

**6A:11-4.8 Students with educational disabilities**

A charter school shall provide an enrolled student 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 C.F.R. 300 et seq., N.J.S.A. 18A:36A-11(b) and N.J.A.C. 6A:14.

New Rule, R.2000 d.403, effective October 2, 2000.  
See: 32 N.J.R. 2523(a), 32 N.J.R. 3560(a).  
Amended by R.2002 d.358, effective November 4, 2002.  
See: 34 N.J.R. 2920(a), 34 N.J.R. 3806(a).

**Case Notes**

Where the Greater Newark Charter School had placed a charter school special education student at a private school and the student subsequently moved from Newark to East Orange, the East Orange school district was not authorized to change the student's private placement; although the student was required to register in the East Orange district, the student was still an enrollee of the charter school under N.J.S.A. 18A:36A-8(b). A school district's challenge to a charter school's placement of a special education student or to the district's responsibility for costs is through an appeal to the Commissioner of Education under the Charter School Program Act, N.J.S.A. 18A:36A-11(b), and not through the IDEA. E.M. ex rel. J.B. v. East Orange Bd. of Educ., OAL Dkt. No. EDS 12493-07, 2008 N.J. AGEN LEXIS 378, Final Decision (June 26, 2008).

Under N.J.S.A. 18A:36A-11(b), the school district of residence is not responsible for the costs of home instruction for disabled charter school students, as opposed to private day or residential school placement; clear statutory and regulatory distinctions exist between "home instruction," which may be provided for through contracts with "private clinics and agencies," N.J.A.C. 6A:14-5.1(c)1iv, and "private schools for the disabled." Golden Door Charter School v. State-Operated School Dist. of Jersey City, OAL Dkt. No. EDU 1169-06, 2007 N.J. AGEN LEXIS 302, Commissioner's Decision (March 15, 2007), aff'd, SB No. 10-07, 2007 N.J. AGEN LEXIS 887 (N.J. State Bd. of Educ. August 1, 2007), aff'd per curiam, 2008 N.J. Super. LEXIS 129 (App.Div. 2008).

**6A:11-4.9 Home instruction for students**

A charter school shall provide home instruction due to temporary illness or injury for an enrolled student in accordance with N.J.A.C. 6A:16-10.1.

New Rule, R.2000 d.403, effective October 2, 2000.  
See: 32 N.J.R. 2523(a), 32 N.J.R. 3560(a).  
Amended by R.2007 d.183, effective June 4, 2007.  
See: 39 N.J.R. 289(a), 39 N.J.R. 2242(a).  
Updated the N.J.A.C. reference.

**6A:11-4.10 Pupil transportation**

In accordance with N.J.S.A. 18A:36A-13 and N.J.A.C. 6A:27-3.1, a district board of education shall provide transportation or aid in lieu of transportation to a student in kindergarten through grade 12 who attends a charter school.

New Rule, R.2000 d.403, effective October 2, 2000.  
See: 32 N.J.R. 2523(a), 32 N.J.R. 3560(a).  
Amended by R.2007 d.183, effective June 4, 2007.  
See: 39 N.J.R. 289(a), 39 N.J.R. 2242(a).  
Updated the N.J.A.C. reference.

**6A:11-4.11 Board of trustees and Open Public Meetings Act**

(a) A charter school shall constitute its board of trustees no later than April 15 of the year in which its application is approved.

(b) The board of trustees of a charter school shall operate in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.

(c) The board of trustees shall send a copy of all meeting notices and meeting minutes to the respective county superintendent of schools.

(d) The board of trustees shall include a report on changes in student enrollment in the monthly minutes.

New Rule, R.2000 d.403, effective October 2, 2000.  
See: 32 N.J.R. 2523(a), 32 N.J.R. 3560(a).  
Amended by R.2004 d.322, effective August 16, 2004.  
See: 36 N.J.R. 1313(a), 36 N.J.R. 3895(a).  
Added (d).

**6A:11-4.12 Equity in education**

A charter school shall comply with all applicable laws and regulations governing equity in education including, but not limited to: N.J.S.A. 18A:36-20, N.J.S.A. 10:5-1 et seq., N.J.A.C. 6A:7, Titles VI and VII of the Civil Rights Act of 1964 at 42 U.S.C. §§2000d et seq. and 2000e et seq., respectively, Title IX of the Education Amendments of 1972 at 20 U.S.C. §§1681 et seq., Section 504 of the Rehabilitation Act of 1973 at 29 U.S.C. §792, the Americans with Disabilities Act of 1990 at 42 U.S.C. §§12101 et seq. and the Individuals with Disabilities Education Act (IDEA—B) of 1997 at 20 U.S.C. §§1400 et seq., and 34 C.F.R. 300 et seq.

New Rule, R.2000 d.403, effective October 2, 2000.  
See: 32 N.J.R. 2523(a), 32 N.J.R. 3560(a).  
Amended by R.2002 d.358, effective November 4, 2002.  
See: 34 N.J.R. 2920(a), 34 N.J.R. 3806(a).  
Deleted (b); changed existing (a) to be an uncodified paragraph.  
Recodified from N.J.A.C. 6A:11-4.13 by R.2004 d.322, effective August 16, 2004.  
See: 36 N.J.R. 1313(a), 36 N.J.R. 3895(a).  
Former N.J.A.C. 6A:11-4.12, Public school contracts law, recodified to N.J.A.C. 6A:23-9.7.  
Amended by R.2007 d.183, effective June 4, 2007.  
See: 39 N.J.R. 289(a), 39 N.J.R. 2242(a).  
Updated the N.J.A.C. reference.

**6A:11-4.13 Financial operations of a charter school**

A charter school shall be subject to the provisions of the finance and business services rules, N.J.A.C. 6A:23.

New Rule, R.2000 d.403, effective October 2, 2000.  
See: 32 N.J.R. 2523(a), 32 N.J.R. 3560(a).  
Amended by R.2002 d.358, effective November 4, 2002.  
See: 34 N.J.R. 2920(a), 34 N.J.R. 3806(a).  
Deleted (b); changed existing (a) to be an uncodified paragraph.  
Recodified from N.J.A.C. 6A:11-4.14 and amended by R.2004 d.322, effective August 16, 2004.  
See: 36 N.J.R. 1313(a), 36 N.J.R. 3895(a).  
Former N.J.A.C. 6A:11-4.13, Equity in education, recodified to N.J.A.C. 6A:11-4.12.

**6A:11-4.14 (Reserved)**

New Rule, R.2002 d.358, effective November 4, 2002.  
 See: 34 N.J.R. 2920(a), 34 N.J.R. 3806(a).  
 Recodified to N.J.A.C. 6A:11-4.13 by R.2004 d.322, effective August 16, 2004.  
 See: 36 N.J.R. 1313(a), 36 N.J.R. 3895(a).  
 Section was "Finance and business services rules".

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**SUBCHAPTER 5. CERTIFICATION REQUIREMENTS FOR STAFF**
**6A:11-5.1 Certification**

(a) All classroom teachers, principals and professional support staff employed by the board of trustees of a charter school shall hold appropriate New Jersey certification in accordance with N.J.A.C. 6A:9-5.1.

(b) The board of trustees of a charter school shall employ or contract with:

1. A lead person or another person who holds a New Jersey standard school administrator or supervisor certificate or a New Jersey standard or provisional principal certificate in accordance with N.J.A.C. 6A:9-8.6 to direct and guide the work of instructional personnel including, but not limited to, the supervision and evaluation of staff and the development and implementation of curriculum; and
2. A person who holds a New Jersey standard or provisional school business administrator certificate in accordance with N.J.A.C. 6A:9-12.7 and 6A:23-9.3 to oversee fiscal operations of the charter school.

Amended by R.2000 d.403, effective October 2, 2000.  
 See: 32 N.J.R. 2523(a), 32 N.J.R. 3560(a).

Rewrote section.  
 Amended by R.2002 d.358, effective November 4, 2002.  
 See: 34 N.J.R. 2920(a), 34 N.J.R. 3806(a).

Rewrote (b) as (b) and (b)1; added (b)2.  
 Amended by R.2004 d.322, effective August 16, 2004.  
 See: 36 N.J.R. 1313(a), 36 N.J.R. 3895(a).

In (b)2, amended the N.J.A.C. reference.  
 Amended by R.2007 d.183, effective June 4, 2007.  
 See: 39 N.J.R. 289(a), 39 N.J.R. 2242(a).

In (a) and (b)1, updated the N.J.A.C. references; and in (b)2, updated the first N.J.A.C. reference.

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**SUBCHAPTER 6. STREAMLINE TENURE**
**6A:11-6.1 Tenure acquisition**

All teaching staff members, janitors and secretaries shall acquire streamline tenure in a charter school after three consecutive academic years, together with employment at the be-

ginning of the next succeeding academic year, in accordance with the tenure acquisition criteria as set forth in N.J.S.A. 18A:28-5(b), 18A:28-6 and 18A:17-2(b)2.

**Case Notes**

Initial Decision (2008 N.J. AGEN 639) adopted, which determined that N.J.S.A. 18A:26-10 and N.J.S.A. 18A:28-8 are applicable to teaching staff members of charter schools despite the fact that different tenure statute and rules apply to charter school teachers. In re Suspension of Teaching Certificate of Raghunandan, OAL Dkt. No. EDU 11437-07, EDU 11556-07, EDU 11745-07, EDU 11956-07, EDU 11971-07, EDU 11972-07 and EDU 12569-07 (Consolidated), 2008 N.J. AGEN LEXIS 723, Interlocutory Review Decision (July 9, 2008).

**6A:11-6.2 Filing of and response to tenure charges**

(a) Once streamline tenure is acquired, an employee of a charter school shall not be dismissed or receive reduced compensation except for inefficiency, incapacity, conduct unbecoming or other just cause.

(b) In all instances of the filing and certification of streamline-tenure charges, except inefficiency, the following procedures and timelines shall be observed:

1. The lead person of the charter school shall file written charge(s), executed under oath, accompanied by a supporting statement of evidence with the board of trustees.
2. The board of trustees shall transmit the charge(s) to the affected streamline-tenured employee within three work days of the date that they were filed with the board of trustees. Proof of mailing or hand delivery shall constitute proof of transmittal.
3. The affected tenured employee shall have the opportunity to respond to the charge(s) in a written statement of position and a written statement of evidence, both of which shall be executed under oath and submitted to the board of trustees within 15 days of receipt of the streamline-tenure charge(s).
4. Upon receipt of the affected employee's response, the board of trustees shall determine within 30 days whether there is probable cause to credit the evidence in support of the charge(s) and whether such charge(s), if credited, are sufficient to warrant a dismissal or reduction of compensation.
5. The board of trustees must notify, in writing, the affected employee of its determination within 15 days. Proof of mailing or hand delivery shall constitute proof of notice.
6. If the board of trustees determines that there is probable cause to credit the charge(s), the board of trustees shall certify the charge(s) to the Commissioner.

7. If the affected employee wishes to contest the certified charge(s) filed against him or her, he or she shall do so in writing to the Commissioner within 15 days of receipt of the board of trustees' determination.

(c) In instances of the filing and certification of streamline-tenure charges for inefficiency, the following procedures and timelines shall be observed:

1. The lead person of the charter school shall file written charge(s), executed under oath, accompanied by a supporting statement of evidence with the board of trustees.

2. The board of trustees shall transmit the charge(s) to the affected streamline-tenured employee within three work days of the date that they were filed with the board of trustees. Proof of mailing or hand delivery shall constitute proof of transmittal.

3. Upon completion of the 90-day corrective action period, the lead person of the charter school shall notify the board of trustees in writing whether the inefficiencies were corrected.

4. The board of trustees shall transmit the notification to the affected streamline-tenured employee within three work days of the date that it was noticed. Proof of mailing or hand delivery shall constitute proof of transmittal.

5. The affected tenured employee shall have the opportunity to respond to the charge(s) in a written statement of position and a written statement of evidence, both of which shall be executed under oath and submitted to the board of trustees within 15 days of receipt of the inefficiency charge(s).

6. Upon receipt of the affected employee's response, the board of trustees shall determine within 30 days whether there is probable cause to credit the evidence in support of the charge(s) and whether such charge(s), if credited, are sufficient to warrant a dismissal or reduction of compensation.

7. The board of trustees must notify, in writing, the affected employee of its determination within 15 days. Proof of mailing or hand delivery shall constitute proof of notice.

8. If the board of trustees determines that there is probable cause to credit the charge(s), the board of trustees shall certify the charge(s) to the Commissioner.

9. If the affected employee wishes to contest the certified charge(s) filed against him or her, he or she shall do so in writing to the Commissioner within 15 days of receipt of the board of trustees' determination.

Amended by R.2002 d.358, effective November 4, 2002.  
See: 34 N.J.R. 2920(a), 34 N.J.R. 3806(a).  
Substituted "charge(s)" for "charges" throughout.

**6A:11-6.3 Arbitration**

(a) If the streamline-tenured employee contests the charge(s), an arbitrator from a panel of six permanent arbitrators shall be assigned by the Commissioner to determine the case. All employees who acquire streamline tenure in a charter school shall be subject to dismissal or a reduction in compensation only upon the determination of an arbitrator.

1. Arbitrators on the panel shall be listed in alphabetical order and assigned to hear streamline tenure cases on a rotating basis in the order that cases are filed with the Commissioner's office.

2. The hearing shall be held before the arbitrator within 30 days of the Commissioner's assignment of the arbitrator to the case.

3. All necessary discovery procedures shall be completed 15 days prior to the hearing. At least 10 days prior to the hearing, information and witness lists shall be exchanged between the parties.

4. The arbitrator shall render a decision within 20 days of the closing of the hearing.

(b) The decision of the arbitrator is final and binding and cannot be appealed to either the Commissioner or the State Board of Education. Said decision shall be subject to judicial review and enforcement as provided pursuant to N.J.S.A. 2A:24-7 through 24-10.

(c) The board of trustees of the charter school shall forward arbitration decisions to the State Board of Examiners.

Amended by R.2002 d.358, effective November 4, 2002.  
See: 34 N.J.R. 2920(a), 34 N.J.R. 3806(a).  
In (a), substituted "charge(s)" for "charges".

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**SUBCHAPTER 7. (RESERVED)**

**Subchapter Historical Note**

Subchapter 7, Financial Operations, was recodified as 6A:23-9.4, 6A:23-9.5 and 6A:23-9.6, by R.2004 d.322, effective August 16, 2004.  
See: 36 N.J.R. 1313(a), 36 N.J.R. 3895(a).

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**SUBCHAPTER 8. (RESERVED)**