

CHAPTER 9

**EDUCATIONAL PROGRAMS FOR PUPILS
IN STATE FACILITIES**

Authority

N.J.S.A. 18A:7B-1 et seq.

Source and Effective Date

R.1999 d.298, effective August 5, 1999.
See: 31 N.J.R. 1412(a), 31 N.J.R. 2642(a).

Executive Order No. 66(1978) Expiration Date

Chapter 9, Educational Programs for Pupils in State Facilities, expires on August 5, 2004.

Chapter Historical Note

Chapter 9, Educational Programs for Pupils in State Facilities, was adopted as R.1993 d.194, effective May 3, 1993. See: 25 N.J.R. 400(a), 25 N.J.R. 1889(b).

Pursuant to Executive Order No. 66(1978), Chapter 9, Educational Programs for Pupils in State Facilities, was readopted as R.1999 d.298, effective August 5, 1999. See: Source and Effective Date. See, also, section annotations.

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education pursuant to N.J.S.A. 18A:7B-1 et seq. (The State Facilities Education Act of 1979), as amended by P.L. 1996, c.138, the Comprehensive Educational Improvement and Financing Act, and to identify general program requirements and establish procedures for the operation, administration and approval of educational programs in State facilities.

Amended by R.1999 d.298, effective September 7, 1999.
See: 31 N.J.R. 1412(a), 31 N.J.R. 2642(a).
Inserted a reference to P.L. 1996, c.138.

6:9-1.2 Scope

(a) The requirements of this chapter shall apply to all educational programs provided in accordance with N.J.S.A. 18A:7B-1 et seq. by the Departments of Corrections and Human Services, and the Juvenile Justice Commission, as established in P.L. 1995, c.284.

(b) Educational programs and services shall be provided for all pupils between the ages of five and 20 and for pupils ages three through 21 with educational disabilities. Programs and services shall be provided to pupils who do not hold a high school diploma or who are not enrolled in a General Educational Development or adult education program as defined in N.J.A.C. 6:30-2 or college degree program.

Amended by R.1999 d.298, effective September 7, 1999.
See: 31 N.J.R. 1412(a), 31 N.J.R. 2642(a).

In (a), added a reference to the Juvenile Justice Commission; and rewrote (b).

6:9-1.3 Educational program objectives

The educational programs provided for under N.J.S.A. 18A:7B-1 et seq. shall be developed to complement the primary mission of the implementing agencies and provide educational opportunities that meet the identified needs of pupils in State facilities. These programs shall be delivered through traditional or alternative education strategies. Alternative programs, which allow high school credit to be awarded through alternative learning experiences, shall be provided in accordance with the program completion option authorized in N.J.A.C. 6:8-7.1(d)1ii.

Amended by R.1999 d.298, effective September 7, 1999.
See: 31 N.J.R. 1412(a), 31 N.J.R. 2642(a).

In (a), substituted a reference to alternative programs for a reference to alternative education programs.

Amended by R.2000 d.190, effective May 1, 2000.
See: 32 N.J.R. 395(a), 32 N.J.R. 1528(a).

Deleted (a) designation; and deleted a former (b).

SUBCHAPTER 1. PURPOSE, SCOPE AND OBJECTIVES

6:9-1.1 Purpose

The purpose of this chapter is to ensure that pupils in State facilities are provided with a thorough and efficient

SUBCHAPTER 2. GENERAL PROGRAM REQUIREMENTS

6:9-2.1 Attendance and provisions of programs

(a) Attendance is compulsory for all pupils, except for a pupil age 16 or above who may explicitly waive this right.

Such a waiver may be revoked at any time by the pupil. For a pupil below the age of 18, a waiver is not effective unless accompanied by consent from a pupil's parent(s) and/or guardian(s).

(b) All education programs, with the exception of home instruction, shall be provided for at least four hours per day, five days a week, 220 days each year. The actual number of student contact days shall be determined by the individualized program plan under the program completion option pursuant to N.J.A.C. 6A:8-5.1(a)1ii and the individualized education program for pupils with educational disabilities in accordance with N.J.A.C. 6A:14-3.7.

(c) Home instruction shall be provided according to N.J.A.C. 6A:14-4.8 and 4.9.

(d) Activities shall not be scheduled that conflict with educational programs. Pupils shall not be excused from attending educational programs except for reasons of illness, religious observance, court appearance or other compelling personal circumstances.

(e) Pupils in State facilities shall comply with all rules established by the facility pursuant to N.J.S.A. 18A:37-1 and 18A:37-2. Procedures shall be established by the Office of Education in the Departments of Corrections and Human Services, and the Juvenile Justice Commission for continued education in a different setting in cases where a pupil is guilty of ongoing defiance of the rules, and the pupil's continued participation in the program is disruptive to the ongoing educational process.

Amended by R.1999 d.298, effective September 7, 1999.
See: 31 N.J.R. 1412(a), 31 N.J.R. 2642(a).

In (b), changed N.J.A.C. reference at the end; in (c), changed N.J.A.C. reference; and in (e), inserted a reference to the Juvenile Justice Commission.

Amended by R.2000 d.358, effective September 5, 2000.

See: 32 N.J.R. 1712(a), 32 N.J.R. 3332(b).

In (b), updated N.J.A.C. reference.

Case Notes

Student's grade lowered in accordance with school policies regarding plagiarism. *M.D. v. Board of Education of the Township of Wall*, 97 N.J.A.R.2d (EDU) 518.

6:9-2.2 Pupils with educational disabilities

(a) All pupils with educational disabilities in State facilities shall have available to them a free and appropriate public education as set forth under the Individuals with Disabilities Education Act (P.L. 101-476, as amended by P.L. 102-119) and receive special education and/or related services in accordance with the rules and regulations governing special education at N.J.A.C. 6A:14.

(b) The size of special education programs serving children with educational disabilities shall be in accordance with N.J.A.C. 6A:14-4.

Amended by R.1999 d.298, effective September 7, 1999.
See: 31 N.J.R. 1412(a), 31 N.J.R. 2642(a).

In (a) and (b), changed N.J.A.C. references.

6:9-2.3 Staffing and class size

(a) The Departments of Corrections and Human Services, and the Juvenile Justice Commission, independently or through contractual agreements, shall employ the educational personnel required to ensure the provision of programs and services pursuant to this chapter.

(b) The Offices of Education in the Departments of Corrections and Human Services, and the Juvenile Justice Commission, shall, with the approval of the Department of Education, assure that all educational personnel possess the appropriate certification endorsement issued by the State Board of Examiners for the positions they hold.

(c) The certification for all educational staff shall be on file in the respective Department's education office and at the appropriate program site.

(d) Class size for nonhandicapped programs shall not exceed 12 pupils. The Departments of Corrections and Human Services, and the Juvenile Justice Commission, may request exceptions to this requirement as part of the annual approval process required by N.J.A.C. 6:9-3.1(f) through the Division of Student Services. The Department's granting of exceptions will be made on a case-by-case basis using the following criteria:

1. The requested exception justifies the need for an alternate program structure;
2. The requested exception demonstrates that the specialized needs of the pupils served will continue to be met; and
3. The requested exception insures the necessary supervision, security, and safety of the pupils served.

Amended by R.1999 d.298, effective September 7, 1999.
See: 31 N.J.R. 1412(a), 31 N.J.R. 2642(a).

Inserted references to the Juvenile Justice Commission throughout; in (c), substituted "at the appropriate program site" for "in the appropriate county office of the Department of Education" at the end; and in (d), inserted "through the Division of Student Services" at the end of the second sentence in the introductory paragraph.

6:9-2.4 Facilities

Facilities used for educational programs shall comply with the provisions of N.J.A.C. 6:22 where applicable. All educational programs shall be provided in locations separate from sleeping areas, except where appropriate for instructional or medical reasons.

6:9-2.5 Reports

(a) An educational progress report shall be developed for each pupil leaving a Department of Corrections, Department of Human Services or Juvenile Justice Commission program. Minimally, the report shall include a designated contact person and the following information necessary to formulate an appropriate educational program and assure that credit for work completed is recorded:

1. Statewide assessment information and diagnostic findings;
2. Credit earned towards high school graduation requirements contained in N.J.A.C. 6A:8-5.1;

3. Required skills and competency level;
4. Grade level equivalent;
5. Vocational training experience;
6. Individualized Program Plan (IPP); and
7. Individualized Education Program (IEP) for educationally handicapped pupils pursuant to N.J.A.C. 6A:14-3.7.

(b) Annually the responsible board of education shall be notified of the pupil's progress toward meeting local and State high school graduation requirements according to N.J.A.C. 6A:8-5.1.

Amended by R.1999 d.298, effective September 7, 1999.
See: 31 N.J.R. 1412(a), 31 N.J.R. 2642(a).

In (a), inserted a reference to the Juvenile Justice Commission in the introductory paragraph, substituted a reference to statewide assessment for a reference to assessment in 1, and changed N.J.A.C. reference in 7. Amended by R.2000 d.358, effective September 5, 2000.
See: 32 N.J.R. 1712(a), 32 N.J.R. 3332(b).

In (a)2 and (b), updated N.J.A.C. references.

SUBCHAPTER 3. FUNDING, PROGRAM APPROVAL AND MONITORING

6:9-3.1 Funding and program approval

(a) The funding of educational programs will be in accordance with N.J.S.A. 18A:7B-2 of the State Facilities Education Act of 1979, as amended by the Comprehensive Educational Improvement and Financing Act of 1996.

(b) The Departments of Corrections and Human Services, and the Juvenile Justice Commission, shall submit annually to the Department of Education, the resident enrollment of pupils in their State education programs on the last school day prior to October 16 of the prebudget year.

(c) The Commissioner of Education shall notify the Commissioners of the Departments of Corrections and Human Services, and the Executive Director of the Juvenile Justice Commission, of the entitlement for the following fiscal year prior to March 1 of the prebudget year.

(d) The entitlement shall be forwarded to the Departments of Corrections and Human Services, and the Juvenile Justice Commission, in two payments, 90 percent on July 1, and 10 percent on April 1. This payment schedule may be modified by written agreement(s) between the Commissioner of Education and the Commissioners of Corrections and Human Services, and the Executive Director of the Juvenile Justice Commission. These payments may be withheld

pursuant to N.J.S.A. 18A:7B-5, as amended by the Comprehensive Educational Improvement and Financing Act of 1996.

(e) The entitlement shall be used by the Departments of Human Services and Corrections, and the Juvenile Justice Commission, to support their educational programs in accordance with the provisions of N.J.S.A. 18A:7B-4 and requirements established in N.J.A.C. 6:9-3.2.

(f) By December 15 of each prebudget year, pursuant to P.L. 1996, c.138, the Departments of Corrections and Human Services, and the Juvenile Justice Commission, shall submit a detailed education program plan and budget to the Department of Education for approval for all programs and services under its jurisdiction on a form prescribed and provided by the Commissioner of Education. The plan must include at a minimum a program description, staffing patterns and facility level budget information.

(g) Any revision to the approved education program plan and budget, pursuant to P.L. 1996, c.138, shall be submitted to the Commissioner of Education. For revisions greater than 10 percent of any line item, prior approval from the Department of Education is required. Each revision shall be fully documented and contain a certification from the appropriate agency's Office of Education and the Commissioner of Corrections or Human Services, or the Executive Director of the Juvenile Justice Commission, that the revision is essential to the education program.

Amended by R.1999 d.298, effective September 7, 1999.
See: 31 N.J.R. 1412(a), 31 N.J.R. 2642(a).

In (a) and (d), added references to the Comprehensive Educational Improvement and Financing Act of 1996; in (b) and (d) through (f), inserted references to the Juvenile Justice Commission; in (c), (d) and (g), inserted references to the Executive Director of the Juvenile Justice Commission; in (f) and (g), inserted references to P.L. 1996, c.138; in (f), substituted "By December 15 of each prebudget year," for "By April 15 of each year," at the beginning; and in (g), inserted "approved" preceding "education" in the first sentence, and inserted "appropriate agency's" preceding "Office" in the last sentence.

6:9-3.2 Monitoring

(a) The expenditure of funds shall be available for audit by the Department of Education and fully documented in the following manner:

1. All expenditures incurred will be fully documented.
 - i. Salary expenditures shall be supported by time and activity reports for each budgeted position, supplemented with a current job description;
 - ii. All expenditures other than salary shall be supported by a vendor's invoice, a signed receiving document and evidence that the service or supply is utilized at the program level; and

iii. All documentation will be retained for audit for a minimum of five years after the completion of the fiscal year. If an audit has been started or notice received of an audit to be started, all supporting documentation will be retained until the audit process is concluded.

(b) The Department of Education shall review all educational programs provided by the Departments of Corrections and Human Services, and the Juvenile Justice Commission, for compliance with the rules established in this chapter and adherence to the approved education program plan and budget.

Amended by R.1999 d.298, effective September 7, 1999.
See: 31 N.J.R. 1412(a), 31 N.J.R. 2642(a).

In (b), inserted a reference to the Juvenile Justice Commission.

SUBCHAPTER 4. (RESERVED)

Subchapter Historical Note

Subchapter 4, Graduation Requirements and Diplomas, was repealed by R.2000 d.190, effective May 1, 2000. See: 32 N.J.R. 395(a), 32 N.J.R. 1528(a).

SUBCHAPTER 5. PUPIL RECORDS

6:9-5.1 Pupil records

(a) Pupil records shall be maintained in accordance with N.J.A.C. 6:3-2. In addition, all educational records shall be kept in files separate from juvenile justice and other non-educational records required to be safeguarded from public inspection by N.J.S.A. 2A:4-65.

(b) In the case of pupils with no identifiable district board of education, records shall be maintained by the Departments of Corrections or Human Services, or the Juvenile Justice Commission, according to N.J.A.C. 6A:14-2.9.

(c) For all pupils exiting a State facility, educational records shall be transferred within 10 days to the responsible district board of education as defined in N.J.S.A. 18A:7B-12, in order to assure credit for work completed.

Amended by R.1999 d.298, effective September 7, 1999.
See: 31 N.J.R. 1412(a), 31 N.J.R. 2642(a).

In (b), inserted a reference to the Juvenile Justice Commission, and changed N.J.A.C. reference.