

(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.

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 throughout 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) A charter school may petition the Commissioner for a charter school rate greater than the 90 percent presumptive amount or the rate as previously approved by the Commissioner. A charter school must justify a budget above the presumptive 90 percent by providing a separate accounting and narrative in support of a higher rate and submit a copy of the petition and justification to the district of residence and non-resident district(s) if applicable. If operating with a region of residence, a copy of the petition and justification

must be sent to all the district boards of education comprising a region of residence and non-resident district(s) if applicable.

1. A charter school shall submit its petition in year one as part of its *New Jersey Charter School Application*. The Commissioner shall notify eligible applicants regarding approval or denial of a charter school rate greater than the 90 percent presumptive amount on or about January 15.

2. A charter school shall submit its petition in subsequent years of its charter on or before November 15 of the prebudget year. The Commissioner shall notify eligible charter schools regarding approval or denial of a charter school rate greater than the 90 percent presumptive amount or a rate previously approved by the Commissioner on or about January 15.

(f) The district board(s) of education or superintendent(s) of the State-operated school district(s) of the district of residence of a charter school may submit comments regarding the charter school's justification of a budget above the presumptive 90 percent to the Commissioner.

(g) 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.

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 supplement 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 June 5.

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 June 15.

iii. The charter school shall transmit to the Commissioner no later than June 18 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.

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. 6:20-2A.

(b) A charter school may incur temporary debt for terms no longer than 12 months. The exception shall be the first year that a charter school is approved in which the temporary debt obligation pursuant to N.J.S.A. 18A:36A-6(f) shall be for a term no longer than January 15 of the preceding school year to June 30 of the first school year of the charter.

(c) A charter school may incur debt for a period greater than 12 months provided that the debt is fully backed by the value of real property or other asset, so that the total value of all such debt does not exceed the total assessed value of the property or assets by which the debt is backed.

(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 revokes a school's charter or a charter school 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 revocation or insolvency 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.

SUBCHAPTER 8. (RESERVED)

Subchapter Historical Note

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).