

Notice of Readoption of N.J.A.C. 6A:11, Charter Schools

The following is the accessible version of the notice of readoption of N.J.A.C. 6A:11.

Education

State Board of Education

Notice of Readoption

Charter Schools

Readoption: N.J.A.C. 6A:11

Authorized By: New Jersey State Board of Education, Angela Allen-McMillan, Ed.D., Acting Commissioner, Department of Education and Acting Secretary, New Jersey State Board of Education.

Authority: N.J.S.A. 18A:4-15 and 18A:36A-18.

Effective Date: August 5, 2021.

New Expiration Date: August 5, 2028.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 6A:11 were scheduled to expire on November 5, 2021. The Department of Education (Department) readopts the rules at N.J.A.C. 6A:11, Charter Schools, without amendments through a notice of readoption. N.J.A.C. 6A:11 sets forth the rules for charter schools in the State and implements the Charter School Program Act, N.J.S.A. 18A:36A-1 et seq. The chapter primarily affects charter schools, charter school districts of residence, applicants for a charter school, and students seeking enrollment in a charter school.

The last rulemaking of this chapter was in 2017, and it included several substantive amendments and new rules that were carefully considered following a year of extensive stakeholder engagement. Opportunities to facilitate stakeholder discussions of comparable depth and quality for this rulemaking were restricted due to the COVID-19 pandemic and the resulting public health emergency. The pandemic has prohibited the significant amount of meaningful

communication that a regulatory chapter of this magnitude requires. Therefore, the Department readopts Chapter 11 without change to ensure the chapter does not expire. The Department recognizes that, at any point prior to the next date of expiration, the rules could be reviewed with robust stakeholder engagement and transparency, and pursuant to the Administrative Procedures Act.

The Department invites stakeholders and the public to provide input regarding the existing rules at N.J.A.C. 6A:11 and possible amendments for the next rulemaking by [email](#).

A summary of the readopted rules follows:

Subchapter 1. General Provisions

N.J.A.C. 6A:11-1.1 Purpose

This section sets forth the chapter's purpose, which is to govern the creation and operation of charter schools under the Charter School Program Act of 1995.

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

This section provides definitions for words and terms used in the chapter.

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 submission of an application to be granted a charter to open a school and evaluation of the application. The rules establish that the Department conducts two charter application cycles annually. The October cycle operates within an expedited timeline and is restricted to experienced charter school operators, and the March cycle operates within an extended timeline and is open to any potential founding team. This section also sets forth the process for notification of approval or denial of a charter by the

Commissioner. The section further delineates the requirements and procedures for the final granting of a charter.

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

This section outlines the format for submission of the annual report and other reporting requirements, including facility, school staff information, and student demographic data.

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 section states that, upon the initial approval, a new charter school will be authorized to operate for a four-year term. After the initial four-year term, charter schools are eligible for renewal for five-year terms. This section also allows 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, to utilize an expedited renewal review.

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 other 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 led to the probation status. Following the probation period, the section enables the Commissioner to remove a charter school from probation or revoke its charter. The section also allows the Commissioner to summarily revoke a school's charter if any condition of the charter is unfulfilled, a provision of the charter is violated, the remedial program fails to correct conditions, or standards in the charter agreement or the Performance Framework are not met.

N.J.A.C. 6A:11-2.5 Charter Appeal Process

This section establishes that an eligible charter school applicant, a charter school, a district board of education, or a State district superintendent of a charter school district of residence may file an appeal of a Commissioner decision in accordance with N.J.S.A. 18A:6-9.1.

N.J.A.C. 6A:11-2.6 Amendment of Charter

This section provides instructions on how a charter school applies to the Commissioner to amend an approved charter, examples of amendments that may be sought, applicable timelines, and the criteria used to evaluate requested amendments to a charter.

N.J.A.C. 6A:11-2.7 Nonpublic Conversion Charter Schools; Applicable Law

This section states that, except otherwise provided in this section and at N.J.A.C. 6A:11-2.8 through 2.11, the chapter's rules and the provisions of Charter School Program Act of 1995 apply to a nonpublic school applying for conversion or having undergone conversion to charter school status.

N.J.A.C. 6A:11-2.8 Eligibility of a nonpublic school to convert to a charter school

This section establishes the eligibility criteria for a nonpublic school to convert to a charter school. The section requires the nonpublic school to be identified as a high-performing nonpublic school and to be located within one of the school districts as identified in the chapter's appendix. The section also sets forth how a school district can apply to be removed from the list of identified schools in the appendix.

N.J.A.C. 6A:11-2.9 Application of a Nonpublic School to Convert to a Charter School

This section delineates the required content for the application to convert an eligible nonpublic school to a charter school. The section also requires the governing body of an eligible

nonpublic school seeking to convert to submit an application during the expedited charter school application cycle, which occurs annually in October.

N.J.A.C. 6A:11-2.10 Enrollment of Students in a Nonpublic Conversion Charter School

This section requires a nonpublic school that has been approved to convert into a charter school to allow the students who had been enrolled in the nonpublic school to remain enrolled after the school's conversion to a charter school.

N.J.A.C. 6A:11-2.11 Employment of Staff in a Nonpublic Conversion Charter School

This section establishes that employees of a nonpublic school that has been converted into a charter school may continue their employment. The section also requires any non-certified staff members who hold positions that require a certificate to take immediate action toward receiving the appropriate certificate and to complete the certification requirements within two years of the nonpublic school's conversion.

Subchapter 3. School Ethics Act

N.J.A.C. 6A:11-3.1 Board of Trustees and Administrators

This section sets forth that all charter school board of trustees members must comply with the School Ethics Act, N.J.S.A. 18A:12-23, and the rules at N.J.A.C. 6A:28, School Ethics Commission.

Subchapter 4. Program Implementation

N.J.A.C. 6A:11-4.1 Local Education Agency

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

N.J.A.C. 6A:11-4.2 Student Records

This section establishes the rules for the forwarding of student records when a student transfers from a school district to a charter school or from a charter school to a school district. The section also requires a charter school to create, maintain, and dispose of student records in accordance with N.J.A.C. 6A:32, School District Operations.

N.J.A.C. 6A:11-4.3 Student attendance

This section requires charter schools to record student attendance in the school register in accordance with N.J.A.C. 6A:32-8.1(c).

N.J.A.C. 6A:11-4.4 Initial Recruitment Period

This section sets forth the process for a charter school to submit its prospective student enrollment to the Commissioner by June 1 annually. The section also allows a charter school to conduct additional recruitment and enrollment periods if vacancies remain in its enrollment after the initial recruitment period.

N.J.A.C. 6A:11-4.5 Lottery

This section requires preference for enrollment in a charter school to 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 section requires the charter school to select students to attend using a random selection (lottery) process. The section also establishes the criteria for the lottery and enrollment processes.

N.J.A.C. 6A:11-4.6 Waiting List

This section requires a charter school to maintain a waiting list for grade-eligible students who have not been selected in the enrollment lottery process. The section also establishes the waiting list criteria.

N.J.A.C. 6A:11-4.7 Age Eligibility for Kindergarten

This section requires a charter school to enroll a student selected for admission to kindergarten based on the student reaching the age of five in that school year by October 1, in accordance with N.J.S.A. 18A:38-5, or a date later than October 1 that is established by the school district(s) in which the student resides. The section also allows a charter school to enroll preschool students if the school district has a State-funded preschool program. The section further guarantees that the preschool students can enroll in kindergarten as returning students at the charter school without re-entering the admission lottery.

N.J.A.C. 6A:11-4.8 Limited English Proficient Students

This section requires charter schools to provide enrolled students who are limited English proficient with required courses and support services to meet the New Jersey Student Learning Standards in accordance with N.J.S.A. 18A:7A-4 and 5 and N.J.A.C. 6A:15, Bilingual Education.

N.J.A.C. 6A:11-4.9 Students with Educational Disabilities

This section requires charter schools to provide enrolled students 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 CFR Part 300, N.J.S.A. 18A:36A-11.b, and N.J.A.C. 6A:14, Special Education.

N.J.A.C. 6A:11-4.10 Home Instruction for Students

This section requires a charter school to provide home instruction for students in accordance with N.J.A.C. 6A:16-10.1 and 10.2.

N.J.A.C. 6A:11-4.11 Pupil Transportation

This section establishes that district boards of education must provide transportation or aid in lieu of transportation to students who attend a charter school in grades kindergarten through grade 12, in accordance with N.J.S.A. 18A:36A-13 and N.J.A.C. 6A:27-3.1.

N.J.A.C. 6A:11-4.12 Board of Trustees and Open Public Meetings Act

This section delineates the requirements for the establishment of a charter school board of trustees and its operation under the Senator Byron M. Baer Open Public Meetings Act. The section also requires the board of trustees to include, in its monthly meeting minutes, a report of changes in student enrollment.

N.J.A.C. 6A:11-4.13 Charter School Operations

This section requires a charter school to operate in accordance with its Commissioner-approved charter and the provisions of law and rules that govern other public schools. The section also allows a charter school board of trustees to request that the Commissioner exempt the school from State rules concerning public schools, except the rules 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 charter school.

N.J.A.C. 6A:11-4.14 Sports Programs

This section states that a secondary charter school student may participate in a sport at the student's school of residence if the charter school does not offer the particular sport in which the full-time student wishes to participate, upon the agreement of both principals and regardless of the number of sports programs offered at the charter school.

N.J.A.C. 6A:11-4.17 Facilities

Pursuant to N.J.S.A. 18A:36A-10, this section prohibits a charter school from using public funds, other than Federal funds, to construct a facility. The section also permits 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). The section further allows 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.

Subchapter 5. Certification Requirements for Staff

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

This section requires all classroom teachers, principals, and professional support staff employed by charter school boards of trustees to hold an appropriate New Jersey certificate. The section also sets forth the employment requirements for a charter school lead person and a school business administrator.

Subchapter 6. Streamline Tenure

N.J.A.C. 6A:11-6.1 Tenure Acquisition

This section establishes that charter school employees shall acquire streamline tenure status in a charter school pursuant to a Department-approved educator evaluation system and uniform policies adopted by each charter school's board of trustees. The Charter School Program Act of 1995, N.J.S.A. 18A:36A-1 et seq., established a process known as "streamline tenure," through which charter school employees can acquire protection from dismissal or reduction in compensation, except in instances where the employer has shown inefficiency, incapacity, conduct unbecoming such a staff member, or other just cause. The section also

requires a charter school to specify the security and protection to be afforded to the employee in accordance with the Commissioner's guidelines.

N.J.A.C. 6A:11-6.2 Acquisition of Streamline Tenure

This section states that all teaching staff members, janitors, and secretaries shall acquire streamline tenure in a charter school after five consecutive full academic years of effective employment based upon the charter school's Department-approved educator evaluation system and its uniform policies and procedures. The section also allows the Commissioner to void acquired streamline tenure status for all applicable charter school employees if specified in the terms of probation, pursuant to N.J.A.C. 6A:11-2.4.

N.J.A.C. 6A:11-6.3 Process for Tenure Disputes

This section requires that each charter school board of trustees establish a uniform process for hearing streamline tenure disputes. The section also sets forth the minimum requirements for the policies and requires that the process includes procedures and timelines.

N.J.A.C. 6A:11-6.4 Appeals of Tenure Disputes

This section specifies the timeline for written appeal to the Commissioner regarding a tenure dispute. The section establishes that the Commissioner's decision on an appeal constitutes a final agency decision that is appealable to the New Jersey Superior Court Appellate Division.

N.J.A.C. 6A:11 Appendix

The chapter's appendix lists the school districts referenced at N.J.A.C. 6A:11-2.8.

Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted without change and shall continue in effect for a seven-year period.