



# New Jersey School Boards Association

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## **Testimony on Charter School Regulations before the New Jersey State Board of Education**

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The New Jersey School Boards Association (NJSBA) is a federation of the state's local boards of education and includes the majority of New Jersey's charter schools as associate members. NJSBA provides training, advocacy and support to advance public education and promote the achievement of all students through effective governance.

The NJSBA has many beliefs about charter schools. First, NJSBA believes that choice and charter schools should be held to the same accountability standards as traditional public schools and that an analysis of the results found in the school report card for both choice and charter schools should be made and compared with the local school district. Second, NJSBA believes a method of sharing information and data among charter schools and sending districts to ensure both best practices and student achievement should be established. Third, NJSBA believes that like charter school trustees, charter school founder(s) should be held to the standards of the School Ethics Act.

Additionally, the NJSBA believes that prior to the formal charter school application being submitted to the state, the local board of education, following a public hearing, should approve or disapprove of the proposed charter school. A denial of a charter school by the board of education may be appealed to the New Jersey Department of Education. In the absence of a process for board of education approval, NJSBA believes local voters or the board of school estimate should have approval rights, prior to the establishment of a charter school, as well as additional steps to incorporate local voter and elected school board opinion into chartering decisions.

The NJSBA also believes that, upon a roll call majority vote of its full membership, the board of education of a public school district should have the authority to establish and operate charter schools. An entity other than a local board of education should be able to establish and/or operate charter schools only if there is no requirement placed on public school districts to provide financial or other support to the charter schools or their students, and no funds for charter schools or their students shall come from or be funneled through a public school district's budget.

Concerning the financial impact of charter schools, the NJSBA believes that for purposes of calculating a district's spending on a per-pupil (adequacy) basis the students for whom the sending district provides a transfer payment to a charter school shall be counted as part of the district's enrollment for adequacy spending calculations. NJSBA believes that this will assure that the sending district's per pupil adequacy amount reflects the true budget of the sending district. The NJSBA also believes that a financial impact report should be part of the charter school application process, projecting the economic impact and tax consequences to the district and community over a five year period. This report should take into consideration the cumulative impact of any charter schools already operating within the district.

The NJSBA believes that charter school applications should be prioritized so that districts with failing schools are given first preference. Ultimately statewide criteria should be devised establishing districts' performance as the primary consideration for charter school(s) approval.

The NJSBA believes that the charter school approval process should be consistent with the local district's budget process. An approved charter school should be required to notify the local school board and should document a committed student count to the district no later than January 1st of the year it is scheduled to open.

The NJSBA believes that any changes to charter school funding made by the State should be fully funded by the State directly to the charter.

With these beliefs in mind, the NJSBA offers the following comments and recommendations on this proposed regulatory package:

- *N.J.A.C. 6A:9-11.12, 12.4 and 12.7*—These provisions address the creation of a five-year pilot program for charter school certifications that will effectively create an alternate route for charter school certifications, for teachers, business administrators and charter school administrators. These “charter school alternate route” certifications will only be good for use in charter schools. The NJDOE says that the current certification regulations, in the case of teachers, “limits the number the number of effective teachers in charter schools applicant pool.” How or why this occurs the NJDOE does not say. However, at a time when the NJDOE is simultaneously making the requirements for traditional public school certification more rigorous by increasing preparation time for teacher candidates from one semester to two semesters in *N.J.A.C. 6A:9* and continuing to ensure that teacher preparation and credentialing programs are rigorous and effective, it strains credulity that the NJDOE would also be pursuing a path that creates special charter

school certifications that are seemingly less rigorous. If every child deserves an effective teacher at the front of the classroom, is the NJDOE saying that rigorous certification rules are not important for teacher effectiveness (and subsequently student achievement) in charter schools?

- *N.J.A.C. 6A:9B-11.12(e)(3)*—A charter school certificate of eligibility may be issued to a candidate if they have prior successful teaching experience in a private or public school setting. How will the NJDOE determine “successful teaching experience?” What criteria will be used to show this?
  - The NJDOE says in this section that it will develop and conduct an evaluation of the pilot program. The NJDOE will then recommend to whether to continue the program. The NJDOE should include to whom it will make the recommendation.
  - *N.J.A.C. 6A:9B-12.4*—This contains the criteria for certification as a charter school administrator. Among the criteria to be eligible for this certification include “sufficient management and leadership in a public or private organization, as determined by the Commissioner.” However, these provisions do not actually list any criteria as to what sufficiency actually means.
    - This provision also states that the standard certificate will be issued upon the written recommendation of the charter school. It should probably read upon the written recommendation of the *trustees* of the charter school.
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- *N.J.A.C. 6A:9C-5.5*—This provision requires that charter schools submit to the NJDOE a comprehensive professional development plan in a Commissioner prescribed format. However, no criteria for a plan are listed here. In contrast, the professional development plan requirements for traditional public schools are spelled out in much greater detail in the regulations. Why should charter school educators receive lesser treatment? Charter schools should have the same rigorous professional development requirements as traditional public schools.
  - *N.J.A.C. 6A:11-1.2*—A “high performing charter school” is a school that meets the criteria set forth in the Performance Framework. The Performance Framework is the accountability system used to evaluate the performance of each charter school. The difficulty here is that unlike NJQSAC which is a statutory requirement with numerous regulations that anyone can examine, the NJDOE appears to be deleting the criteria that describe what the performance framework is, leaving it totally to Commissioner discretion and creating less accountability as a result for charter schools.

- *N.J.A.C. 6A:11-2.1(m)*—This section says that the Commissioner may grant an additional planning year to a charter school based upon a showing of good cause. What impact, if any, will there be to the district(s) of residence in terms of their budgetary planning?
- *N.J.A.C. 6A:11-2.2(d)*—This section requires NJDOE to publicly report on each charter school's *academic* performance based on the Performance Framework. What about the performance in areas such as finance or governance? To whom does NJDOE report this? The State Board? Or does the NJDOE just issue a press release or notice on its website?
- *N.J.A.C. 6A:11-2.3(c)*—A high performing charter school may use an expedited process for renewal of its charter, based on the regular renewal process. The expedited process should be clearly spelled out in regulation, just like the regular process for the renewal of a charter is currently. Additionally, this proposed regulation provides that within 75 days of submission of the renewal application or pursuant to a Commissioner-established timeline, the Commissioner shall notify the charter whether it has been renewed. Language should be added to this provision to provide notice to the resident local district board of education that the renewal has been granted.
- *N.J.A.C. 6A:11-2.4*—This section requires appointment of an independent trustee to oversee the closure of the charter school. Clarification is needed here because it sounds like the role of the independent trustee is quite different from the other trustees. A new name should be assigned to this role because if this person is truly a trustee, then they are subject to the requirements of the Code of Ethics under *N.J.S.A. 18A:12-24.1*. Yet the role of the independent trustee might be violative of the provisions of the Code of Ethics.
  - Additionally, the provision in this section that requires charter school personnel to make reasonable efforts to ensure that students have taken action to enroll in another school should include a provision similar to the one in *N.J.A.C. 6A:22-4.1(d)* regarding designated staff shall report to the school district of actual domicile or residence, or the Department of Children and Families, a potential instance of “neglect” for purposes of ensuring compliance with compulsory education laws, *N.J.S.A. 9:6-1* where no actions have been taken to enroll the student in another school.
- *N.J.A.C. 6A:11-4.5*—This section authorizes the use of a lottery. Can the lottery also be used by single purpose charter schools?

- N.J.A.C. 6A:11-4.5(d) –What obligation, if any, is there for the district of the non-resident student to provide transportation to that student? If the student is a public school student, is the obligation to pay tuition on the student or on the district in which the student resides? Will the non-resident student be able to take the seat of a resident student, or will this only be subject to available space once all resident students have enrolled that wish to?
- *N.J.A.C. 6A:11-4.7*--For charter schools that have established kindergartens, is the aid per student that flows from the district based on the fact that aid for kindergarten is based on a half-day of attendance?
- *N.J.A.C. 6A:11-4.16*—Charter school student participation in interscholastic or extracurricular programs in the district of residence. This requirement is vague and confusing, raising the following issues:
  - What criteria, if any, exist for the charter school student’s participation in such activities? Is this participation based upon the agreement of the two principals of the respective schools, similar to current NJSIAA rules governing high schools?
  - Is participation truly at the sole discretion of the charter school student, as the proposed language suggests? Should it not require the requirement of the two school principals?
  - Is it truly the intention of the NJDOE to apply this rule to all extracurricular programs and not just athletics? Under current NJSIAA rule if a secondary Charter School does not offer the particular sport in which one of its full-time students wishes to participate, that student may participate in that sport at his/her school of residence upon agreement of both principals, regardless of the number of sports programs offered at the Charter School. Note that this NJSIAA rule requires the agreement of both principals, and is not left to the discretion of the student, as in the proposed language.
  - Whose student code of conduct would the charter school student be subject to? His/her charter school’s or that of the resident district?
  - Must the resident district permit participation in all circumstances in all activities?
  - Is the resident district responsible for providing transportation from the charter school to the site of the extracurricular activity?
  - If this is a mandate that charter school students participate where the charter school does not offer the activity, isn’t this an unfunded or underfunded mandate on local districts?
  - State aid for school districts for extracurriculars is part of the School Funding Reform Act. Presumably, 90% of the equalization aid includes

- money for extracurriculars for charter school students. Therefore, shouldn't it be the responsibility of the charter school to provide the needed extracurriculars? Will the charter school provide payment back to the resident district for that service if the student participates in an extracurricular activity at the resident district?
- Local district students are not permitted to participate in extracurriculars at other local school districts when an activity is not offered. Why will the NJDOE permit charter school students to do so? Is this not granting a right to charter school students that is unavailable to local district students?
  - This proposed provision essentially requires the local taxpayer to pay twice for that charter school student who wishes to participate in extracurricular activities. First, the local taxpayer pays in transferring the 90% of student activity funds through equalization aid to the charter school for that charter school student; Second, the taxpayer will also be paying for that charter school student to then participate in extracurriculars at the local district school, essentially allowing the charter school student to “double dip” into the monies allocated by the School Funding Reform Act for that student’s extracurricular program. If this proposed language is adopted as proposed, it will give the charter schools access to additional funds that were not authorized by the Legislature to flow to charter schools.
  - Extracurricular funding is a discrete component of the School Funding Reform Act for which charter school students receive aid. By permitting charter school students to participate in the resident school district extracurricular program, does that mean that a charter school is absolved of its constitutional duty to provide a thorough and efficient education to those charter school students?
- *N.J.A.C. 6A:11-4.17*—This section permits charter schools access to state and local funds for the rehabilitation or expansion of a facility. Are these the same funds that districts have access to? If so, will the NJDOE be requiring long range facilities plans and other approvals similar to those required of local districts?
  - *N.J.A.C. 6A:23A-16.8*—NJSBA thanks the NJDOE for the flexibility concerning petty cash funds.
  - *N.J.A.C. 6A:23A-16.10*—Why remove the Executive County Superintendent from the supervision of budgetary controls in charter schools?
  - *N.J.A.C. 6A:23A-22.4(c)*— If a charter school takes one or two planning years, when does the district become obligated to transmit the funds for those students from its district attending the charter school?