

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), inserted "school" preceding "year".

6A:23-4.9 Audit requirements

(a) Regardless of the fiscal year of the school, each approved private school for the disabled shall submit to the Commissioner audited financial statements based on the July 1 to June 30 school year which must be postmarked on or before November 1 or the following business day if November 1 falls on a weekend or holiday.

1. The approved private school for the disabled shall engage only an independent registered municipal accountant of New Jersey or an independent certified public accountant of New Jersey to conduct the annual audit, who holds a valid registration license as a public school accountant of New Jersey. The approved private school for the disabled shall ensure the independent status of the auditor in accordance with standards set forth in the Code of Professional Ethics issued by, and available from, the American Institute of Certified Public Accountants (AIC-PA). Additionally, upon review by the Department, an accountant shall not be considered independent, if such accountant or members of his or her firm are engaged to perform services other than the year-end audit and tax return functions for the private school for the disabled.

(b) The audit shall follow generally accepted auditing standards (GAAS), as set forth in the Codification of Statements on Auditing Standards, 1993, published for the American Institute of Certified Public Accountants, (1211 Avenue of the Americas, NYC, NY 10036-8775), incorporated herein by reference, as amended and supplemented and when applicable, OMB Circular A-133 or NJOMB Circular Letter 98-07 as amended and supplemented. The private school for the disabled shall ensure the use of the auditing guidelines as published and distributed by the Commissioner.

1. The approved private school for the disabled shall ensure that the audit includes basic financial statements, required supplementary information, schedules and narrative explanations.

(c) The approved private school for the disabled shall ensure that the audited financial statements reflect the certified actual cost(s) per student as determined by the independent auditor and final tuition rate(s) charged at the end of the school year as determined by the school's management.

(d) The approved private school for the disabled's management representative(s) shall discuss with the auditor the results of the auditor's determination of the certified actual cost per student in order for management to determine the final tuition rate charged as a result of the audit.

1. The approved private school shall charge as the final tuition rate an amount equal to or less than the certified actual cost per student.

2. The approved private school shall ensure that the audit report contains a letter signed by both the school auditor and an authorized school representative indicating that both parties have met and discussed the audit, and that the determination of the final tuition rate charged was a management decision.

(e) Within 60 days of receipt of the year-end audit, school management shall develop a corrective action plan pursuant to this subchapter in response to recommendations contained in the year-end audit, and shall submit such corrective action plan to the Assistant Commissioner, Division of Finance for review and approval.

(f) The approved private school for the disabled shall not amend the final tuition rate charged after certification by the Commissioner.

(g) Any adjustments that result from the certified audit or a tuition audit performed by the Commissioner that are in excess of \$10.00 per sending district board of education will be paid in accordance with N.J.A.C. 6A:23-4.2(l) and (m).

(h) An approved private school for the disabled that files an audit postmarked after November 1 shall cause the tentative tuition rate per student for the ensuing school year to be calculated based upon the audited actual cost per student for the school year two years prior to the current school year, and N.J.A.C. 6A:23-4.2(j) will not apply.

(i) Failure to comply with this section may result in the Commissioner placing the approved private school for the disabled on conditional approval status.

(j) Upon request, the private school for the disabled shall submit to the Department a copy of the corporation's agency wide audited financial statements.

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See: 36 N.J.R. 1313(a), 36 N.J.R. 3895(a).

Rewrote the section.

6A:23-4.10 Appeals

(a) The decision of the Assistant Commissioner, Division of Finance regarding the calculation of the tentative tuition rate pursuant to N.J.A.C. 6A:23-4.2(j), regarding the approval of a tentative tuition rate pursuant to N.J.A.C. 6A:23-4.3 and regarding conditional approval status pursuant to N.J.A.C. 6A:23-4.9(i), may be appealed in accordance with N.J.A.C. 6A:3.

(b) The decision of the Assistant Commissioner, Division of Finance in regard to certification may be appealed in accordance with N.J.A.C. 6A:3.

(c) The decision of the Commissioner in regard to N.J.A.C. 6A:23-4.3, New private schools for the disabled, may be appealed to the State Board of Education in accordance with N.J.S.A. 18A:6-27 and N.J.A.C. 6A:4.

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Rewrote the section.

6A:23-4.11 Out-of-State approved private schools for the disabled

(a) Out-of-State private schools for the disabled shall be approved to provide special education programs by the department of education of the state in which they are located. Exceptions to this requirement may be made only at the discretion of the Office of Special Education, New Jersey Department of Education in accordance with N.J.A.C. 6A:14-7.1(e).

(b) The Commissioner shall abide by the tuition regulations for approved private schools for the disabled adopted by the department of education or other regulatory agency in the state in which the private school for the disabled is located. The approved private school for the disabled shall submit verification of the approval of the tuition rate to the Commissioner either on prescribed forms or verification from the out-of-State Department of education or other regulatory agency.

(c) If the out-of-State approved private school for the disabled is located in a state in which the department of education or other regulatory agency does not approve or sanction tuition rates, such tuition rates shall be determined in the following manner:

1. The approved private school for the disabled and the sending district board of education or state agency that determined the placement shall mutually agree to the tuition rate. The tuition rate shall be agreed upon prior to the child's placement, and a letter indicating agreement of such rate shall be forwarded to the Commissioner.

2. An approved private school for the disabled which is licensed as a child care facility by the New Jersey Department of Human Services shall determine a tuition rate through mutual agreement between the approved private school for the disabled, the sending district board of education and the Department of Human Services, Office of Education. The tuition rate shall be agreed upon prior to the child's placement and documentation of such rate shall be forwarded to the Commissioner.

3. If a tuition rate cannot be mutually agreed upon in accordance with (c)1 or 2 above, the approved private school for the disabled shall file a budget in a format prescribed by the Commissioner to determine a tentative tuition rate and shall comply with the provisions of this subchapter in order to collect tuition from a New Jersey district board of education or agency. The cost of the audit contained in N.J.A.C. 6A:23-4.9 may be charged to the sending district board of education or agency that did not mutually agree to the tuition rate.

6A:23-4.12 Inspection of records

(a) All financial and accounting records maintained by the approved private school for the disabled, as required by this subchapter, shall be open during normal business hours for review and audit by the Commissioner or his or her representative(s) for the period indicated in N.J.A.C. 6A:23-4.4(a)20.

(b) All financial and accounting records maintained by a related party which pertain to a transaction between a related party and the approved private school for the disabled shall be open during normal business hours for review and audit by the Commissioner or his or her representative(s) for the period indicated in N.J.A.C. 6A:23-4.4(a)20.

(c) All auditor's workpapers used in the preparation of the year-end audited financial statements shall be open during normal business hours for review by the Commissioner or his or her representative(s) for the period indicated in N.J.A.C. 6A:23-4.4(a)20.

6A:23-4.13 Fiscal monitoring of private schools and corrective action plans

(a) The Commissioner or his or her representative(s) shall monitor approved private schools for the disabled in accordance with this subchapter. On site monitoring shall be conducted at least every six years.

(b) The monitoring process may include, but is not limited to, all financial information required in this subchapter.

(c) After the monitoring process is completed, a report shall be written and sent to the private school, the county superintendent and the school's auditor.

(d) If the school receives a final report that indicates noncompliance, a corrective action plan shall be developed and submitted to the Department for approval.

(e) The corrective action plan shall include, but is not limited to, the following:

1. Objective and strategies for correcting each non-compliance item; and
2. The dates by which noncompliance will be corrected.

(f) When an approved private school for the disabled is determined to be in noncompliance, the Commissioner may:

1. Issue a conditional approval status when noncompliance with State rules and/or implementation of the corrective action plan is demonstrated; or
2. Immediately remove program approval when it is documented that the health, safety or welfare of the students is in danger.