

## **Education**

### **Commissioner of Education**

**Notice of Termination of Rule Waiver/Modification/Suspension Pursuant to Executive Order  
No. 103 (2020)**

### **COVID-19 State of Emergency**

#### **Select Certification Requirements**

**N.J.A.C. 6A:9A-4.3 and 6A:9B-5.6, 5.14, 8.3, 8.4, 8.5, 8.8, 9.1, 11.3, 11.12, 12.4, 12.5, 12.8,  
14.6, and 14.18**

#### **Certification Requirements**

**N.J.A.C. 6A:9A-4.5 and 5.5 and 6A:9B-8.2 and 8.7**

**N.J.A.C. 6A:9A-4.5, 5.5, and 6.4 and 6A:9B-8.2, 8.7, and 11A.3**

#### **Substitute Nurse**

**N.J.A.C. 6A:9B-7.6**

#### **Educator Effectiveness**

**N.J.A.C. 6A:10-2.2, 2.5, 4.1, 4.4, 5.1, 5.4, and 6.2**

#### **Educator Effectiveness**

#### **Evaluation of Teaching Staff Members**

**N.J.A.C. 6A:10-2.2, 4.1, 5.1, and 5.2**

#### **Evaluation of Chief School Administrators**

**N.J.A.C. 6A:10-8.1**

#### **Operation of High-Quality Preschool Programs in Public Schools, Contracted Private Providers, and Local Head Start Agencies**

**N.J.A.C. 6A:13A-4.6, 5.5, and 8.1**

## **Verification of Payroll Check Distribution**

**N.J.A.C. 6A:23A-5.7, 18.4, and 22.8**

## **Payments Made in Lieu of School Transportation Aid**

**N.J.A.C. 6A:27-2.1 and 3.4**

## **Evaluation of the Performance of School Districts**

**N.J.A.C. 6A:30**

## **Operation of School Districts**

**N.J.A.C. 6A:32-7.1 and 7.5**

Notices of Rule Modification Publication:

N.J.A.C. 6A:9A-4.3 and 6A:9B-5.6, 5.14, 8.3, 8.4, 8.5, 8.8, 9.1, 11.3, 11.12, 12.4, 12.5, 12.8, 14.6, and 14.18 -- August 3, 2020, at 52 N.J.R. 1480(a).

N.J.A.C. 6A:9A-4.5 and 5.5 and 6A:9B-8.2 and 8.7 -- June 15, 2020, at 52 N.J.R. 1250(a).

N.J.A.C. 6A:9A-4.5, 5.5, and 6.4 and 6A:9B-8.2, 8.7, and 11A.3 – January 4, 2021, at 53 N.J.R. 5(a).

N.J.A.C. 6A:9B-7.6 – February 1, 2021, at 53 N.J.R. 153(a).

N.J.A.C. 6A:10-2.2, 2.5, 4.1, 4.4, 5.1, 5.4, and 6.2 -- February 16, 2021, at 52 N.J.R. 974(a).

N.J.A.C. 6A:10-2.2, 4.1, 5.1, and 5.2 – March 15, 2021, at 53 N.J.R. 401(a)

N.J.A.C. 6A:10-8.1 – July 6, 2020, at 52 N.J.R. 1313(a).

N.J.A.C. 6A:13A-4.6, 5.5, and 8.1 – July 20, 2020, at 52 N.J.R. 1361(a).

N.J.A.C. 6A:23A-5.7, 18.4, and 22.8 – November 2, 2020, at 52 N.J.R. 1987(a).

N.J.A.C. 6A:27-2.1 and 3.4 – July 20, 2020, at 52 N.J.R. 1362(a).

N.J.A.C. 6A:30 -- June 1, 2020, at 52 N.J.R. 1111(a).

N.J.A.C. 6A:32-7.1 and 7.5 – June 1, 2020, at 52 N.J.R. 1148(a).

Authorized: September 1, 2021, Angelica Allen-McMillan, Ed.D., Acting Commissioner, Department of Education.

Authority: N.J.S.A. App.A:9-45 and App. A:9-47; Executive Order No. 103 (2020), Executive Order No. 117 (2020), and Executive Order No. 119 (2020); and P.L. 2021, c. 103.

Termination Effective Date: September 1, 2021.

This is a termination of emergency adoptions of temporary modifications to specific rules in eight chapters of Title 6A of the New Jersey Administrative Code. In response to the COVID-19 pandemic, Section 1 of EO 117 authorized the Commissioner of Education to waive/suspend/modify any existing rule where the enforcement of the rule would be detrimental to the public welfare during the emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Pursuant to that authority, and with the approval of the Governor and in consultation with the State Director of Emergency Management and the Commissioner of the Department of Health, the Commissioner of Education modified Department of Education (Department) rules to provide flexibility to local education agencies (LEAs) in the operations of schools and the delivery of education and services.

Although the declared public health emergency has expired, P.L. 2021, c. 103 provides that rule waivers/suspensions/modifications adopted under the authority of EO 117 will expire on January 11, 2022. P.L. 2021, c. 103 also allows agency heads to terminate rule waivers/suspensions/modifications prior to the expiration date.

The Department has determined that allowing the specific rule waivers/suspensions/modifications in the eight chapters of Title 6A of the New Jersey Administrative Code to continue to January 11, 2022, would cause confusion for LEAs, administrators, educators, students, and parents. Therefore, the Acting Commissioner of

Education is terminating all rule waivers/suspensions/modifications to eight chapters in Title 6A of the New Jersey Administrative Code, effective September 1, 2021.

This notice of termination does not include the modifications to special education rules at N.J.A.C. 6A:14-1.1, 3.9, and 5.2 because the modifications were approved by the State Board of Education, pursuant to Section 6 of EO 103.

The terminated rule modifications at N.J.A.C. 6A:9A-4.3 and 6A:9B-5.6, 5.14, 8.3, 8.4, 8.5, 8.8, 9.1, 11.3, 11.12, 12.4, 12.5, 12.8, 14.6, and 14.18 allowed the following:

- The Department to issue a temporary certificate of eligibility (Temporary CE) and a temporary provisional certificate (Temporary Provisional) for teachers and school administrators. All Temporary CEs and Temporary Provisionals expired on July 31, 2021;
- Educator preparation programs that lead to a certificate of eligibility with advanced standing (CEAS) to adjust program entry requirements to conditionally admit candidates that have met the grade point average (GPA) requirement but have not yet met the basic skills requirement;
- The Department to issue an emergency limited certificate for foreign teachers who met all requirements except the completion of a Department-approved, nationally recognized test assessing the ability to speak, read, and write the English language fluently;
- Candidates who applied for a CEAS during the period of the public health emergency and who demonstrated that they completed at least one section of the Commissioner-approved performance assessment (that is, edTPA) between

January 1, 2020, and June 30, 2020, to be eligible for a CEAS if all other requirements for the CEAS were met;

- CE provisional teachers with an endorsement in career and technical education (CTE) to continue teaching for another provisional period of two years even if they were not able to complete the basic skills test(s) during the COVID-19 state of emergency;
- The Department to issue a temporary charter school certificate of eligibility (Temporary CSCE) by adjusting the time during which CSCE candidates were required to pass the appropriate test(s) of subject matter knowledge and a Commissioner-approved test of basic reading, writing, and mathematics skills. All Temporary CSCEs expired on July 31, 2021;
- The Department to issue an emergency educational interpreter certificate in sign language interpreting to be issued to candidates with a high school diploma who did not yet pass the Educational Interpreter Performance Assessment (EIPA) with a minimum score of three; and
- Candidates for a standard educational services certificate with a speech-language specialist endorsement who apply during the effective dates of EO 103 and EO 117 to be eligible for a second renewal of their provisional certificate if they have not passed the required State-approved test of comprehensive knowledge due to testing limitations created by the COVID-19 state of emergency. This rule modification allows speech-language specialists to continue working for an additional provisional period of two years.

The remainder of the terminated rule waivers/suspensions/modifications are as follows:

- N.J.A.C. 6A:9A-4.5 and 5.5 and 6A:9B-8.2 and 8.7 – The rule modification waived the requirement to complete the Commissioner-approved performance assessment (that is, edTPA) for candidates who were enrolled in a CEAS or CE educator preparation program as of April 28, 2020, and completed the program between April 28, 2020, and September 1, 2020. Instead, a CEAS or CE educator preparation program was required to submit, to the Department, a plan explaining how it determined each candidate who was unable to complete the performance assessment demonstrated preparedness for teaching before being recommended for a CEAS or CE. Under the rule modification, candidates who applied for a standard certificate between April 28, 2020, and September 1, 2020, were not required to pass a Commissioner-approved performance-based assessment;
- N.J.A.C. 6A:9A-4.5, 5.5, and 6.4 and 6A:9B-8.2, 8.7, and 11A.3 – The rule modification allowed a CEAS or CE educator preparation program to recommend a candidate for certification who had not successfully completed the Commissioner-approved performance assessment if the candidate was enrolled in the program as of September 1, 2020, and completed the clinical practice requirement during a semester that began during the COVID-19 public health emergency. The rule modification also required the CEAS or CE educator preparation program to determine that the candidate was unable, due to COVID-19 related limitations outside of the candidate's control, to complete the edTPA in the usual course for national scoring and to provide the candidate with an alternative measure of assessment to demonstrate readiness to teach and the candidate successfully completed that alternative measure. Furthermore, the rule

modification allowed a teacher leader preparation program to offer candidates an alternative assessment in lieu of a Commissioner-approved performance assessment;

- N.J.A.C. 6A:9B-7.6 – The rule modification waived, for the 2020-2021 school year, the limitation on the number of instructional days that a substitute school nurse/non-instructional may serve in any one position in a single school district;
- N.J.A.C. 6A:10-2.2, 2.5, 4.1, 4.4, 5.1, 5.4, and 6.2 – The rule modification adjusted, for the 2019-2020 school year, rules that identify who must be evaluated, specific components that must be included in evaluations (observations and measures of student growth), and dates by which educators must be notified of the components and the percentage weight associated with each component. The modifications redefined the components and associated weights, and notified educators of the changes;
- N.J.A.C. 6A:10-8.1 – The rule modification extended the deadline for school district boards of education to complete the annual performance report and evaluation procedure for chief school administrators. The extension changed the deadline from July 1 to July 31;
- N.J.A.C. 6A:10-2.2, 4.1, 5.1, and 5.2 – Pursuant to Executive Order 214 (Murphy) (2021), the rule modification removed the student growth component as a measure of evaluating the effectiveness of any New Jersey educator for the 2020-2021 school year. The modification addressed only student growth as part of an educator’s summative score, while the processes that lead to the development of the component scores remained in effect. Notification of educator evaluation

rubric weights for the 2021-2022 school year and other key items regarding educator evaluation can be found on the Department's website at <https://www.nj.gov/education/broadcasts/2021/aug/18/NotificationofEducatorEvaluationRubricWeightsfor20212022.pdf>;

- N.J.A.C. 6A:13A-4.6, 5.5, and 8.1 – The rule modification allowed an Early Childhood Education Council established by a district board of education to forgo the final quarterly meeting for 2019-2020 school year if the council could not meet remotely;
- N.J.A.C. 6A:23A-5.7, 18.4, and 22.8 – The rule modification suspended the requirements for school districts and charter schools to verify payroll once every three years by having all employees report to a central location, produce photo identification, and sign a release for their paycheck or direct deposit voucher. The rule modification also waived the required verification of the school district's or charter school's compliance with this requirement in its annual audit. Furthermore, the rule modification waived the provision that a new approved private school for students with disabilities (APSSD) shall not begin operations before July 1 of the school year immediately following the school year in which the APSSD received approval to operate, except for an APSSD operating in, and affiliated with, a public school district. Therefore, APSSDs were allowed to relocate a program to the completed new school before July 1, 2021, if construction was completed and new school approval was obtained during the course of the 2020-2021 school year;



- N.J.A.C. 6A:27-2.1 and 3.4 – The rule modification allowed the payment of aid in lieu of transportation to be adjusted, as determined by the Commissioner, for any school year for which transportation was unnecessary due to the closure of school buildings resulting from COVID-19-related concerns. If a school district is unable to transport eligible nonpublic school students, or certain students enrolled in charter schools or in the interdistrict public school choice program, between home and school within a maximum expenditure per pupil amount, then existing rules require the school district to provide the students’ parents or guardians with an aid in lieu of transportation payment equal to the maximum expenditure per pupil amount;
- N.J.A.C. 6A:30 – The rule modification suspended the Department’s monitoring of eight indicators that require the Department to engage in on-site inspection of documents and/or facilities to confirm a school district's compliance. The indicators are part of the Department’s monitoring and evaluation system for school districts and county special services school districts – known as the New Jersey Quality Single Accountability Continuum (NJQSAC); and
- N.J.A.C. 6A:32-7.1 and 7.5 – The rule modification required district boards of education to make a “reasonable effort” to provide student records in response to requests from other school districts or authorized persons within 10 days; however, the language guaranteeing the production of the student records within the normally required 10 days was suspended.