

CHAPTER 11 CHARTER SCHOOLS

Authority

N.J.S.A. 18A:36A-1 et seq., specifically 18A:36A-18.

Source and Effective Date

R.2007 d.183, effective May 10, 2007.
See: 39 N.J.R. 289(a), 39 N.J.R. 2242(a).

Chapter Expiration Date

Chapter 11, Charter Schools, expires on May 10, 2012.

Chapter Historical Note

Chapter 11, Charter Schools, was adopted as R.1997 d.358, effective August 4, 1997. See: 29 N.J.R. 1585(a), 29 N.J.R. 3492(a).

Subchapter 8, Program Implementation, was adopted as R.1998 d.292, effective June 1, 1998. See: 30 N.J.R. 588(a), 30 N.J.R. 2084(a).

Subchapter 4, Transportation, was recodified as N.J.A.C. 6:21-20 and former Subchapter 8, Program Implementation, was recodified as Subchapter 4, Program Implementation, by R.2000 d.403, effective October 2, 2000. See: 32 N.J.R. 2523(a), 32 N.J.R. 3560(a).

Chapter 11, Charter Schools, was readopted as R.2002 d.358, effective October 11, 2002. See: 34 N.J.R. 2920(a), 34 N.J.R. 3806(a).

Chapter 11, Charter Schools, was readopted as R.2007 d.183, effective May 10, 2007. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

6A:11-1.1 Purpose

(a) The purpose of this chapter is to provide the rules to govern the implementation of the Charter School Program Act, N.J.S.A. 18A:36A-1 et seq. The rules define the processes for establishing and operating charter schools; complying with the School Ethics Act (N.J.S.A. 18A:12-21 et seq.); implementing programs; certifying classroom teachers, principals and professional support staff; applying streamline tenure for teaching staff members, janitors and secretaries. The rules for conducting the financial operations of the charter schools are set forth in the finance and business services rules at N.J.A.C. 6A:23-9.

(b) The rules set out the requirements for applying for a charter and operating a school when a charter is awarded by the Commissioner of Education. In addition, these rules affect students who attend the charter schools, the parents and legal guardians of these students, the district boards of education where these students reside, the district boards of education in which the charter schools are physically located and the people who will serve on the boards of trustees and on the staffs of the charter schools.

Amended by R.2000 d.403, effective October 2, 2000.

See: 32 N.J.R. 2523(a), 32 N.J.R. 3560(a).

In (a), deleted "transporting students;" and added "implementing programs;"

Amended by R.2002 d.358, effective November 4, 2002.

See: 34 N.J.R. 2920(a), 34 N.J.R. 3806(a).

In (b), deleted "new" before "rules".

Amended by R.2004 d.322, effective August 16, 2004.

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

In (a), rewrote the last sentence.

6A:11-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Administrator" means an employee of a charter school who:

1. Holds a position which requires a certificate that authorizes the holder to serve as school administrator, principal or school business administrator;

2. Holds a position which requires a certificate that authorizes the holder to serve as supervisor and who is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services of a charter school; or

3. Holds a position which does not require that the person hold any type of certificate but is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services by a charter school.

"Annual review" means the yearly assessment by the Commissioner as to whether the charter school is meeting the goals of its charter.

"Application" means the *New Jersey Charter School Application* which includes, but is not limited to, a description of the areas listed in N.J.S.A. 18A:36A-5 and N.J.A.C. 6A:11-2.1(b).

"Approval of a charter" means an endorsement by the Commissioner following the review of an eligible application by the Department of Education and contingent upon the receipt of necessary documentation in accordance with N.J.A.C. 6A:11-2.1(h).

"Board of trustees" means the public agents authorized by the State Board of Education to supervise and control a charter school.

"Certification" means the endorsement of a person who is employed by a district board of education or a charter school board of trustees to perform duties that are regulated by N.J.A.C. 6A:9 and 6A:23, and N.J.S.A. 18A:26-2.

"Charter school" means a public school that is operated under a charter granted by the Commissioner, that is independent of the district board of education and that is managed by a board of trustees.

"Contiguous district boards of education" means school districts that comprise a region of residence that all share a common border.

"District of residence" means the school district in which a charter school facility is physically located; if a charter school is approved with a region of residence comprised of contiguous school districts, that region is the charter school's district of residence.

"Eligible applicant" means teaching staff members, parents of children attending the schools of the district board(s) of education, a combination of teaching staff members and parents, or an institution of higher education or a private entity located within the State in conjunction with teaching staff members and parents of children attending the schools of the district board(s) of education.

"Final granting of a charter" means the written notification in which the Commissioner makes the charter effective as a result of all required documentation being submitted by the charter school and approved by the Department of Education in accordance with N.J.A.C. 6A:11-2.1(h), (i) and (j).

"GAAP" means the generally accepted accounting principles established by the Governmental Accounting Standards Board as prescribed by the State Board of Education pursuant to N.J.S.A. 18A:4-14 and N.J.A.C. 6A:23-2.1.

"In-depth interview" means the performance assessment of the founders of a charter school during the application and approval process for a charter.

"Initial recruitment period" means the period during which there are the first outreach efforts by a charter school to a cross section of the community for the application, random selection process (if applicable) and enrollment of students for the next school year.

"Lead person" means the person who performs the organizational tasks necessary for the operation of a charter school. Where a group of individuals shares these organizational tasks, the person designated as responsible for completion of the tasks required by these rules is the lead person.

"Monitoring" means an on-site review at a charter school to corroborate and augment the annual reports and to verify compliance with statutes, regulations and the terms of the charter.

"Non-resident district" means a school district outside the district of residence of the charter school.

"Non-resident student" means a student from a non-resident district attending a charter school.

"Panel of six permanent arbitrators" means the group which shall hear all streamline tenure cases. Three arbitrators shall be chosen by the New Jersey Education Association (NJEA) and three by the New Jersey School Boards Association (NJSBA). All arbitrators shall be from either the permanent panel of arbitrators of the American Arbitrators Association or the permanent panel of arbitrators of the Public Employees Relation Commission (PERC).

"Preparedness visit" means the on-site inspection by Department personnel that gauges readiness for school opening. The preparedness visit shall include a review of program and fiscal documentation and interviews with board of trustee members and staff members of the proposed charter school.

"Region of residence" means contiguous school districts in which a charter school operates and is the charter school's district of residence.

"Renewal" means the granting of the continuation of a charter for a five-year period by the Commissioner following a comprehensive review conducted by the Commissioner.

"Resident student" means a student who resides in the area served by the district board of education that is the same as the district of residence of the charter school.

"Revocation" means the withdrawal of a charter of a school from the board of trustees by the Commissioner.

"School Ethics Act" means the statute N.J.S.A. 18A:12-21 et seq. designed to set standards to guide the conduct of school officials and ensure maintenance of those standards in order to ensure and preserve public confidence in the integrity of elected and appointed school board members and school administrators.

"School official" means a member of the board of trustees or an administrator of a charter school.

"School year" means July 1 to June 30 of any given academic year. If operating with an extended school year, this term means an alternate fiscal year beginning no later than September 1 and ending no later than August 31 of any given academic year.

"Streamline tenure" means the tenure process for all charter school teaching staff members, janitors and secretaries who are either newly employed in a charter school or who are employed in a charter school while on leave from district boards of education.

"Streamline tenure removal" means the process by which an employee who has obtained streamline tenure can be dismissed or reduced in compensation.

"Structured interview" means the performance assessment of the accomplishments of a charter school during the first three years of its charter for renewal of the charter.

"Waiting list" means the document identifying the names of grade-eligible students with applications to a charter school pending acceptance for the subsequent school year, based upon the order of random selection from a lottery following a recruitment period.

Amended by R.1998 d.292, effective June 1, 1998.
See: 30 N.J.R. 588(a), 30 N.J.R. 2084(a).

Rewrote "Local levy budget per pupil for the specific grade level" definition; and inserted "inflated by the CPI rate published most recent to the budget calculation" preceding "of (1)" in the "Program budget" definition.

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 section.

Amended by R.2004 d.322, effective August 16, 2004.
See: 36 N.J.R. 1313(a), 36 N.J.R. 3895(a).

Rewrote the section.

Amended by R.2007 d.183, effective June 4, 2007.
See: 39 N.J.R. 289(a), 39 N.J.R. 2242(a).

In definition "Certification", substituted "6A:9" for "6:11"; and added definitions "Contiguous district boards of education" and "Preparedness visit".

SUBCHAPTER 2. APPLICATION AND APPROVAL, REPORTING, RENEWAL, PROBATION AND REVOCATION, APPEAL AND AMENDMENT PROCESSES

6A:11-2.1 Application and approval process

(a) The Commissioner with the authority of N.J.S.A. 18A:36-1 et seq. may approve or deny an application for a charter after review of the application submitted by an eligible applicant and the recommendation(s) from the district board(s) of education or State district superintendent(s) of the district of residence of the proposed charter school.

(b) An eligible applicant for a charter school shall:

1. Complete the *New Jersey Charter School Application* which shall be annually disseminated by the Department of Education and which includes a description of the areas listed in N.J.S.A. 18A:36A-5 and a description of the following as each relates to the charter school:

- i. Mission;
- ii. Goals and objectives;
- iii. Needs analysis;
- iv. Founders;
- v. Student discipline policy and expulsion criteria;
- vi. Special populations;
- vii. Transportation;
- viii. Self-evaluation process;
- ix. Insurance;
- x. Timetable; and
- xi. Educational equity and access.

2. If seeking to operate a charter school with a region of residence, the charter school shall:

i. Include as founders a teaching staff member or a parent with a child attending a school of the district board of education in accordance with N.J.S.A. 18A:36A-4(a) from each of the contiguous district boards of education that comprise the region; and

ii. Describe its plan to ensure the enrollment of a cross section of the school-age population of the region of residence including racial and academic factors. This plan shall include apportionment of available space from each of the district boards of education that comprise the region of residence.

3. Submit a hand-delivered or mailed copy of the completed application to the Commissioner, the respective county superintendent of schools and the district board(s) of education or State district superintendent(s) of the district of residence of the proposed charter school no later

than 4:15 P.M. on March 31. If March 31 falls on a weekend, the application is due no later than 4:15 P.M. on the first subsequent work day.

(c) Following the review of the applications, the Department of Education may request subsequent information as addenda to the applications.

(d) The applicant shall submit addenda to the Department of Education and the district board(s) of education or State district superintendents of the school district(s) of residence of the proposed charter school.

(e) The Department of Education shall evaluate the addenda.

(f) The district boards of education or State district superintendents of the districts of residence of the proposed charter schools shall review the applications and addenda.

1. The recommendations of these district boards of education or State district superintendents shall be forwarded to the Commissioner within 60 days of receipt of the applications.

2. The recommendations of these district boards of education or State district superintendents shall be forwarded to the Commissioner within 30 days of receipt of the addenda.

(g) The Commissioner or designee(s) shall conduct an in-depth interview with each eligible applicant for a charter school.

(h) The Commissioner shall notify eligible applicants regarding approval or denial of applications by September 30. The notification to eligible applicants who are not approved as charter schools shall include reasons for the denials.

(i) The Commissioner may approve an application for a charter which shall be effective when all necessary documents and information are received by the Commissioner. The charter school shall submit on or before the dates specified in the letter of approval the documentation not available at the time of the application submission including, but not limited to, copies of:

1. A directory of the current members of the board of trustees;
2. The bylaws of the board of trustees;
3. The Certificate of Incorporation;
4. The Federal Employer Identification Number;
5. The Credit Authorization Agreement for Automatic Deposits;
6. The lease, mortgage or title to its facility;

7. The certificate of occupancy for "E" (education) use issued by the local municipal enforcing official at N.J.A.C. 5:23-2;

8. The sanitary inspection report with satisfactory rating;

9. The fire inspection certificate with "Ae" (education) code life hazard use at N.J.A.C. 5:70-4;

10. A list of the lead person, teachers and professional support staff;

11. The Authorization for Emergent Hiring Pending Completion of Criminal History Check form or Criminal History Approval letter for each employee of the charter school;

12. Evidence of a uniform system of double-entry book-keeping that is consistent with generally accepted accounting principles (GAAP);

13. The resolution of the board of trustees naming the Affirmative Action Officer, the Section 504 Officer and the Title IX Coordinator;

14. Evidence of enrollment of at least 90 percent of approved maximum enrollment, as verified by student registrations signed by parent/guardian(s); and

15. Documentation that ensures compliance with all applicable Federal and State regulations and statutes.

(j) Prior to final granting of the charter, a preparedness visit to prospective charter schools will be conducted by the Department.

(k) Prior to the granting of the charter, the Commissioner shall assess the student composition of a charter school and the segregative effect that the loss of the students may have on its district of residence. The assessment shall be based on the enrollment from the initial recruitment period pursuant to N.J.A.C. 6A:11-4.4(a) and (b). The charter school shall submit data for the assessment:

1. In a format prescribed by the Commissioner; and
2. No later than 4:15 P.M. on January 15.

(l) All statutorily required documentation shall be submitted to the Department of Education by June 30. The final granting of the charter by the Commissioner shall be effective when all required documentation as listed in (i) above is submitted and approved by the Department of Education no later than July 15.

(m) A charter school shall locate its facility in its district of residence or in one of the districts of its region of residence.

Amended by R.1998 d.292, effective June 1, 1998.
See: 30 N.J.R. 588(a), 30 N.J.R. 2084(a).

Rewrote (b)2.

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 section.

Public Notice: Notice of Receipt of New Charter School Applications.

See: 35 N.J.R. 3965(b).

Amended by R.2007 d.183, effective June 4, 2007.

See: 39 N.J.R. 289(a), 39 N.J.R. 2242(a).

Added new (b)1iii; recodified former (b)1iii through (b)1x as (b)1iv through (b)1xi; rewrote (b)3; added new (d); recodified former (d) through (h) as (e) through (i); in (h), substituted "September 30" for "January 15"; in (i)12, deleted "and" from the end; in (i)13, substituted a semicolon for the period at the end; added (i)14 and (i)15; added new (j); recodified former (i) through (k) as (k) through (m); rewrote (k)2; and in (l), substituted "June 30" for "May 15" and "(i)" for "(h)", and inserted "no later than July 15".

Case Notes

The procedure set forth in the regulation was efficient and practical both for the applicant and for the Department and did not prejudice any legitimate objection to the charter school application. In re Grant of Charter School Application of Englewood on Palisades Charter School, 164 N.J. 316, 753 A.2d 687 (N.J. 2000).

Statute governing charter school applications required an application to include a description of and address for the physical facility in which the school would be located, and the State Board of Education could not relax that requirement, via its regulations, in the interest of administrative convenience. In re Grant of Charter School Application of Englewood on Palisades Charter School, 320 N.J.Super. 174, 727 A.2d 15 (N.J.Super.A.D. 1999).

6A:11-2.2 Reporting

(a) The board of trustees of a charter school shall submit an annual report no later than 4:15 P.M. on August 1 following each full school year in which the charter school is in operation to the Commissioner, the respective county superintendent of schools and the district board(s) of education or State district superintendent(s) of the district of residence of a charter school. If August 1 falls on a weekend, the annual report is due on the first subsequent work day.

1. The report in a format prescribed by the Commissioner must include, but is not limited to, a description of the following:

- i. The achievement of the school's mission, goals and objectives of its charter;
- ii. The efficiency in the governance and management of the school;
- iii. The attainment of the *New Jersey Core Curriculum Content Standards* and the delivery of an educational program leading to high student academic achievement;
- iv. Statewide Assessment Program results and local assessment results of students;
- v. The degree of parental and community involvement in the school;
- vi. The school's public relations and outreach efforts; and

vii. The student admissions policies and staff recruitment plan.

2. The report must include a copy of the following:

- i. The resolution of the board of trustees naming the lead person of the charter school;
- ii. A directory of the current members of the board of trustees;
- iii. Amendments to the bylaws of the board of trustees adopted during the previous year;
- iv. A calendar for the upcoming school year; and
- v. The resolution of the board of trustees naming the Affirmative Action Officer, the Section 504 Officer and the Title IX Coordinator.

3. The board of trustees of a charter school shall make the annual report available to the parents or guardians of the students enrolled in the charter school.

4. The district board(s) of education or State district superintendent(s) of the district of residence of a charter school may submit comments regarding the annual report of the charter school to the Commissioner by October 1.

(b) The board of trustees of a charter school shall submit documentation annually to the Commissioner for approval prior to the opening of school on dates specified by and in a format prescribed by the Commissioner. The documentation shall include, but is not limited to, copies of:

1. A new lease, mortgage or title to its facility;
2. A valid certificate of occupancy for "E" (education) use issued by the local municipal enforcing official at N.J.A.C. 5:32-2;
3. An annual sanitary inspection report with satisfactory rating;
4. An annual fire inspection certificate with "Ae" (education) code life hazard use at N.J.A.C. 5:70-4;
5. A list of the lead person, teachers and professional support staff;
6. The Authorization for Emergent Hiring Pending Completion of Criminal History Check form or Criminal History Approval letter for each employee of the charter school; and
7. Evidence of a uniform system of double-entry book-keeping that is consistent with generally accepted accounting principles (GAAP).

(c) On an annual basis, the Commissioner shall assess the student composition of a charter school and the segregative effect that the loss of the students may have on its district of residence. The assessment shall be based on the enrollment from the initial recruitment period pursuant to N.J.A.C.

6A:11-4.4(b). The charter school shall submit data for the assessment:

1. In a format prescribed by the Commissioner; and
2. No later than 4:15 P.M. on January 15.

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 section.

Amended by R.2007 d.183, effective June 4, 2007.

See: 39 N.J.R. 289(a), 39 N.J.R. 2242(a).

In the introductory paragraph of (a) and in (c)2, substituted "4:15" for "4:00"; deleted former (a)2i; and recodified (a)2ii through (a)2vi as (a)2i through (a)2v.

6A:11-2.3 Renewal of charter

(a) The Commissioner may grant a five-year renewal of a charter following the initial four-year charter.

(b) The Commissioner shall grant or deny the renewal of a charter upon the comprehensive review of the school including, but not limited to:

1. A renewal application submitted by a charter school to the Commissioner, the respective county superintendent of schools and the district board(s) of education or State district superintendent(s) of the district of residence of the charter school no later than 4:15 P.M. on October 15 of the last school year of the current charter;
2. The review of a charter school's annual reports pursuant to N.J.A.C. 6A:11-2.2(a);
3. Comments of the annual reports from the district board(s) of education or State district superintendent(s) of the district of residence of the charter school;
4. Student performance on the Statewide Assessment Program pursuant to N.J.A.C. 6A:8-4.1;
5. Monitoring of the charter school by the county superintendent;
6. Monitoring of the charter school by the Commissioner or designee(s);
7. The annual assessments of student composition of the charter school;
8. The recommendation of the district board(s) of education or State district superintendent(s) of the district of residence forwarded to the Commissioner within 30 days of receipt of the renewal application; and
9. A structured interview with the Commissioner or designee(s) with:
 - i. A member of the charter school board of trustees;
 - ii. The lead person of the charter school;
 - iii. A teacher at the charter school; and

iv. A parent or other representative of the charter school.

(c) The Commissioner shall notify a charter school regarding the granting or denial of the renewal on or before February 28 of the last school year of the current charter. The notification to a charter school that is not granted a renewal shall include reasons for the denial.

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, 2000.

See: 34 N.J.R. 2920(a), 34 N.J.R. 3806(a).

Rewrote section.

Amended by R.2007 d.183, effective June 4, 2007.

See: 39 N.J.R. 289(a), 39 N.J.R. 2242(a).

In (b)1, substituted "4:15 P.M. on October 15" for "4:00 P.M. on September 15"; in (b)4, updated the N.J.A.C. reference; and in (c), substituted "on or before February 28" for "during December".

6A:11-2.4 Probation and revocation of charter

(a) The Commissioner may place a charter school on probationary status for a period of 90 days to allow the implementation of a remedial plan upon a finding that the charter school is not operating in compliance with its charter, statutes or regulations.

1. The Commissioner shall determine the date on which the probationary status will begin and notify the charter school of such date.
2. The charter school must submit a remedial plan to the Commissioner within 15 days from the receipt of the notice of probationary status.
3. The charter school must provide the specific steps that it shall undertake to resolve the condition(s) not fulfilled and/or the violation(s) of its charter.
4. The Commissioner may remove the probationary status of a charter school if the remedial plan is implemented and the causes for the probationary status are corrected.
5. The Commissioner may grant an extension to the probationary status where warranted and extend the probationary period for an additional 90 days if the charter school has implemented its remedial plan but needs additional time to complete the implementation of its corrections.

(b) The Commissioner may revoke a school's charter following review by the Department of Education for one or more of the following reasons:

1. Any condition imposed by the Commissioner in connection with the granting of the charter which has not been fulfilled by the school; or
2. Violation of any provision of its charter by the school.