

CHAPTER 25

QUALIFIED ZONE ACADEMY BOND PROGRAM

Authority

N.J.S.A. 18A:4-15, 18A:7G-26 and 18A:36A-18;
and 26 U.S.C. §1397E.

Source and Effective Date

R.2007 d.308, effective September 7, 2007.
See: 39 N.J.R. 2177(a), 39 N.J.R. 4115(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 25, Qualified Zone Academy Bond Program, expires on September 7, 2014. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 25, Qualified Zone Academy Bond Program, was adopted as new rules by R.2002 d.167, effective June 3, 2002. See: 34 N.J.R. 356(a), 34 N.J.R. 1899(a).

Chapter 25, Qualified Zone Academy Bond Program, was readopted as R.2007 d.308, effective September 7, 2007. As a part of R.2007 d.308, Subchapter 4, Charter School Eligibility for QZAB Funding, and Subchapter 5, Charter School Application for QZAB Funding, were adopted as new rules, effective October 1, 2007. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

6A:25-1.1 Purpose and applicability of rules

(a) These rules are intended to implement the Qualified Zone Academy Bond (QZAB) Program in this State. Under 26 U.S.C. §1397E, bond cap is allocated to the Department of Education, for bonds issued by the State, to be used by public schools with needy populations (qualified academy zones) for Federally qualified purposes such as to rehabilitate and repair schools providing such schools develop an educational plan in cooperation with business to expand learning opportunities. Bondholders receive a tax credit as an incentive for holding such bonds and the issuer (such as the New Jersey Economic Development Authority) is only responsible for paying the principal of the QZAB bonds, subject to State contract and appropriation from legislation. Since the initial phase of the QZAB Program, QZABs financed the costs of school facilities projects approved pursuant to the Educational Facilities Construction and Financing Act (EFCFA), P.L. 2000, c. 72. These rules also enable charter schools to participate in the program.

(b) These rules apply to all district boards of education and charter schools in the State as well as to the bondholders and private entities that participate in the State QZAB Program.

Amended by R.2003 d.52, effective February 3, 2003.
See: 34 N.J.R. 3417(a), 35 N.J.R. 611(a).

Rewrote (a).
Amended by R.2007 d.308, effective October 1, 2007.
See: 39 N.J.R. 2177(a), 39 N.J.R. 4115(a).

In (a), substituted "such as" for "in this case," "Since" for "These rules outline for districts, bondholders, private entities, and others the implementation of this program. As in", "QZABs financed" for "the NJEDA will issue QZABs for the State share of the costs of rehabilitation school facilities projects for qualified zone academies. Because these rules contemplate QZABs as a way of financing", deleted ", frequent reference is made in these rules to EFCFA and the Department of Education rules implementing EFCFA at N.J.A.C. 6A:26" following "c.72", and inserted the last sentence; and in (b), inserted "and charter schools".

6A:25-1.2 Definitions

(a) As used in this chapter, unless the context clearly indicates otherwise, the following words and terms shall have the following meanings:

"Charter school" means a public school that is established in accordance with N.J.S.A. 18A:36A-1 et seq.

"Charter school capital project" means a rehabilitation project for a charter school as described in N.J.A.C. 6A:25-4.2.

"Comprehensive education plan" means a plan established by the qualified zone academy in conjunction with one or more private entities to provide education and training to enhance the academic curriculum, increase graduation and em-

ployment rates, and better prepare students for the rigors of college and the workforce.

“Department” means the New Jersey Department of Education.

“EFCFA” means the Educational Facilities Construction and Financing Act, P.L. 2000, c.72 (N.J.S.A. 18A:7G-1 et seq.).

“New Jersey Economic Development Authority” or “NJEDA” means the authority established pursuant to N.J.S.A. 43:1B-1 et seq.

“Private entity” means any person (as defined in section 7701(a) of the Internal Revenue Code) other than the United States, a State or local government, or any agency or instrumentality thereof that enters into a collaboration with a school or school district for the purpose of establishing a qualified zone academy, and making a qualified contribution pursuant to the requirements of the Act and these guidelines. A private entity may be an individual, a trust, a partnership, or a non-profit organization as well as a for profit corporation.

“Qualified zone academy” means any public school (or academic program within a public school) that meets the eligibility criteria of the QZAB Program.

“Qualified contribution” means contributions made by private entities that are of a type and quality acceptable to the qualified zone academy, and consist of technical assistance in developing curriculum or in training teachers, services of employees as volunteer mentors, internships, field trips, or other educational opportunities for students, or any other property or service specified by the qualified zone academy. Cash received from a private entity constitutes a qualified contribution if it is used to purchase any property or service described above.

“QZAB funding” means the financing of school facilities projects through QZABs issued pursuant to the QZAB Program.

“QZAB Program” means this State’s implementation of the Federal qualified zone academy bond provisions of 26 U.S.C. §1397E, subject to Federal appropriation available therefor.

“Rehabilitation” means the definition of this term provided in 26 U.S.C. § 47, which is broader than the meaning defined in N.J.A.C. 6A:26-1.2, because the Federal meaning encompasses both rehabilitation as that term is defined in N.J.A.C. 6A:26-1.2 and attached additions to existing school facilities. Such additions generally increase the gross square footage of the original facility.

(b) Terms not defined in this chapter shall have the meanings defined for qualified zone academy bonds by 26 U.S.C. § 1397E and regulations thereunder (see 26 CFR 1.1397E-1) and the meanings defined for the State program of school construction under EFCFA and N.J.A.C. 6A:26.

Amended by R.2003 d.52, effective February 3, 2003.

See: 34 N.J.R. 3417(a), 35 N.J.R. 611(a).

In “Private entity” and “Qualified contribution” added “and beyond the initial phase, may be the private entity providing discounted telecommunications access to districts via a Statewide program” in the second sentence.

Amended by R.2007 d.308, effective October 1, 2007.

See: 39 N.J.R. 2177(a), 39 N.J.R. 4115(a).

In (a), added definitions “Charter school”, “Charter school capital project” and “Department”; deleted definition “Initial phase of the QZAB Program”; rewrote definition “Private entity”; in definition “Qualified zone academy”, deleted “which is established by and operated under the supervision of a district and” preceding “that”; in definition “Qualified contribution”, deleted the last sentence; and in definition “QZAB Program”, deleted “, which shall consist of the initial phase and subsequent phases” preceding “, subject”.

SUBCHAPTER 2. ELIGIBILITY FOR QZAB FUNDING

6A:25-2.1 School requirements

(a) To qualify for designation as a qualified zone academy and receive QZAB funding, a school shall:

1. Be in a school district as that term is defined in N.J.S.A. 18A:7G-3 and N.J.A.C. 6A:26-1.2; and
2. Have a student body composed of at least 35 percent of students that qualify for the Richard B. Russell National School Lunch Program based on a reasonable expectation as of the date of issuance of the QZABs; or be located in a Federal empowerment zone; or be located in a Federal enterprise community.

(b) The school district or the Department on behalf of the school district must supply the eligibility information required by (a) above for each school seeking designation as a qualified zone academy on the QZAB application form.

Amended by R.2007 d.308, effective October 1, 2007.

See: 39 N.J.R. 2177(a), 39 N.J.R. 4115(a).

In (a)1, inserted “school”; and in (b), inserted “school” preceding “district” twice, and substituted “Department” for “Division”.

6A:25-2.2 QZAB project requirements

(a) To be eligible for QZAB funding, a school facilities project shall:

1. Be located in a school facility of a school that qualifies pursuant to N.J.A.C. 6A:25-2.1(a);
2. Be included in a school district’s approved long-range facilities plan;
3. Be approved as a school facilities project by the Department as follows:
 - i. Pursuant to N.J.A.C. 6A:26-3.3;
 - ii. Pursuant to section 4b of EFCFA; or
 - iii. Pursuant to section 9c of EFCFA;

4. Not be completed at the time of submission of an application for QZAB Program funding;

5. Consist of rehabilitation work, including equipment related to the rehabilitation of the school facility that houses a qualified zone academy; and

6. Be located in a school facility eligible for a private business contribution by a private entity.

(b) A school district or the Department on behalf of a school district, may apply for one or more school facilities projects in one or more school facilities, provided that each school and each project meet all of the requirements to qualify for the QZAB Program under this chapter.

Amended by R.2003 d.52, effective February 3, 2003.
See: 34 N.J.R. 3417(a), 35 N.J.R. 611(a).

In (b), deleted “, in the case of the initial phase of the QZAB program,” following “A district or”.

Amended by R.2007 d.308, effective October 1, 2007.
See: 39 N.J.R. 2177(a), 39 N.J.R. 4115(a).

In (a)2, inserted “school”, and deleted “even if the project was originally approved as a waiver project under section 4b of EFCFA (N.J.S.A. 18A:7G-46) or a retroactive project under section 9c of EFCFA (N.J.S.A. 18A:7G-9c) prior to the approval of the district’s long-range facilities plan”; and in (b), inserted “school” preceding “district” twice, and substituted “Department” for “Division”.

6A:25-2.3 Private collaboration requirement

(a) The school district shall establish, via written commitment, a collaboration between the school and one or more private entities under which the private entity evidences in writing that it will make a contribution having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the bond issue.

(b) Contributions by the private entity shall be described and the following general types of contributions:

1. Equipment for use in the qualified zone academy (including technology and vocational equipment);
2. Technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom;
3. Services of employees as volunteer mentors;
4. Internships, field trips, or other educational opportunities outside the qualified zone academy for students;
5. Any other property or service specified by the district; or
6. Cash received if such monies are used to purchase any property or services described in (b)1 through 5 above.

(c) Services of employees of the qualified zone academy do not constitute qualified contributions.

Amended by R.2003 d.52, effective February 3, 2003.
See: 34 N.J.R. 3417(a), 35 N.J.R. 611(a).

In (b)2, added the second sentence.

Amended by R.2007 d.308, effective October 1, 2007.
See: 39 N.J.R. 2177(a), 39 N.J.R. 4115(a).

In (a), inserted “school” preceding “district”; and rewrote (b).
Administrative correction.
See: 39 N.J.R. 4572(b).

6A:25-2.4 Comprehensive educational plan requirements

(a) The qualified zone academy or school district on behalf of the qualified zone academy shall design a comprehensive educational plan in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and an increasingly complex workforce.

(b) The private entity may be a business that cooperates in the design of the comprehensive educational plan.

(c) Students enrolled in the qualified zone academy shall be subject to the same standards and assessments as other students in the school district.

(d) The school district shall approve the comprehensive educational plan prior to the submission of an application to the Department for QZAB funding.

Amended by R.2007 d.308, effective October 1, 2007.
See: 39 N.J.R. 2177(a), 39 N.J.R. 4115(a).

In (a), (c) and (d), inserted “school” preceding “district”; and in (d), substituted “Department” for “Division”.

SUBCHAPTER 3. APPLICATION FOR QZAB FUNDING

6A:25-3.1 Application requirements

(a) Any school district seeking to initiate a school facilities project funded by a QZAB shall, on a form provided by the Commissioner, apply to the Department for approval of the school facilities project for QZAB funding.

(b) The application must demonstrate that the school facilities project meets the requirements for participation in the QZAB Program, as set forth in N.J.A.C. 6A:25-2.1 through 2.4, as well as the Federal requirements set forth in 26 U.S.C. § 1397E and regulations thereunder (see 26 CFR 1.1397E-1).

(c) The application must include the following information:

1. Evidence that the school facilities project is for a school facility meeting the school location or student body composition requirements of N.J.A.C. 6A:25-2.1;
2. Evidence that the school facilities project has been approved by the Department for rehabilitation, pursuant to N.J.A.C. 6A:25-2.2;
3. A copy of the comprehensive educational plan approved by the school district, pursuant to N.J.A.C. 6A:25-2.4;

4. Certification by the issuer that it has the written commitment of the private entity to satisfy the private contribution requirement pursuant to N.J.A.C. 6A:25-2.3. This requirement may also be satisfied by the issuer's certification that it has the written commitment of the private entity to make qualified contributions for one or more qualified zone academy school district applicants sufficient to meet the private contribution requirement for each such school district applicant; and

5. Certification by the issuer that it has the written approval by the school district of the QZAB bond issuance.

(d) A school district applying for QZAB funding may submit to the Department an application for one or more school facilities projects for which it is seeking such funding, provided that the application satisfies the requirements of this subsection for each school facilities project.

Amended by R.2003 d.52, effective February 3, 2003.

See: 34 N.J.R. 3417(a), 35 N.J.R. 611(a).

In (a), in second sentence substituted "As in" for "For".

Amended by R.2007 d.308, effective October 1, 2007.

See: 39 N.J.R. 2177(a), 39 N.J.R. 4115(a).

Inserted "school" preceding "district" and substituted "Department" for "Division" throughout; in (a), deleted the last sentence; and in (c)5, deleted ", which for the initial phase of the QZAB Program may be a certification by the issuer that the application for QZAB funding has been signed by a party authorized by the district board of education".

6A:25-3.2 Application review and approval

(a) The Department shall notify school districts of the deadline for accepting applications, which shall be October 15, 2007, and in subsequent years the deadline shall be July 1.

(b) The Department will review each application to determine if it is accurate and complete. If the application is determined to be incomplete, the Department shall inform the school district in writing, listing all deficiencies and missing required information. If the application is determined to be complete, the Department will review the application within 30 days of receipt.

(c) Approval will be granted to all applications that meet the QZAB Program requirements as described or referenced in this chapter.

(d) If a school district's application is approved, the Department will notify the school district that a qualified zone academy or academies in the school district is/are eligible for QZAB funding. The Department will also provide by copy to the NJEDA notice of school district eligibility for QZAB funding. State share funded through QZAB financing will be available in the same way that State share funded through other financing is available for school facilities projects approved pursuant to EFCFA, that is, available pursuant to N.J.S.A. 18A:7G-5, 9, 10, or 15 as applicable.

(e) If an application does not meet the QZAB Program requirements, the Department shall notify the school district in writing, informing it of the reason for the denial.

Amended by R.2003 d.52, effective February 3, 2003.

See: 34 N.J.R. 3417(a), 35 N.J.R. 611(a).

In (d), deleted "In the event QZAB funding is for the State share of school facilities project, as is the case for the initial phase of the QZAB Program," in the third sentence.

Amended by R.2007 d.308, effective October 1, 2007.

See: 39 N.J.R. 2177(a), 39 N.J.R. 4115(a).

Rewrote (a); in (b), (d) and (e), inserted "school" preceding "district" and "district's", and substituted "Department" for "Division" throughout; and in (b), deleted ", except in the case of the initial phase of the QZAB Program, in which all applications will receive expedited review prior to the issuance of the QZABs" at the end.

6A:25-3.3 Appeals of Department and Commissioner determinations

Appeals of Department and Commissioner determinations with respect to the QZAB Program shall be made in accordance with N.J.A.C. 6A:26-17.1.

Amended by R.2007 d.308, effective October 1, 2007.

See: 39 N.J.R. 2177(a), 39 N.J.R. 4115(a).

Section was "Appeals of Division and Commissioner determinations". Substituted "Department" for "Division".

SUBCHAPTER 4. CHARTER SCHOOL ELIGIBILITY FOR QZAB FUNDING

6A:25-4.1 Charter school requirements

(a) To qualify for designation as a qualified zone academy and receive QZAB funding, a charter school shall:

1. Have an approved charter; and
2. Meet the requirement stated in N.J.A.C. 6A:25-2.1(a)2.

6A:25-4.2 QZAB project requirement

(a) To be eligible for QZAB funding, a charter school capital project shall:

1. Consist of rehabilitation work, including equipment related to the rehabilitation of the charter school facility that houses a qualified zone academy; and
2. Not be completed at the time of submission of an application for QZAB Program funding.

6A:25-4.3 Private collaboration requirement

(a) The charter school shall establish, via written commitment, a collaboration between the charter school and one or more private entities under which the private entity evidences in writing that it will make a contribution having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the bond issue.

(b) Contributions by the private entity shall be described and may include items referenced in N.J.A.C. 6A:25-2.3(b)1.