

**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

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 11, Charter Schools, expires on May 10, 2014. See: 43 N.J.R. 1203(a).

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.

“Early action” means to allow an applicant to apply early and receive an early decision regarding the status of the application for a charter. It also permits an approved applicant to open a charter school on an expedited timeline. The application must be submitted by October 15 to receive a decision in advance of the standard schedule and no later than January 15.

“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”.

Amended by R.2010 d.050, effective March 1, 2010.
See: 41 N.J.R. 4002(a), 42 N.J.R. 627(a).

Added definition “Early action”.

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 no later than August 31 of each year 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 executive 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. The Department of Education will review for fast track approval through early action all applications submitted no later than 4:15 P.M. on October 15. If October 15 falls on a weekend, the application is due no later than 4:15 P.M. on the first subsequent work day.

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

(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 review the addenda and may seek clarifying information from the applicant.

(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 no later than January 15 for applicants seeking fast track approval through early action and no later than September 30 for all other applications. 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 docu-

ments 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 bookkeeping 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 February 15.

(I) 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".

Amended by R.2010 d.050, effective March 1, 2010.

See: 41 N.J.R. 4002(a), 42 N.J.R. 627(a).

In the introductory paragraph of (b)1, inserted "no later than August 31 of each year"; in (b)3, inserted "executive" and the last two sentences; in (c), inserted "initial" and substituted "application" for "applications" twice; in (e), substituted "review" for "evaluate" and inserted "and may seek clarifying information from the applicant"; in (h), substituted "no later than January 15 for applicants seeking fast track approval through early action and no later than" for "by" and inserted "for all other applications"; and in (k)2, substituted "February" for "January".

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 addi-

tional 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.

3. Failure of the remedial plan to correct the conditions which caused the probationary status.

(c) The Commissioner shall notify a charter school in writing of the revocation and may allow a charter school up to a maximum of 60 days from the receipt of the revocation notice from the Commissioner to cease its operations.

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

6A:11-2.5 Charter appeal process

An eligible applicant for a charter school, a charter school or a district board of education or State district superintendent of the district of residence of a charter school may file an appeal according to N.J.A.C. 6A:4-2.5.

Repealed by R.2000 d.229, effective June 5, 2000.
See: 32 N.J.R. 749(a), 32 N.J.R. 2049(b).
Section was "Charter appeal process".
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).

6A:11-2.6 Amendment to charter

(a) A charter school may apply to the Commissioner for an amendment to the charter following the final granting of the charter.

1. The board of trustees of a charter school shall submit in the form of a board resolution the amendment request to the Commissioner and the district board(s) of education or State district superintendent(s) of the district of residence of a charter school. The amendment request shall:

- i. Include the applicable revised pages to the approved *New Jersey Charter School Application*; and
- ii. Be made by October 15 of the previous school year to increase enrollment in the subsequent school year.

2. The amendment shall not change the mission, goals and objectives of a charter school.

(b) The Department of Education shall determine whether the amendments are eligible for approval and shall evaluate the amendments based on N.J.S.A. 18A:36A-1 et seq. and this chapter.

(c) 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 amendment request to the Commissioner within 21 days of receipt of the resolution of the board of trustees.

(d) The Commissioner may approve or deny amendment requests of charter schools and shall notify charter schools of decisions. If approved, the amendment becomes effective immediately unless a different effective date is established by the Commissioner.

Amended by R.1998 d.292, effective June 1, 1998.
See: 30 N.J.R. 588(a), 30 N.J.R. 2084(a).
Rewrote (a) and (c); and in (d), removed a August 25th deadline for notification of decisions by the Commissioner.
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) introductory paragraph, inserted "following the final granting of the charter".
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)1, added "The amendment request shall:" to the end of the paragraph; added (a)1i and (a)1ii.

SUBCHAPTER 3. SCHOOL ETHICS ACT

6A:11-3.1 Board of trustees and administrators

(a) For the purposes of implementation of the Charter School Program Act, the members of the board of trustees of a charter school shall be school officials as defined in the School Ethics Act (N.J.S.A. 18A:12-23). The trustees shall comply with the provisions of the School Ethics Act and the rules promulgated pursuant thereto at N.J.A.C. 6A:28.

(b) Each administrator shall hold the certificate or perform the tasks as defined in N.J.A.C. 6A:11-1.2 and in the School Ethics Act (N.J.S.A. 18A:12-23) and the rules promulgated thereto at N.J.A.C. 6A:28.

(c) Each school official shall file the Financial and Personal/Relative Disclosure Statements annually on or before April 30 or within 30 days of his or her election or appointment in accordance with N.J.A.C. 6A:28-1.5.

(d) Each member of the board of trustees of a charter school shall, during the first year of his or her first term on the board, complete a training program prepared and offered by the New Jersey School Boards Association which shall include in its content instruction relative to the board member's responsibilities under the School Ethics Act in accordance with N.J.A.C. 6A:28-1.6.

Amended by R.2000 d.139, effective April 3, 2000.
See: 31 N.J.R. 4166(a), 32 N.J.R. 1189(a).
In (a) and (b), changed N.J.A.C. references; and deleted a former (c).
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.

SUBCHAPTER 4. PROGRAM IMPLEMENTATION

6A:11-4.1 Local education agency

A charter school shall be a local education agency only for the purpose of applying for Federal entitlement and discretionary funds.

6A:11-4.2 Student records

(a) A district board of education or a State district superintendent shall forward to the lead person of a charter school records of a student transferring to the charter school in accordance with N.J.A.C. 6A:32-7.

(b) The lead person of a charter school shall forward to the district board of education or the State district superintendent records of a student transferring from the charter school in accordance with N.J.A.C. 6A:32-7.

(c) A charter school shall create, maintain and dispose of student records in accordance with N.J.A.C. 6A:32, Student Records.

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).

Replaced "N.J.A.C. 6:3-6.1" with "N.J.A.C. 6:3-6, Pupil Records".

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), updated the N.J.A.C. references; and in (c), substituted "6A:32, Student Records" for "6:3-6, Pupil Records".

6A:11-4.3 Student attendance

A charter school shall record student attendance in the school register during school hours on each day that the school is in session in accordance with N.J.A.C. 6A:32-8.1(c).

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).

Amended 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).

Updated the N.J.A.C. reference.

6A:11-4.4 Initial recruitment period

(a) No later than January 15 of subsequent school years, a charter school shall submit to the Commissioner the number of students by grade level, gender and race/ethnicity from each district selected for enrollment from its initial recruitment period for the following school year.

(b) The number of students by grade level from each district selected for enrollment from the initial recruitment period of a charter school is used to establish a per pupil amount for the specific grade level at the charter school rate in accordance with N.J.A.C. 6A:23-9.4.

(c) A charter school may conduct subsequent recruitment and enrollment periods if vacancies remain in its enrollment after the initial recruitment period.

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).

In (a) and (b), inserted ", gender and race/ethnicity" after "grade level".

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

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

Rewrote (c).

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

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

Deleted former (a); and recodified former (b) through (d) as (a) through (c).

6A:11-4.5 Waiting list

(a) A charter school shall maintain a waiting list for admission of grade-eligible students that:

1. Begins with the close of the annual initial recruitment period and first random selection process and ends with the close of the subsequent school year; and

2. Is divided into two groups: students from the district of residence or region of residence and students from non-resident districts.

(b) During the recruitment period, a charter school shall notify parents that their children's names remain on the waiting list for enrollment for the subsequent school year only.

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).

In (b), replaced "periods" with "period".

6A:11-4.6 Age eligibility for kindergarten

(a) A charter school shall enroll a student selected for admission to kindergarten based on the student reaching the age of five in that school year by:

1. October 1 in accordance with N.J.S.A. 18A:38-5; or

2. A date later than October 1 that is established by the district board of education in which the student resides.

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).

In (a)2, substituted "later" for "earlier".

6A:11-4.7 Limited English proficient students

A charter school shall provide an enrolled limited English proficient student with all required courses and support services to meet the *New Jersey Core Curriculum Content Standards* for high school graduation in accordance with N.J.S.A. 18A:7A-4 and 18A:7A-5 and N.J.A.C. 6A:15.

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).

Inserted "New Jersey" preceding "Core Curriculum Contents Standards".

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)iv, 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".

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.

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 beginning 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

Contrary to the conclusion of the ALJ, the provisions of the Family and Medical Leave Act (FMLA) should not have been read as an absolute bar to accrual of leave time granted pursuant to it toward an employee's acquisition of tenure because, while the FMLA plainly created no entitlement to such accrual, neither did it establish a prohibition against it; consequently, because FMLA was not dispositive of a teacher's claim the record had to be developed in order to decide whether the teacher had acquired tenured status (rejecting 2009 N.J. AGEN LEXIS 84). *Mendez-Azzollini v. Bd. of Educ. of Irvington*, OAL Dkt. No. EDU 5801-08, 2009 N.J. AGEN LEXIS 634, Remand Order (August 26, 2009).

Where unqualified application of *Kletzkin* holds the potential to thwart the tenure law in whole or part and in the process do a disservice to students, school boards, and employees alike, the Commissioner refused to conclude, in the absence of a full factual record and further argument specific to the record, that *Kletzkin* required that a teacher acquired tenure simply by being contractually employed for the equivalent of more than three academic years within a period of four consecutive academic years. Rather, the Commissioner preferred to revisit the merits of the case following development of a factual record setting forth the effect of the teacher's series of leaves on the Board's ability to evaluate her performance, and consideration of argument regarding the appropriate application of *Kletzkin* to such facts (rejecting 2009 N.J. AGEN LEXIS 84). *Mendez-Azzollini v. Bd. of Educ. of Irvington*, OAL Dkt. No. EDU 5801-08, 2009 N.J. AGEN LEXIS 634, Remand Order (August 26, 2009).

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".

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).

SUBCHAPTER 8. (RESERVED)