response within 10 days of

receiving all briefs or papers served by the aggrieved party and shall serve the aggrieved party with a response.

- (c) The Commissioner shall render a determination on the appeal within 45 days of receipt of the board of trustees' response. If no response is filed, the determination shall be issued within 45 days of the date the board or trustees' response is due.
- (d) The Commissioner's decision shall constitute a final agency decision appealable to the New Jersey Superior Court Appellate Division.

APPENDIX

COUNTY	DISTRICT
Atlantic	Greater Egg Harbor Regional
Atlantic	Hamilton Township
Atlantic	Mainland Regional
Atlantic	Somers Point
Bergen	Ramapo Indian Hills Regional
Burlington	Burlington City
Burlington	Burlington County Institute of Technology
Burlington	Lenape Regional
Burlington	Mount Laurel Township
Burlington	Rancocas Valley Regional
Camden	Black Horse Pike Regional
Camden	Camden City
Camden	Camden County Technical School
Camden	Eastern Camden County Regional
Camden	Mount Ephraim Borough
Camden	Sterling High School
Camden	Winslow Township
Cumberland	Cumberland Regional
Cumberland	Fairfield Township
Cumberland	Millville
Essex	Essex County Vocational Technical School
Essex	Irvington Township
Essex	Newark
Essex	City of Orange Township



Hudson	Jersey City
Hudson	West New York
Hunterdon	Hunterdon Central Regional
Mercer	Ewing Township
Mercer	Hamilton Township
Mercer	Trenton
Middlesex	Middlesex County Vocational and Technical School
Middlesex	New Brunswick
Monmouth	Asbury Park
Monmouth	Freehold Borough
Monmouth	Freehold Regional
Monmouth	Long Branch
Monmouth	Monmouth Regional
Monmouth	Red Bank Regional
Monmouth	Shore Regional
Ocean	Lakewood Township
Ocean	Pinelands Regional
Passaic	Clifton
Passaic	Passaic City
Passaic	Passaic Valley Regional
Passaic	Passaic County Vocational
Passaic	Paterson
Salem	Penns Grove-Carneys Point Regional
Salem	Salem City
Sussex	Sussex County Technical School
Union	Elizabeth

Union	Linden
Union	Roselle Borough
Union	Union Township
Charter	East Orange Community Charter School
Charter	Lady Liberty Academy Charter School
Charter	University Academy Charter School