

CHAPTER 11 **CHARTER SCHOOLS**

Authority

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

Source and Effective Date

R.2002 d.358, effective October 11, 2002.
See: 34 N.J.R. 2920(a), 34 N.J.R. 3806(a).

Chapter Expiration Date

Chapter 11, Charter Schools, expires on October 11, 2007.

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: 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; and conducting the financial operations of the charter schools.

(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".

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).

"Average daily enrollment" for the purpose of determining the adjusted State, local and Federal aid means the sum of the days present and absent of all students enrolled in the register or registers of the program for which the aid is being determined divided by the number of days school was actually in session.

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

"Categorical aid attributable to the student" means special education aid, bilingual aid, early childhood program aid, demonstrably effective program aid, instructional supplement aid and distance learning network aid.

"Certification" means the endorsement of a person who is employed by a district board of education or a charter school to perform duties that are regulated by N.J.A.C. 6:11 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.

"Charter school rate" means an amount equal to 90 percent of the budget per pupil for the specific grade level or the maximum T & E amount.

"District of residence" means the district board of education in which a charter school facility is physically located; if a charter school is approved with a region of residence of contiguous district boards of education, that region shall be 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. 6:20-2A.

"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 district board of education outside the district of residence of the charter school.

"Non-resident student" means a student attending a charter school from a district board of education outside the district of residence of the 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).

"Per pupil amount for the specific grade level" means the lower of either 90 percent of the program budget per pupil for the specific grade level in the district or 90 percent of the maximum T & E amount weighted for kindergarten, elementary (grades one through five), middle school (grades six through eight) and high school (grades nine through 12) respectively as set forth in N.J.S.A. 18A:7F-12 for the applicable budget year. Local levy budget per pupil for the specific grade level is based on the prebudget year of the district of residence and non-resident district(s). The State shall pay the local levy budget per pupil for the specific grade level directly to the charter school for any student enrolled in the charter school at the rate of:

1. The difference between 90 percent of the program budget per pupil if greater than 90 percent of the maximum T & E amount; and
2. One hundred percent of the local levy budget per pupil for the specific grade level for the first year of the student's enrollment in the charter school if the student was not included in the district's projected resident enrollment for the school year.

"Prebudget year" means the school fiscal year preceding the year in which the school budget is implemented.

"Program budget" based on the prebudget year means the sum inflated by the CPI rate published most recent to the budget calculation of:

1. Core curriculum standards aid;
2. Supplemental core curriculum standards aid;
3. Stabilization aid including supplemental stabilization aid and supplemental school tax reduction aid;
4. Designated general fund balance;
5. Miscellaneous local general fund revenue; and
6. The district's general fund tax levy.

"Program budget per pupil" means the apportionment among the district of residence and non-resident district's October 15 weighted resident enrollment consistent with N.J.S.A. 18A:7F-12 by grade category and then divided by the same districts' resident enrollment by grade as of October 15.

"Projected enrollments" means the estimated total enrollments of both the district of residence and non-resident district(s) as delineated by the eligible applicant in the *New Jersey Charter School Application*.

"Region of residence" means contiguous district boards of education in which a charter school operates and shall be 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.

"T & E amount" means the established cost per elementary student for a thorough and efficient (T & E) education as defined by N.J.S.A. 18A:7F-3.

"T & E range" means the range of regular education spending which shall be considered thorough and efficient (T & E) as defined by N.J.S.A. 18A:7F-3. The range is in terms of T & E budget spending per elementary student and is delineated by alternatively adding to and subtracting from the T & E amount the T & E flexible amount to establish the minimum T & E budget and maximum T & E budget when applied to each district's weighted resident enrollment.

"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.

"Weighted resident enrollment" means the differentials in costs based on the efficiency standards established pursuant to N.J.S.A. 18A:7F-4(b) of providing education at the kindergarten, elementary (grades 1 through 5), middle school

(grades 6 through 8) and high school levels (grades 9 through 12) which are determined by dividing the elementary cost per student into each category and applying the weights to resident enrollment in each category pursuant to N.J.S.A. 18A:7F-13.

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.

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. Founders;
- iv. Student discipline policy and expulsion criteria;
- v. Special populations;
- vi. Transportation;
- vii. Self-evaluation process;
- viii. Insurance;
- ix. Timetable; and
- x. 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 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 4:00 P.M. on July 15. If July 15 falls on a weekend, the application is due 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 Department of Education shall evaluate the addenda.

(e) 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.

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

(g) The Commissioner shall notify eligible applicants regarding approval or denial of applications by January 15. The notification to eligible applicants who are not approved as charter schools shall include reasons for the denials.

(h) 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;

(c) The Commissioner shall notify a charter school regarding the granting or denial of the renewal during December 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.

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.

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. 6:3-6.5(c)10.

(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. 6:3-6.5(c)10.

(c) A charter school shall create, maintain and dispose of student records in accordance with N.J.A.C. 6:3-6, Pupil 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".

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. 6:3-9.

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.

6A:11-4.4 Initial recruitment period

(a) No later than April 15 of the school year in which a charter school is approved, 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) 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.

(c) The Commissioner shall use the number of students by grade level from each district selected for enrollment from the initial recruitment period of a charter school to establish a local levy budget per pupil for the specific grade level at the charter school rate in accordance with N.J.A.C. 6A:11-7.1.

(d) 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”.

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).

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:14-4.8 and 4.9.

New Rule, R.2000 d.403, effective October 2, 2000.

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

6A:11-4.10 Pupil transportation

In accordance with N.J.S.A. 18A:36A-13 and N.J.A.C. 6:21-20, 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).

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.

New Rule, R.2000 d.403, effective October 2, 2000.

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

6A:11-4.12 Public school contract law

(a) A charter school shall be subject to the provisions of the public school contract law, N.J.S.A. 18A:18A-1 et seq.

(b) Any agency, corporation, person or entity which enters into a contract or agreement on behalf of the charter school to provide administrative, educational or other services shall be subject to the provisions of the public school contract law, N.J.S.A. 18A:18A-1 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).

6A:11-4.13 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. 6:4, 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.

6A:11-4.14 Finance and business services rules

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.2002 d.358, effective November 4, 2002.

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

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. 6:11-3.1.

(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. 6:11-9.1 through 9.6 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. 6:11-9.7 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.

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.

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. FINANCIAL OPERATIONS

6A:11-7.1 Per pupil calculations, notification and caps

(a) The Commissioner shall prepare a report no later than February 15 of the prebudget year for the district of residence and non-resident district(s) of a charter school establishing a local levy budget per pupil for the specific grade level at the charter school rate along with the local and State shares, categorical aids per student and any Federal funds attributable to the students based on projected enrollments to be used by the district of residence and non-resident district(s) for budget purposes for the subsequent year. The established local levy budget per pupil for the specific grade level shall not be adjusted. The number of students enrolled in the charter school shall be adjusted based on average daily enrollment for aid purposes through-

out the school year in accordance with the prescribed adjustments listed in N.J.A.C. 6A:11-7.2.

(b) The local levy budget per pupil for the specific grade level shall be delineated between local share as defined in (b)1 and 2 below and State share as defined in (b)3 below.

1. The local share per pupil for the specific grade level shall be that part of the local levy budget per pupil for the specific grade level which is supported by the following elements of the district of residence's or non-resident district's budget:

- i. Designated general fund balance;
- ii. Miscellaneous local general fund revenue; and
- iii. General fund tax levy.

2. The general fund tax levy shall be determined as follows: If the local levy budget per pupil for the specific grade level is the program budget, then the local share per pupil for the specific grade level at the charter school rate shall be that part of the program budget which is supported by the general fund tax levy. If the local levy budget per pupil for the specific grade level is the maximum T & E amount, then the local share per pupil for the specific grade level at the charter school rate shall be that part of the maximum T & E amount which is the portion of the general fund tax levy which supports the district of residence's or non-resident district's maximum T & E amount.

3. The State share per pupil for the specific grade level shall be that part of the local levy budget per pupil for the specific grade level which is supported by the following elements of the district of residence's or non-resident district(s)' budget(s):

- i. Core curriculum standards aid;
- ii. Supplemental core curriculum standards aid; and
- iii. Stabilization aid as defined in N.J.S.A. 18A:7F-1 et seq. or the appropriation act for the appropriate year.

(c) The non-resident district's local levy budget per pupil for the specific grade level paid to a charter school shall be the lower of either the non-resident district's local levy budget per pupil for the specific grade level or the district of residence's local levy budget per pupil for the specific grade level.

(d) If a charter school has a region of residence as its district of residence as defined in N.J.A.C. 6A:11-1.2, the local levy budget per pupil for the specific grade level shall be the lower of either the district's local levy budget per pupil for the specific grade level or the average which is calculated as follows:

1. For the first school year, the average shall be based on a projected charter school student population as specified by the charter school in its *New Jersey Charter School Application* or, if not specified, that reflects the relative school population of all the district boards of education in the region of residence.

2. In subsequent years, the average shall be based on the actual charter school student enrollment of the pre-budget year from all the district boards of education in the region of residence.

3. The projected or actual number of students for a district shall be multiplied by the local levy budget per pupil for the specific grade level for the same district. This process shall be calculated for each district. The total amounts by grade level from all districts shall be added and divided by the total number of students by grade level from all districts in the region of residence to determine the average by grade level.

(e) On or before March 30 of each year, a charter school shall submit to the Commissioner a budget summary, budget narrative and cash flow statement for the following fiscal year. All of the aforementioned documents shall be based on the most recent enrollment projections provided to the charter school 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).

In (b)2, substituted "For the 1997-98 school year only," for "In all school years".

Petition for Rulemaking.

See: 31 N.J.R. 2006(a), 31 N.J.R. 2650(a).

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.

Petition for Rulemaking.

See: 33 N.J.R. 329(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 (e) and (f); recodified (g) as new (e).

6A:11-7.2 Enrollment counts, payment process and aid adjustments

(a) In order for a student to apply for enrollment in a charter school, the district board of education in which the student resides must process the registration of the student for the subsequent school year upon submission. All registrations shall be processed in a timely manner by the district board of education, including the assessment of residency.

(b) The charter school shall not exceed its average daily enrollments in the subsequent school year by the projected enrollment count in the *New Jersey Charter School Application* submitted on any given year and approved by the Commissioner.

(c) A district board of education shall pay to a charter school the following categorical aids in the amount that the district board of education receives in that categorical aid program which is attributable to a resident student enrolled in that charter school if that charter school student is receiving appropriate categorical services:

1. Special education aid;
2. Bilingual aid; and
3. Distance learning network aid.

(d) A district board of education that receives instructional supplemental aid shall pay to a charter school the amount of that aid attributable to a student residing in the district and attending the charter school when the charter school has a concentration of low-income students that is equal to or greater than five percent and less than 20 percent.

(e) A district board of education that receives early childhood program aid and/or demonstrably effective program aid must pay to a charter school the amount of that aid attributable to a resident student attending that charter school where:

1. The charter school has a concentration of low-income students that is equal to or greater than 20 percent; and
2. The resident student is receiving appropriate services to be funded through that type of aid.

(f) A student attending a charter school shall, for demonstrably effective program aid purposes, be regarded by the district board of education as attending the public school that the student would otherwise be attending if the student were not enrolled in the charter school.

(g) The per-pupil amount of early childhood program aid and demonstrably effective program aid to be paid to a charter school shall be the lesser of the per-pupil amount provided to the district board of education for that aid category or the per-pupil amount that would be provided to a district board of education/school with a concentration of low-income students that equals the concentration of low-income students in the charter school.

(h) All categorical aids paid to a charter school by a district board of education shall be accounted for in the general fund of the charter school.

(i) A charter school may apply directly to the Commissioner for aid for high cost placements for a special education student in accordance with N.J.S.A. 18A:7F-19(b) and (c).

(j) Beginning in the 1998-99 school year, a charter school shall be eligible for rewards under the academic achievement reward program in accordance with N.J.S.A. 18A:7F-29.

(k) The following delineates the payment process and payment adjustments made to a charter school by the district of residence and non-resident district(s) during any given school year.

1. A charter school shall submit a report for the forthcoming school year of enrolled students, based on signed registration forms as of June 1, on a document prepared by the Commissioner for the purposes of determining the actual amount of State, local and Federal aid to which the charter school is entitled starting July 15.

i. This document listing all enrolled students must be forwarded by the charter school to the district of residence and non-resident district(s) by April 30.

ii. The district of residence and non-resident district(s) shall identify the specific categorical aid for which those students qualify and return the information to the charter school by May 15.

iii. The charter school shall transmit to the Commissioner no later than June 15 all enrollment data along with identified categorical aid supplied by the district of residence and non-resident district(s).

iv. The Commissioner shall certify the actual aid(s) due to the charter school as soon as practicable.

2. The district of residence and non-resident district(s) shall pay directly to a charter school the local share per pupil for the specific grade level at the charter school rate as defined in N.J.A.C. 6A:11-1.2 and N.J.A.C. 6A:11-7.1 in 12 equal installments starting July 15 and thereafter on the 15th of each month.

3. The district of residence and non-resident district(s) shall pay directly to the charter school for the following aids in 20 equal installments on the 2nd and 16th of every month starting with September 2 and ending with June 16:

i. The State share per pupil at the charter school rate as defined in N.J.A.C. 6A:11-1.2;

ii. Categorical aid attributable to the student as defined in N.J.A.C. 6A:11-1.2; and

iii. Any Federal aid attributable to the student.

4. During the school year, a charter school shall conduct an enrollment count on October 15, February 15 and the last day of the school year. A charter school shall submit each count through a summary school register for the purposes of determining average daily enrollment.

i. The data shall be submitted to the Commissioner three days after the dates of each of the three required enrollment counts and all aid to a charter school shall be adjusted accordingly from estimated enrollments counts to average daily enrollments and then adjusted forward to the next four months.

ii. The Commissioner shall issue a report for those adjustments to both the charter school and the district of residence and non-resident district(s). If there is a reduction in aid, a charter school shall pay the district of residence or non-resident district(s) on the 15th of the subsequent month. If there is an increase in aid,

either the district of residence or non-resident district(s) shall pay a charter school on the 15th of the subsequent month.

5. The district of residence and a charter school and/or the non-resident district and a charter school may change the payment provisions as outlined in (k)2, 3 and 4 above, if mutual agreement can be reached on an alternative payment schedule. Changes in the payment provisions shall remain within the school year. Any change in the payment provisions shall have the written approval through board resolutions of both the board of trustees of the charter school and the district board of education. Copies of such board resolutions shall be filed with the Commissioner on or before July 1 of the school year in which the payment schedule is effective.

6. In the event a district of residence or non-resident district is behind 15 days in the payment schedule in (k)2, 3, 4 and 5 above, a charter school may petition the Commissioner to have the amounts owed to the charter school deducted from the district of residence's or non-residents district's State aid and paid directly to the charter school.

7. The payment schedule may be adjusted by the Commissioner depending on the effective date of the final granting of the charter.

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).

In (d), substituted "supplemental" for "supplement"; in (k)1i, substituted "April 30" for "June 5"; in (k)1ii, substituted "May 15" for "June 15"; in (k)1iii, substituted "June 15" for "June 18".

6A:11-7.3 Financial requirements

(a) The charter school shall comply with generally accepted accounting principles in accordance with N.J.S.A. 18A:4-14 and N.J.A.C. 6A:23-2.

(b) A charter school may incur debt for a period no greater than 12 months except:

1. During the first year that a charter school is approved when the debt is incurred by the charter school for a period no longer than January 15 of the preceding school year to June 30 of the first school year of the charter; and

2. For all other years that a charter school is approved when the debt incurred by the charter school for a period of 12 months or greater is:

i. Fully secured by the value of the real property or other asset, so that the total value of all such debt does not exceed the total appraised value of the property or asset by which the debt is secured; and

ii. Non-recourse to the charter school.

(c) A charter school may acquire real property by a lease or a lease with an option to purchase for use as a school facility providing that:

1. The term of the lease shall not exceed the length of the charter;

2. The lease shall contain a provision terminating the obligation to pay rent upon the denial, revocation, non-renewal or surrender of the charter; and

3. The lease does not contain a provision accelerating the obligation to pay rent in the event of default.

(d) A district board of education shall not have to transmit State and local public funds to a charter school until the final granting of the charter by the Commissioner has occurred. If funds are withheld pending the final granting of the charter, all withheld funds shall be paid to the charter school with the first scheduled payment after the effective date of the charter.

(e) A charter school shall be monitored by the Commissioner to insure that the percentage of school funds spent in the classroom is at least comparable to the average percentage of school funds spent in the classroom in all other public schools in the State. The calculation for this percentage in both the annual budget and the Comprehensive Annual Financial Report shall be based on National Center for Educational Statistics as published by the U.S. Department of Education. This percentage shall be considered during the comprehensive review of a charter school by the Commissioner.

(f) After completion of the school year, the district of residence or non-resident district(s) of a charter school may petition the Commissioner for a lower rate for the charter school's local levy budget per pupil for the specific grade level if the charter school spends significantly less than budgeted and has accumulated a sizable surplus.

1. In addition, the Commissioner may reduce the rate based on a determination of excessive surplus. The criteria for excess surplus shall be determined by the Commissioner considering N.J.S.A. 18A:7F-7.

2. A charter school may submit comments to the Commissioner regarding the petition for a lower rate for the charter school's local levy budget per pupil for the specific grade level from the district of residence of the charter school or non-resident district(s).

(g) If, at any time, the Commissioner denies, revokes or does not renew a school's charter or a charter school surrenders its charter or becomes insolvent, all assets of the charter school after satisfaction of all outstanding claims by creditors shall be distributed equitably by the Commissioner among the participating district of residence and non-resident district(s). A charter school shall include a provision in its bylaws concerning distribution of assets upon denial, revocation, non-renewal or surrender of its charter or insolvency of the charter school that is consistent with this rule.

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.

SUBCHAPTER 8. (RESERVED)