

**CHAPTER 23
DRIVING SCHOOLS**

Authority

N.J.S.A. 39:2-3 and 39:12-4.

Source and Effective Date

R.2004 d.444, effective November 5, 2004.
See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 23, Driving Schools, expires on May 4, 2010. See: 41 N.J.R. 4408(a).

Chapter Historical Note

Chapter 23, Commercial Drivers' Schools, was adopted as R.1984 d.216, effective June 4, 1984. See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Pursuant to Executive Order No. 66(1978), Chapter 23, Commercial Drivers' Schools, was readopted as R.1989 d.333, effective May 26, 1989. See: 21 N.J.R. 976(a), 21 N.J.R. 1710(a).

Chapter 23, Commercial Drivers' Schools, was renamed "Driving Schools" by R.1991 d.371, effective July 15, 1991. See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Pursuant to Executive Order No. 66(1978), Chapter 23, Driving Schools, was readopted as R.1994 d.294, effective May 19, 1994. See: 26 N.J.R. 1299(a), 26 N.J.R. 2588(a).

Pursuant to Executive Order No. 66(1978), Chapter 23, Driving Schools, was readopted as R.1999 d.186, effective May 14, 1999. See: 31 N.J.R. 744(a), 31 N.J.R. 1499(b).

Chapter 23, Driving Schools, was readopted as R.2004 d.444, effective November 5, 2004. As part of this readoption, Subchapter 5, Administration of State Approved Written Driver's Examination and State Approved Eye Examination by Driving Schools, was adopted by R.2004 d.444, effective December 6, 2004. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. DEFINITIONS

13:23-1.1 Definitions

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

“Authorized agent” means a person who represents or acts on behalf of a driving school in obtaining permits and transporting students to driver testing centers in school vehicles.

“Branch office” means an approved location where the business of the driving school is conducted, other than the principal place of business.

“Chief Administrator” means the Chief Administrator of the New Jersey Motor Vehicle Commission.

“Commission” means the New Jersey Motor Vehicle Commission established by section 4 of P.L. 2003, c.13 (N.J.S.A. 39:2A-4).

“Driving school” means the business of giving instruction, for compensation, in the driving of motor vehicles and motorcycles. The words “instruction in the driving of motor vehicles and motorcycles” shall include classroom or behind-the-wheel instruction when given to a person who does not possess a basic driver or motorcycle license. This definition shall not be taken to include instruction which is given by public, private or parochial secondary schools.

“Driving school instructor” means a person who is licensed by the Chief Administrator to provide instruction in the driving of motor vehicles and motorcycles.

“Fraudulent practices” include, but are not limited to, any conduct or representation tending to give the impression that a license to operate a motor vehicle or motorcycle or any other class of license, registration, or service granted by the Chief Administrator may be obtained by any means other than those prescribed by law; the furnishing or obtaining a license of any class, registration, or service by illegal or improper means; or the requesting, accepting, exacting or collecting of money for furnishing or obtaining a license of any class, registration, or service by illegal or improper means.

“Person” means an individual, corporation or partnership.

“Place of business” means a designated location at which the business of a driving school is being conducted.

“Principal place of business” means the location designated by the applicant, and approved by the Chief Administrator, as the primary facility of the driving school.

“Qualified supervising instructor” means a person who is currently licensed as a driving school instructor and who has been licensed as such by the Commission for at least two years prior to the submission of an initial or renewal application for a driving school license; and who has successfully

provided a minimum of 500 hours of behind-the-wheel instruction; and who has successfully completed a three-credit New Jersey driver education college course offered by a college or university licensed by the New Jersey Commission on Higher Education.

“Telephone answering service” means the location of a telephone used only for the purpose of answering telephone inquiries pertaining to the driving school services. A telephone answering service is not to be considered a branch office, and the location and/or address of a telephone answering service shall not be advertised if it differs from that of a licensed location.

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Changes throughout definitions.

Amended by R.1991 d.371, effective July 15, 1991.

See: N.J.R. 662(a), 23 N.J.R. 2151(a).

Added definitions for “Authorized agent” and “Driving school instructor”; “drivers’ school” changed to “driving school” throughout; added “instruction when given to a person who does not possess a basic driver or motorcycle license” with stylistic changes in “Driving school” definition.

Amended by R.1996 d.265, effective June 3, 1996.

See: 28 N.J.R. 1479(a), 28 N.J.R. 3004(a).

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

Deleted “Director” and “Division”; added “Chief Administrator”, “Commission”, and “Qualified supervising instructor”.

SUBCHAPTER 2. DRIVING SCHOOLS

13:23-2.1 Licenses

(a) Every person proposing to engage in the business of conducting a driving school shall be licensed by the Chief Administrator prior to engaging in such business.

(b) A driving school license, either initial or renewal, shall not be issued unless at least one motor vehicle, which is owned or leased by the driving school and registered in the name of the driving school or the lessor, is insured and equipped in accordance with N.J.A.C. 13:23-2.28.

(c) A license, either initial or renewal, shall not be issued until compliance with the conditions in this subchapter has been effected.

(d) In accordance with N.J.S.A. 39:12-2, a driving school license, either initial or renewal, shall not be issued unless an owner of the driving school or an employee thereof is a qualified supervising instructor. In accordance with N.J.S.A. 39:12-2.1, a person shall receive hour-for-hour credit from the Commission for the person’s behind-the-wheel instructional experience in a public or non-public secondary school toward the fulfillment of the behind-the-wheel hourly instructional requirement for classification as a qualified supervising instructor imposed pursuant to N.J.S.A. 39:12-2. In order to maintain licensure during the term of the license, an owner of the driving school or an employee thereof shall be a qualified

supervising instructor. Compliance with the qualified supervising instructor requirement set forth in N.J.S.A. 39:12-2 shall not be attained by means of subcontracting.

(e) A driving school license, either initial or renewal, shall not be issued unless the applicant therefor has filed with the Commission a surety bond in the amount of \$10,000 issued by a company authorized to transact surety business in this State and payable to the New Jersey Motor Vehicle Commission. The surety bond shall be filed with each initial application and each renewal application and shall cover the entire term of the license. If a surety bond is cancelled or terminated for any reason during the term of the license, the company that issued the surety bond shall immediately notify the Chief Administrator of such cancellation or termination. The licensee shall immediately obtain and file with the Chief Administrator a replacement surety bond that shall cover the remaining term of the license.

Amended by R.1984 d.216, effective June 4, 1984.
See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

“Subchapter” changed to “subchapter”.

Amended by R.1991 d.371, effective July 15, 1991.
See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed heading from “Drivers’ Schools” to “Driving Schools”. Changed “drivers’ school” to “driving school” in (a). Changed “approved for drivers’ school use” to “equipped in accordance with the provisions of N.J.A.C. 13:23-2.8 by the driving school” in (b).

Amended by R.1996 d.265, effective June 3, 1996.
See: 28 N.J.R. 1479(a), 28 N.J.R. 3004(a).

Amended by R.1999 d.186, effective June 7, 1999.
See: 31 N.J.R. 744(a), 31 N.J.R. 1499(b).

In (d), added a second sentence; in (e), substituted a reference to surety bonds for a reference to noncancelable surety bonds in the first sentence, and added the third and fourth sentences.

Amended by R.2004 d.444, effective December 6, 2004.
See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

Rewrote the section.

Amended by R.2007 d.236, effective August 6, 2007.
See: 38 N.J.R. 4405(a), 39 N.J.R. 3391(a).

Rewrote (b).

13:23-2.2 Applications; contents

(a) Application shall be made on a form prescribed by the Chief Administrator. These forms may be obtained from the Commission. Renewal applications shall be submitted for approval and issuance at least 30 days prior to the expiration date of the current license.

(b) A license fee of \$250.00 must accompany the original application. In the event the application is withdrawn or denied, \$225.00 will be returned to the applicant.

(c) When application is made by an individual it must be signed and sworn to by said individual. In the case of a partnership, the application shall be signed and sworn to by all partners. In the case of a corporation, the application must be signed and sworn to by the president and attested to by the secretary.

(d) An individual applicant, all partners, and all corporate officers shall, at the time of his or her initial application, submit documentation confirming that such individual applicant,

partner, or corporate officer has submitted to a criminal history record check in accordance with rules promulgated by the New Jersey Division of State Police at N.J.A.C. 13:59. The Commission shall request the State Bureau of Identification to attach a SBI Number Flag to the individual applicant’s, partner’s, and corporate officer’s SBI numbers in accordance with N.J.A.C. 13:59-1.8.

(e) Every application for an initial driving school license shall include the following:

1. In the case of a corporation, a certified copy of a certificate of incorporation, and a copy of the corporate resolution authorizing the corporation to engage in the business of operating a driving school;

2. Samples of each form to be used by the driving school;

3. A statement of whether classroom instruction is offered by the driving school; and

4. Proof of compliance with all State and local zoning ordinances, building codes, fire codes, health codes, and any other applicable ordinances and codes. Said proof shall consist of a letter from the zoning board of the municipality in which the school is located or a copy of the certificate of occupancy issued by the municipality.

(f) Every application for an initial or renewal driving school license shall include the following:

1. The applicant’s Federal Tax Identification Number;

2. The applicant’s State Tax Identification Number; and

3. Proof of workers’ compensation insurance coverage for all employees by a mutual association or stock company authorized to write coverage on such risks in this State or written authorization by the Commissioner of Banking and Insurance to self-insure for workers’ compensation pursuant to N.J.S.A. 34:15-77.

Amended by R.1978 d.68, effective February 22, 1978.
See: 10 N.J.R. 16(e), 10 N.J.R. 122(c).

Amended by R.1984 d.216, effective June 4, 1984.
See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Section substantially amended.

Amended by R.1991 d.371, effective July 15, 1991.
See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Deleted address for the Division of Motor Vehicles; changed “ten days” to “30 days” in (a).

Changed “any one partner” to “all partners” with stylistic changes in (c).

Changed “record” to “cards”; deleted “the Director, in his discretion, may require fingerprint records to be submitted by applicants for renewal licenses.”; added “Upon application ... Police.” in (d).

Changed “corporation” to “corporate” and “driver” to “driving” in (e)1.

Deleted “contract”; added “driving” in (e)2.

Substituted old text for new text in (e)3.

Deleted (e)4 through 7.

Redesignated existing (c)8 as 4 and substituted old text for new text.

Amended by R.1996 d.265, effective June 3, 1996.
See: 28 N.J.R. 1479(a), 28 N.J.R. 3004(a).

Amended by R.2004 d.444, effective December 6, 2004.
See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).
Rewrote the section.

13:23-2.3 License fee; term

(a) The annual fee for the initial license shall be \$250.00; the fee for a renewal license shall be \$200.00.

(b) The license shall be valid for the calendar year for which it is issued.

(c) The licensee shall be assigned the same license number for the duration of the license.

Amended by R.1984 d.216, effective June 4, 1984.
See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).
Section substantially amended.
Amended by R.1991 d.371, effective July 15, 1991.
See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).
Added "for which it is issued" in (b).
Added (c).
Amended by R.1995 d.365, effective July 3, 1995.
See: 27 N.J.R. 1521(b), 27 N.J.R. 2592(b).
In (a) increased the fee from \$100 to \$200.

13:23-2.4 Display of license

(a) The license shall be conspicuously displayed at the licensee's principal place of business.

(b) The licensee shall not alter, delete from, add to, or in any manner cover any portion of the license.

Amended by R.1984 d.216, effective June 4, 1984.
See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).
Section substantially amended.
Amended by R.1991 d.371, effective July 15, 1991.
See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).
Deleted "original" in (a).
Changed "license" to "licensee" in (b).

13:23-2.5 Change of business ownership or interest

(a) In the event of any change of ownership or interest in the business, application for a new license shall be filed with the Chief Administrator within seven days of such change of ownership or interest. This shall include any sale or transfer of five percent or more of capital stock of a corporation. In the event of a sale or transfer of less than five percent of the capital stock it shall not be necessary for the licensee to pay a new fee to the Chief Administrator.

(b) The Chief Administrator may, in his or her discretion, permit continuance of the business by the licensee pending processing of the application made by the person to whom the business, or interest therein, is to be transferred. The licensee shall request in writing the Chief Administrator's permission to continue the business pending the processing of the application.

(c) In the event of a name change as a result of a sale or transfer, the existing license and copies thereof, all instructors' certificates issued thereunder, and all other documents issued in connection with the driving school must be surrendered before a license will be issued to the new owner.

Amended by R.1984 d.216, effective June 4, 1984.
See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).
Section substantially amended.
Amended by R.1991 d.371, effective July 15, 1991.
See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).
Changed heading; former title "Nontransferability".
Added "within seven days of such change of ownership or interest" and "or transfer"; changed "more than 25 percent" to "five percent or more"; changed "25 percent" to "five percent" in (a).
Deleted "The Director must be notified in writing immediately when agreement is entered into the transfer ownership of the business or any interest therein." in (b); added "or her".
Added "In the event of a name change as a result of a sale or transfer, the"; changed "driver" to "driving" in (c).
Amended by R.2004 d.444, effective December 6, 2004.
See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

13:23-2.6 Lost, mutilated or destroyed licenses

(a) In the event a license, or duplicate thereof, is lost, mutilated, or destroyed, a duplicate license shall be issued upon proof of the facts and payment of a fee of \$5.00 and, in the case of a mutilated license, upon surrender of such mutilated license. Such proof shall be submitted in the form of an affidavit indicating:

1. The date the license, or duplicate thereof, was lost, mutilated or destroyed; and
2. The circumstances involving the loss, mutilation or destruction of the license, or duplicate thereof.

Amended by R.1984 d.216, effective June 4, 1984.
See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).
"\$1.00" changed to "\$3.00"; "or duplicate thereof," added.
Amended by R.1991 d.371, effective July 15, 1991.
See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).
Changed "will" to "shall" in (a).
Amended by R.1995 d.365, effective July 3, 1995.
See: 27 N.J.R. 1521(b), 27 N.J.R. 2592(b).
In (a) increased the fee from \$3 to \$5.

13:23-2.7 Surrender of license

(a) A license may be surrendered for cancellation, or deposited for safekeeping, at the Commission.

(b) In all such cases the licensee is required to state, in writing, the reason for such surrender or deposit.

Amended by R.1984 d.216, effective June 4, 1984.
See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).
Section substantially amended.

Amended by R.1991, d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed "deposit" to "deposited"; deleted "Bureau of Certificate of Ownership, Title Transfers and Duplicates of the" in (a).

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

13:23-2.8 Location of business

A licensee shall not conduct its business at such location or in such manner as to give the appearance to the public that the business has some official connection with a Commission facility or authorized motor vehicle agency. In making this determination, the Chief Administrator may consider the proximity of the place of business to any building in which motor vehicle registrations or driver licenses are issued to the public, the proximity of the place of business to the location where driving tests are conducted by the Commission, the trade name under which the licensee conducts business, the nature of any signs or advertisements used by the licensee, and any other factor that tends to give the impression that the licensee has some official connection with the Commission, or any officer, employee, or agent of the Commission.

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Section substantially amended.

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Deleted "the premises of an"; changed "agent" to "agency"; added reference to the Division of Motor Vehicles.

Deleted (b).

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

13:23-2.9 Change of business location or name

(a) A driving school shall not change its principal place of business or branch office or business name without the prior approval of the Chief Administrator.

(b) Any renewal application which reflects a change of business address shall include proof of compliance with all State and local zoning ordinances, building codes, fire codes, health codes and any other applicable ordinances and codes as set forth in N.J.A.C. 13:23-2.2(e)4.

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Added "principal place of business or branch office".

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Added "business" and "or name" to heading.

Changed "drivers' school" to "driving school"; added "or business name" to newly designated (a).

Added (b).

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

In (a), substituted "shall" for "may".

13:23-2.10 Prohibited business locations

(a) A license shall not be issued for a driving school where the place of business is conducted from a liquor store, a bar, a grocery store, a restaurant, a tent, a temporary

stand, a temporary address, or through the exclusive facilities of a telephone answering service.

(b) A license shall not be issued for a driving school where the place of business is conducted from a private residence unless the office dedicated for driving school use is separated from the living quarters of the private residence and ingress to and egress from the office is attained by means of a separate entrance.

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Section substantially amended.

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed heading; former title "Locations prohibited, compliance with State and local ordinances and codes".

Changed "drivers' school" to "driving school" in (a).

Deleted (b).

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

Rewrote the section.

13:23-2.11 (Reserved)

Repealed by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

13:23-2.12 Denial, suspension or revocation of license

(a) After due notice in writing thereof, in accordance with the provisions of N.J.S.A. 39:12-1 et seq. and the "Administrative Procedure Act," N.J.S.A. 52:14B-1 et seq., the Chief Administrator may deny issuance or renewal of a driving school license or may suspend or revoke such license on the basis of any of the following criteria:

1. Any reason specified in N.J.S.A. 39:12-1 et seq. or failure of the applicant or licensee to comply with any of the provisions of this chapter;

2. Failure of the applicant or licensee to provide information or documentation required by N.J.S.A. 39:12-1 et seq. or this chapter or requested by the Chief Administrator, or concealment of a material fact by the applicant or licensee, or the supplying of information that is untrue or misleading as to a material fact;

3. The conviction of any proprietor, partner, officer, director or stockholder of a licensed driving school, or of an entity seeking such licensure, of any offense in any jurisdiction which would be:

- i. Any of the following offenses under the "New Jersey Code of Criminal Justice," P.L. 1978, c.95 (Title 2C of the New Jersey Statutes) as amended and supplemented:

All crimes of the first degree;

N.J.S.A. 2C:5-1 (attempt to commit an offense which is listed in this subparagraph);

N.J.S.A. 2C:5-2 (conspiracy to commit an offense which is listed in this subparagraph);

N.J.S.A. 2C:11-4b (manslaughter);

N.J.S.A. 2C:11-5 (vehicular homicide);

N.J.S.A. 2C:12-1b (aggravated assault);

N.J.S.A. 2C:13-1 (kidnapping);

N.J.S.A. 2C:14-1 et seq. (sexual offenses);

N.J.S.A. 2C:15-1 (robberies);

N.J.S.A. 2C:17-1a and b (crimes involving arson and related offenses);

N.J.S.A. 2C:17-2a and b (causing or risking widespread injury or damage);

N.J.S.A. 2C:18-2 (burglary);

N.J.S.A. 2C:20-1 et seq. (theft and related offenses);

N.J.S.A. 2C:21-1 et seq. (forgery and fraudulent practices);

N.J.S.A. 2C:21-4a (falsifying or tampering with records);

N.J.S.A. 2C:27-1 et seq. (bribery and corrupt influence);

N.J.S.A. 2C:28-1 et seq. (perjury and other falsification in official matters);

N.J.S.A. 2C:30-2 and N.J.S.A. 2C:30-3 (misconduct in office and abuse of office);

N.J.S.A. 2C:35-5 (manufacturing, distributing or dispensing a controlled dangerous substance or a controlled dangerous substance analog);

N.J.S.A. 2C:35-6 (employing a juvenile in a drug distribution scheme);

N.J.S.A. 2C:35-7 (distributing, dispensing, or possessing a controlled dangerous substance or controlled substance analog on or within 1,000 feet of school property or bus);

N.J.S.A. 2C:35-10 (possession, use or being under the influence of a controlled dangerous substance or a controlled substance analog, or failure to make lawful disposition of same);

N.J.S.A. 2C:35-11 (distribution, possession or manufacture of imitation controlled dangerous substances);

N.J.S.A. 2C:35-13 (acquisition of controlled dangerous substances by fraud); or

ii. Any other offense under present New Jersey or Federal law which indicates that licensure of the applicant or continued licensure of the licensee would be inimical to the licensing standards set forth in N.J.S.A. 39:12-1 et seq. and this chapter;

4. The failure of any proprietor, partner, officer, director, or stockholder of a licensed driving school, or of any entity seeking such licensure, to notify the Commission that he or she has been arrested for, charged with, indicted for, or convicted of any of the offenses enumerated in (a)3 above within 14 days after the date of such event; or

5. The commission by any proprietor, partner, officer, director or stockholder of a licensed driving school, or of an entity seeking such licensure, of any act or acts which would constitute any offense under (a)3 above, even if such conduct has not or may not be prosecuted under the laws of this State.

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Section substantially amended.

Repeal and New Rule, R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Former title "Sign requirements".

Amended by R.1999 d.186, effective June 7, 1999.

See: 31 N.J.R. 744(a), 31 N.J.R. 1499(b).

In (a)3i, substituted "N.J.S.A. 2C:11-5 (vehicular homicide)" for "N.J.S.A. 2C:11-5 (death by auto)".

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

13:23-2.13 License restoration

(a) The fee specified in N.J.S.A. 39:3-10a shall be payable to the Commission for the restoration of a driving school license that is suspended or revoked pursuant to N.J.S.A. 39:12-1 et seq. or this subchapter. Such license restoration fee shall be paid to the Commission before the license may be restored.

(b) Each suspension or revocation of any driving school license pursuant to N.J.S.A. 39:12-1 et seq. or any regulation adopted thereunder shall continue in force and effect until such license is restored by the Chief Administrator.

(c) In the case of every suspension or revocation of a driving school license for a fixed period of time, the licensee, as a condition precedent to restoration, shall make application to the Chief Administrator, in such form as the Chief Administrator may determine, and pay the license restoration fee specified in (a) above. The Chief Administrator may, upon notice and an opportunity to be heard, deny any application for restoration of a driving school license for good cause.

New Rule, R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

Former N.J.A.C. 13:23-2.13, Business hours, recodified to N.J.A.C. 13:23-2.14.

13:23-2.14 Business hours

(a) The hours during which a driving school office is open to the public for service shall be filed with the Chief Administrator.

(b) A driving school shall be accessible to the public during regular business hours of each business day. This requirement may be satisfied either by having office personnel available at the driving school's principal place of business and branch office(s) or by having a telephone answering machine at such places of business.

Amended by R.1984 d.216, effective June 4, 1984.
See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Section substantially amended.

Amended by R.1991 d.371, effective July 15, 1991.
See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed "drivers' " to "driving"; added "office"; deleted "and prominently displayed on the front door ... of the drivers' school" in (a).

Substituted old text for new text in (b).

Recodified from N.J.A.C. 13:23-2.13 and amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

Former N.J.A.C. 13:23-2.14, Office personnel, was reserved. In (b), substituted "regular" for "normal".

Amended by R.2007 d.236, effective August 6, 2007.

See: 38 N.J.R. 4405(a), 39 N.J.R. 3391(a).

Rewrote (b).

13:23-2.15 Branch offices

(a) A driving school shall make application for a branch office license on a form prescribed by the Chief Administrator. Each initial or renewal application for a branch office license shall be accompanied by the applicable fee specified in N.J.A.C. 13:23-2.3(a).

(b) If the application is approved, the Chief Administrator shall issue a license for use at the branch office.

(c) The license shall be conspicuously displayed at the branch office at all times.

(d) A branch office shall meet all of the requirements for a licensed principal place of business.

(e) All branch offices must be owned or leased by the licensee and affiliated with the licensed principal place of business.

(f) The following shall not be eligible for a branch office license:

1. A kiosk;
2. A promotional booth; or
3. A classroom location.

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed "drivers' " to "driving"; deleted "desiring to open a branch office"; added "for a branch office license" in (a).

Changed "will" to "shall"; deleted "copy of the" and "of the principal place of business, appropriately endorsed," in (b). Changed "this copy must" to "The license shall"; changed "in such" to "at the" in (c).

Added (d).

Amended by R.1996 d.265, effective June 3, 1996.

See: 27 N.J.R. 1479(a), 28 N.J.R. 3004(a).

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

Rewrote (a).

13:23-2.16 Branch office relocation or discontinuance

(a) A branch office shall not be moved to a new location without the prior approval of the Chief Administrator.

(b) Should use of a branch office be discontinued, the branch office license shall be surrendered within seven days to the Commission.

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

"removed" changed to "moved".

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed "removal" to "relocation" in heading.

Added "use of"; deleted "copy of the"; changed "immediately to the Director" to "within seven days to the Division of Motor Vehicles" in (b).

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

In (a), substituted "shall" for "may".

13:23-2.17 (Reserved)

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Section substantially amended.

Repealed by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Former title "Branch office requirements".

13:23-2.18 Changes in addresses of officers; notice

The Chief Administrator shall be notified within 30 days, in writing, if a change occurs in the residence address of any proprietor, partner, officer, director, authorized agent, or instructor of any driving school.

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Deleted "of Motor Vehicles"; changed "immediately" to "within seven days"; changed "individual owner" to "proprietor"; changed "employee" to "instructor"; changed "drivers' " to "driving"; added "director, authorized agent".

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

Amended by R.2007 d.236, effective August 6, 2007.

See: 38 N.J.R. 4405(a), 39 N.J.R. 3391(a).

Substituted "30" for "seven".

13:23-2.19 Recordkeeping requirements

(a) A file shall be maintained containing the student record and the service agreement, if used, between the driving school and every person receiving lessons, lectures, tutoring, instructions or other services relating to the acquisition of a license or endorsement in the driving of motor vehicle or motorcycles.

(b) The student record shall include the student's name, driver license number, instructor's name, and the date, type

and duration of all lessons, lectures, tutoring, instructions or other services relating to the acquisition of a license or endorsement to drive motor vehicles or motorcycles.

(c) The records specified in this subchapter shall be maintained in a business-like manner with all entries on written records to be made in ink. Corrections of written records shall be made by drawing a single line through the error and making a new entry. The original entry must be legible after the corrections of written records have been made. Only standard abbreviations are to be used.

(d) Each business shall keep and maintain such other books, records and files necessary for the proper conduct of the business.

(e) The records of the business maintained in accordance with this subchapter may be electronically stored.

Amended by R.1984 d.216, effective June 4, 1984. See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a). Amended by R.1991 d.371, effective July 15, 1991. See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a). Changed heading; former title "Record types, entries and corrections". Added (a), (b), (d), (e). Deleted "Every licensee shall maintain the"; added "shall be maintained", "on written records", "of written records", "The original entry must be legible after the corrections of written records have been made" in (c). Amended by R.1996 d.265, effective June 3, 1996. See: 28 N.J.R. 1479(a), 28 N.J.R. 3004(a). Amended by R.2004 d.444, effective December 6, 2004. See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a). In (e), inserted "maintained in accordance with this subchapter" following "business".

13:23-2.20 Loss, mutilation or destruction of records

(a) The loss, mutilation, or destruction of any records that a driving school is required to maintain pursuant to this subchapter shall be reported on the next business day to the Commission by affidavit, indicating:

- 1. The date such records were lost, destroyed or mutilated;
- 2. The circumstances involving such loss, destruction or mutilation; and
- 3. The name of the precinct, police officer or police department to which such loss was reported, and the date of such report.

Repeal and New Rule, R.1991 d.371, effective July 15, 1991. See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a). Former title "Permanent record book". Amended by R.2004 d.444, effective December 6, 2004. See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a). In (a), substituted "pursuant to" for "under" following "maintain", deleted "regular" preceding "business day" and substituted "indicating" for "stating" following "affidavit".

13:23-2.21 Retention of records

All records that a driving school is required to maintain pursuant to this subchapter shall be maintained at the prin-

cipal place of business of the driving school for a period of three years, during which period they shall be subject to audit and inspection by the Chief Administrator or his or her designee at any time during regular business hours.

Repeal and New Rule, R.1991 d.371, effective July 15, 1991. See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a). Former title "Services record". Amended by R.2004 d.444, effective December 6, 2004. See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a). Rewrote the section.

13:23-2.22 Statement of services to be rendered and fees to be charged; service agreements

(a) The driving school shall provide to all students a statement of services to be rendered and fees to be charged and shall advise all students of the availability of a service agreement wherein the services to be rendered are specifically set forth.

(b) The driving school shall comply with the conditions set forth in the sample service agreement in (d) below, specifically including:

- 1. To cancel a lesson and reschedule that lesson, 24 hours advance notice is required or the student may be charged for that lesson. Cancellation must be made at the phone number listed for the driving school. Appointments must be mutually agreed upon for date, time and location.
- 2. The number of minutes per lesson shall be the actual number of minutes of instruction provided to the student.
- 3. The student may rescind the agreement within 72 hours of the first lesson and upon such rescission shall receive a refund for any lessons or services not provided.

(c) The driving school shall provide to all students a receipt for payments made to the driving school.

(d) All service agreements shall contain at a minimum all information contained in the following sample service agreement:

SAMPLE Service Agreement School Information Student Information Name _____ Name _____ Address _____ Address _____ Permit/License # License # _____ of Student _____ Phone # _____ Phone # _____

This agreement between (Driving School Name) and (Student Name) will include the following services:

Itemized Account	Total Cost to Student
Services	
Purchase Permit at Agency (Paid to School)	_____
Transportation to Law Knowledge and Vision Tests	_____
Road Test Services	_____

Instruction Services	# Lessons	# Min. Per Lesson	Cost Per Lesson	Total Cost of Lessons
Behind The Wheel Classroom	_____	_____	_____	_____
Grand Total Cost to Student				\$ _____

This agreement must show an itemized account of any and all services rendered. In order to cancel a lesson and reschedule that lesson, 24 hours advance notice is required or the student may be charged for that lesson. Cancellation must be made at the phone number for the school listed above. Appointments must be mutually agreed upon for date, time and location.

The number of minutes per lesson specified shall be the actual number of minutes of instruction provided to the student.

The vehicle to be used for instruction has: automatic transmission; standard manual gear shift; and shall be equipped with, at minimum, a brake for both the instructor and the student.

No fees will be charged other than those specified above.

This constitutes the entire agreement between the school and the student and no verbal statements or promises will be recognized. The student may rescind this agreement within 72 hours of the first lesson and upon such rescission shall receive a refund for any lesson or service not conducted or provided.

Signature Requirement

Date _____ Student Signature _____
 or Legal Guardian
 Date _____ Instructor's Signature _____

Amended by R.1984 d.216, effective June 4, 1984.
 See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).
 (b)7 added.
 Repeal and New Rule, R.1991 d.371, effective July 15, 1991.
 See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).
 Former title "Contract file".

13:23-2.23 Agreements with secondary schools; notice to Chief Administrator

(a) A driving school may enter into an agreement where authorized by law with a secondary school for the purpose of teaching the classroom and/or behind-the-wheel driver education portions of a high school driver education program. The classroom portion of a high school driver education program provided by a driving school pursuant to this subsection shall be taught by a qualified supervising instructor employed by the driving school, or by a licensed driving instructor employed by the driving school who has successfully completed a three-credit New Jersey driver education college course offered by a college or university licensed by the New Jersey Commission on Higher Education. The driving school shall teach the full six-hour course of behind-the-wheel instruction and the permit shall be signed by the driving school owner.

(b) A driving school shall notify the Chief Administrator in writing within 10 days of entering into an agreement with a secondary school pursuant to (a) above.

Amended by R.1984 d.216, effective June 4, 1984.
 See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).
 (b)5. "or other person ... of the student" added.
 Repeal and New Rule R.1991 d.371, effective July 15, 1991.
 See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).
 Former title "Receipts file".
 Amended by R.2004 d.444, effective December 6, 2004.
 See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).
 Designated former section as (a) and rewrote paragraph; added (b).

13:23-2.24 Student requirements

(a) Driving school instructors, prior to giving behind-the-wheel instruction, shall make certain that each student has:

1. A valid permit;
2. Passed a vision test as evidenced by the signature of the high school nurse employed by the student's high school, an owner of a driving school, a qualified supervising instructor of a driving school, or a licensed driving instructor of a driving school who is authorized by the Commission in accordance with N.J.A.C. 13:23-5 to administer the State-approved eye examination, or a representative of the Commission; and
3. Passed the law knowledge test as evidenced by:
 - i. A valid, properly signed certificate from a high school indicating a passing grade of 80 percent or better;
 - ii. A certification from an owner of a driving school, a qualified supervising instructor of a driving school, or a licensed driving instructor of a driving school who is authorized by the Commission in accordance with N.J.A.C. 13:23-5 to administer the State-approved written drivers' examination indicating a passing grade of 80 percent or better; or
 - iii. Certification by a representative of the Commission.

Repeal and New Rule, R.1984 d.216, effective June 4, 1984.
 See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).
 Repeal and New Rule, R.1991 d.371, effective July 15, 1991.
 See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).
 Former title "Posting of fees with the Division".
 Amended by R.1996 d.265, effective June 3, 1996.
 See: 28 N.J.R. 1479(a), 28 N.J.R. 3004(a).
 Amended by R.2004 d.444, effective December 6, 2004.
 See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).
 Rewrote the section.

13:23-2.25 (Reserved)

Amended by, R.1984 d.216, effective June 4, 1984.
 See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).
 Repealed by R.1991 d.371, effective July 15, 1991.
 See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).
 Former title "Loss, mutilation or destruction of records".

13:23-2.26 (Reserved)

Amended by R.1984 d.216, effective June 4, 1984.
 See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).
 Section substantially amended.
 Repealed by R.1991 d.371, effective July 15, 1991.
 See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).
 Former title "Retention of records".

13:23-2.27 (Reserved)

Amended by R.1984 d.216, effective June 4, 1984.
 See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).
 Added new (c).
 Repealed by R.1991 d.371, effective July 15, 1991.
 See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).
 Former title "School vehicle identification certificate".

13:23-2.28 Insurance and vehicle equipment requirements

(a) Any vehicle, except buses, motorcycles and articulated vehicles, used for instruction by a driving school must be equipped with dual controls on foot brake and, if any, on clutch, and must be otherwise equipped in accordance with the Motor Vehicle and Traffic Laws.

(b) A licensee shall file with the Chief Administrator evidence of liability insurance with a company authorized to do business in this State, in the amount of at least \$250,000 because of bodily injury to, or death of, any one person in any one accident and subject to said limit for any one person, to a limit of at least \$500,000 because of bodily injury to, or death of, two or more persons in any one accident, and to a limit of \$50,000 because of damage to, or destruction of, property of others in any one accident; or, in the alternative, a licensee shall file with the Chief Administrator evidence of liability insurance with a company authorized to do business in this State, in the amount of at least \$500,000 combined single limit of liability in any one accident for bodily injury liability and property damage liability. A driving school shall furnish evidence of insurance coverage required by this subsection by submitting an original certificate of insurance to the Commission listing each motor vehicle owned or leased by the driving school and used for behind-the-wheel driving instruction or for the road test portion of the driving test administered by the Commission. This certificate of insurance shall stipulate that such insurance may not be cancelled or terminated, except upon 30 days prior written notice by the insurer to the Chief Administrator of the Motor Vehicle Commission. In the event of the cancellation or expiration of such insurance, no motor vehicle listed on the certificate of insurance shall thereafter be used for the provision of behind-the-wheel driving instruction or for the road test portion of the driving test administered by the Commission.

(c) Any vehicle, except a motorcycle, used for instruction by a driving school must be equipped with seat belts for both the student(s) and instructor. The seat belts shall be used by both the student(s) and instructor when the vehicle is being operated.

(d) Any vehicle, except a motorcycle, used for instruction by a driving school must be equipped with inside and outside rear view mirrors for both student and instructor.

(e) Any vehicle, except a motorcycle, used for instruction by a driving school must have a clean interior and must be equipped with:

1. Operable door locks;
2. An operable heater, defroster and air conditioner; and
3. Properly operating seats and seat adjustments.

Amended by, R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

"\$100,000" changed to "\$250,000" and "\$300,000" changed to "\$500,000".

(a)5 new.

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed heading; former title "Conditions for issuance of certificate".

Deleted "A school vehicle identification certificate will not be issued unless and until: 1. Such vehicle is"; added "Any vehicle, except buses, motorcycles and articulated vehicles, used for instruction by a driving school must be" in (a).

Redesignated (a)2 as (b) and changed "drivers'" to "driving"; changed "on a form supplied" to "required by this subsection"; added "submitting an original certificate of insurance"; deleted ", and the school vehicle identification certificate shall terminate automatically and must be surrendered to the Director" with other stylistic changes.

Redesignated (a)3 as (c); added ", except a motorcycle, used for instruction by a driving school must be".

Deleted "for instruction purposes" from former (a)4.

Redesignated (a)5 as (d); added ", except a motorcycle, used for instruction by a driving school must be".

Amended by R.1996 d.265, effective June 3, 1996.

See: 28 N.J.R. 1479(a), 28 N.J.R. 3004(a).

Amended by R.1999 d.186, effective June 7, 1999.

See: 31 N.J.R. 744(a), 31 N.J.R. 1499(b).

In (b), added an alternative at the end of the first sentence.

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

Rewrote (b).

Amended by R.2007 d.236, effective August 6, 2007.

See: 38 N.J.R. 4405(a), 39 N.J.R. 3391(a).

In (b), inserted "listing each motor vehicle owned or leased by the driving school and used for behind-the-wheel driving instruction or for the road test portion of the driving test administered by the Commission" and "or for the road test portion of the driving test administered by the Commission", and deleted "driving school purposes, including" preceding "the provision".

13:23-2.29 Sign(s) displayed on vehicles

(a) Every vehicle of a driving school, while being used for driving instruction and/or the transportation of driving school students to or from a Commission driver testing facility, shall have conspicuously displayed thereon a roof-mounted sign visible to both front and rear indicating "Student Driver." The sign shall also indicate the business name and license number of the driving school unless an additional sign containing such information is utilized in accordance with (b) below.

(b) In lieu of including its business name and license number on the sign required by (a) above, a driving school may display an additional sign on its vehicles that sets forth such

information. This additional sign, if utilized, shall be placed on the exterior of the front driver's side door of the vehicle and may be permanent or removable.

(c) The sign(s) utilized pursuant to this section shall have a background and letters and numbers of contrasting colors. The letters and numbers shall be not less than three inches in height and of a stroke of not less than ¼ inch. Letters and numbers may be of a reflectorized material.

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Deleted in (c) "in letters ... in color".

Amended by R.2007 d.236, effective August 6, 2007.

See: 38 N.J.R. 4405(a), 39 N.J.R. 3391(a).

Section was "Sign displayed on vehicles". Rewrote the section.

13:23-2.30 Advertising

(a) Advertising by driving schools shall conform to the following:

1. Schools must not publish, advertise or intimate that licensure is guaranteed or assured upon completion of instruction.

2. Advertisements or signs using a phrase such as "License or Plates Secured Here" are prohibited.

3. Advertisements such as "no charge for road test failures" are prohibited.

4. The driving school may use, on forms, agreements, and similar documents, or in advertising, the phrase "This school is licensed by the State of New Jersey." No other reference to the State of New Jersey, the former Division of Motor Vehicles, or the Motor Vehicle Commission is permitted.

5. The use of the word "State", in any sign or other medium of advertising, except as permitted in (a)4 above, is prohibited.

6. A driving school shall not advertise the address of any location other than the licensed principal place of business, or a licensed branch office.

7. The driving school shall not advertise any name or combination of names, or abbreviation of name, other than the trade name by which the driving school is licensed to do business by the Chief Administrator and which appears on the driving school wall license.

8. A driving school shall not solicit business, or cause business to be solicited on its behalf, or display or distribute any advertising material in such a manner as to give the impression that the business has some official connection with the Commission or an authorized motor vehicle agent. This paragraph shall not be construed to prohibit driving schools from appearing at driver testing locations with vehicles that contain the business name, license number, address, or telephone number of the driving school, or any

sign(s) or identification required or permitted by this chapter or N.J.S.A. 39:12-1 et seq.

9. Any advertising used by the driving school in any medium shall contain the license number of the driving school.

(b) All advertisements and public representations sponsored, procured, utilized, published, endorsed, presented or otherwise disseminated by, at the direction or on behalf of a driving school shall be based on fact and shall not be false, deceptive, or misleading.

(c) Any advertisement through any medium that cannot be changed, deleted, or withdrawn within a period of seven days or less, including classified telephone directory advertisements, shall require the approval of the Chief Administrator or his or her designee prior to printing. A copy of an advertisement that is subject to the requirements of this subsection shall be submitted to the Chief Administrator in writing.

(d) A driving school may advertise only those telephone numbers that are listed for the school's principal place of business or licensed branch office(s). Telephone calls shall not be received at, call forwarded to, or otherwise transferred to any other location during regular business hours.

Amended by, R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Section substantially amended.

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed "drivers" to "driving" throughout.

Changed "license" to "licensure" and "instructions" to "instruction" in (a)1.

Deleted "the display of such signs,"; added "advertisements or signs using a phrase such" in (a)2.

Deleted (a)4.

Redesignated (a)5 as 4; changed "contracts" to "agreements"; added "No other reference to the State of New Jersey or the Division of Motor Vehicles is permitted."

Redesignated (a)6, 7, 8, 9 as (a)5, 6, 7 and 8.

Added reference in (a)8 to N.J.S.A. 39:12-1 et seq.

Stylistic changes throughout.

Amended by R.1996 d.265, effective June 3, 1996.

See: 28 N.J.R. 1479(a), 28 N.J.R. 3004(a).

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

In (a), added 9; rewrote (c).

Amended by R.2007 d.236, effective August 6, 2007.

See: 38 N.J.R. 4405(a), 39 N.J.R. 3391(a).

Rewrote the last sentence of (a)8; and in (d), substituted "office(s)" for "location" and "other" for "unlicensed"; deleted the quotation marks around "call forwarded"; and inserted "during regular business hours".

13:23-2.31 (Reserved)

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Section substantially amended.

Repealed by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Former title "Contracts".

13:23-2.32 Practice driving

(a) Practice driving is prohibited on State grounds used for State driving tests.

(b) An instructor shall remain in a vehicle, except a motorcycle, used for instruction by a driving school at all times during which a student is behind the wheel of the vehicle and the keys are in the ignition.

Amended by R.1984 d.216, effective June 4, 1984.
See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Section substantially amended.

Amended by R.1991 d.371, effective July 15, 1991.
See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Added "State"; deleted "or roadways" and "Instructor shall inform students of the prohibition contained in this section".

Amended by R.1996 d.265, effective June 3, 1996.
See: 28 N.J.R. 1479(a), 28 N.J.R. 3004(a).

13:23-2.33 Learner permits

(a) An instructor is required to ascertain, prior to giving behind-the-wheel instructions or presenting the student for a driving test, that a student is in possession of a valid driver examination permit properly validated for practice driving, or a valid driver's license.

(b) An instructor is prohibited from signing a student permit.

(c) An instructor shall not surrender a student permit to a student unless the student has completed the required six hours of behind-the-wheel instruction and the permit has been properly endorsed by the driving school owner or the person(s) so authorized by the driving school owner.

Amended by R.1984 d.216, eff. June 4, 1984.
See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Section substantially amended.

Amended by R.1991 d.371, effective July 15, 1991.
See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Added "or employee".

Amended by R.1996 d.265, effective June 3, 1996.
See: 28 N.J.R. 1479(a), 28 N.J.R. 3004(a).

13:23-2.34 Requirements at driving (road) test

Applicants appearing for the road test portion of the driving test in a motor vehicle used for instruction by a driving school shall be accompanied by a licensed driver who has in his or her possession a valid New Jersey instructor's license or a New Jersey authorized agent identification certificate, a valid registration, a valid insurance identification card, and a copy of the declaration page of the liability insurance policy issued to the driving school confirming that the motor vehicle is insured in the amounts set forth in N.J.A.C. 13:23-2.28(b).

Amended by R.1984 d.216, effective June 4, 1984.
See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Amended by R.1991 d.371, effective July 15, 1991.
See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Deleted ", with vehicles for which vehicle identification certificates have been issued, or vehicles required to have such certificates,"; "1.a New Jersey"; (a)2.

Added "certificate, a valid registration and a valid insurance identification card".

Amended by R.1994 d.294, effective June 20, 1994.

See: 26 N.J.R. 1299(a), 26 N.J.R. 2588(a).

Amended by R.2007 d.236, effective August 6, 2007.

See: 38 N.J.R. 4405(a), 39 N.J.R. 3391(a).

Section was "Requirements at driving test". Inserted "road test portion of the", the first occurrence of "motor" and ", and a copy of the declaration page of the liability insurance policy issued to the driving school confirming that the motor vehicle is insured in the amounts set forth in N.J.A.C. 13:23-2.28(b)", and deleted "and" following "valid registration".

13:23-2.35 Employees of driving schools

A driving school shall not knowingly employ any person as an instructor or agent who has been convicted of any of the offenses enumerated in N.J.A.C. 13:23-2.12(a)3 unless the Chief Administrator has determined that such person may serve in such capacity.

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed "drivers" to "driving"; deleted "or in any other capacity whatever," and "a crime"; added "any of the offenses enumerated ... in such capacity".

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

13:23-2.36 Authorized agents; certificates; denial, suspension or revocation of certificate

(a) The driving school owner may appoint, with the approval of the Chief Administrator, authorized agents for the purpose of transporting the school's students to a driver testing center to take the behind-the-wheel test portion of the driver examination or to purchase a permit.

(b) The Chief Administrator may issue an "Authorized Agent" identification certificate when the following requirements have been met:

1. Applicant must be of good moral character;

2. Applicant must be at least 18 years of age;

3. Applicant shall be the holder of a valid basic driver's license issued by the Commission pursuant to N.J.S.A. 39:3-10 or a driver's license issued by another state that is substantially similar to this State's basic driver's license;

4. Applicant must have a driving record devoid of the offenses set forth in (d) below;

5. Applicant who has been licensed by another state or states during the past three years must submit a certified abstract of his or her driving record from the state or states in which he or she is or was licensed to drive with the initial application and all renewals thereof; and

6. Applicant shall, at the time of his or her initial application, submit documentation confirming that such applicant has submitted to a criminal history record check in accordance with rules promulgated by the New Jersey Di-

vision of State Police at N.J.A.C. 13:59. The Commission shall request the State Bureau of Identification to attach a SBI Number Flag to the applicant's SBI number in accordance with N.J.A.C. 13:59-1.8.

(c) The annual fee for an authorized agent identification certificate shall be \$25.00 and the certificate shall be valid for the calendar year expiring December 31. The certificate shall contain the agent's permanent identification number. The Chief Administrator may deny, suspend, or revoke any authorized agent identification certificate upon conviction of any of the offenses enumerated in N.J.A.C. 13:23-2.12(a)3, a violation of this chapter, or other good cause, after due notice in writing thereof, in accordance with the provisions of the "Administrative Procedure Act," N.J.S.A. 52:14B-1 et seq.

(d) The Chief Administrator or his or her designee may deny, suspend, or revoke any authorized agent identification certificate if the holder of such certificate or applicant for such certificate has accumulated nine or more points by reason of convictions for violations of the Motor Vehicle Law or has been convicted of a violation of N.J.S.A. 39:4-50, 39:4-50.2, or 39:4-49.1, or has incurred a conviction or administrative determination of a substantially similar offense in any jurisdiction.

(e) Upon severance of employment, the driving school owner shall notify the Driving School Section of the Commission, in writing, of the date of severance. Upon severance, the agent shall surrender his or her identification certificate to the Commission.

Amended by, R.1984 d.216 effective June 4, 1984.
See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).
Amended by R.1991 d.371, effective July 15, 1991.
See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed heading; added "certificates; denial, suspension or revocation of certificate".

Substituted "certificates" for "cards" throughout.

Changed "acting as an accompanying driver for" to "transporting"; "qualification" to "testing"; and "for the purpose of taking" to "to take"; added "or to purchase a permit" in (a).

Deleted "satisfactory to the Director"; added "devoid of the offenses set forth in (d) below" in (b)4.

Added (b)5 and 6.

Redesignated existing (b) as (c); changed "two calendar years" to "the calendar year ending December 31."; added references to N.J.A.C. 13:23-2.12(a)3 and N.J.S.A. 52:14B-1 et seq.

Added (d).

Redesignated existing (c) as (e) and substituted old text for new text.

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

Rewrote the section.

13:23-2.37 Conduct with employees of Commission

(a) The owner, operator, partner, officer, employee of any licensee, or any other person shall not pay, give, loan, transfer to, or purchase from any employee of the Commission any money, merchandise, material, food, tickets, raffles, or other thing of value, whether or not that payment, gift, loan, transfer, or purchase was for the purpose of obtaining favors, courtesies, or any consideration in connection with the duties of any employee of the Commission.

(b) The owner, operator, partner, officer of any driving school, or any employee of any licensee shall not influence, or attempt to influence any decision of any employee of the Commission with respect to the licensing of any student of the licensee, or any other person.

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed "drivers" to "driving" in (b).

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

13:23-2.38 (Reserved)

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Repealed by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Former title "Revocation, suspension and refusal to renew license".

SUBCHAPTER 3. DRIVING SCHOOL INSTRUCTORS

13:23-3.1 Licenses

The owner, operator, partner, any officer of a driving school, or any other person shall not give instructions for compensation in the driving of motor vehicles or motorcycles unless such person is the holder of a valid instructor's license issued for such purpose by the Chief Administrator.

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed "drivers" to "driving"; "operation of motor vehicles" to "driving of motor vehicles"; added "a valid".

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

13:23-3.2 Valid use of license

Instructors' licenses shall be valid for use only in connection with the business of the driving school or schools listed thereon and only for lessons authorized by those schools.

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed "drivers" to "driving"; added "and only for lessons authorized by those schools".

13:23-3.3 Standards for instructor's license issuance

An instructor's license shall not be issued to any person unless that person is the holder of a valid basic driver's license issued by the Commission pursuant to N.J.S.A. 39:3-10 or a valid driver's license issued by another state that is substantially similar to this State's basic driver's license, and has held such a license permitting him or her to drive for at least the past three consecutive years, and has complied with the other requirements contained in this subchapter.

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Stylistic changes.

Amended by R.1996 d.265, effective June 3, 1996.

See: 28 N.J.R. 1479(a), 28 N.J.R. 3004(a).

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

Rewrote the section.

Amended by R.2007 d.236, effective August 6, 2007.

See: 38 N.J.R. 4405(a), 39 N.J.R. 3391(a).

Section was "Standards for license issuance". Substituted "An instructor's license" for "Instructors' licenses" and "past three" for "last four", inserted "valid" preceding "driver's" and inserted "such".

13:23-3.4 Application for instructor's license

(a) Application for an initial or renewal license shall be made on a form prescribed by the Chief Administrator.

(b) A renewal application shall be submitted for approval and issuance at least 30 days prior to the expiration date of the current license.

(c) The Chief Administrator shall issue an instructor's license to the applicant upon approval of an initial or renewal application. The instructor's license shall be assigned the same license number for the duration of the license.

(d) Every applicant for an initial instructor's license shall, at the time of his or her initial application, submit documentation confirming that such applicant has submitted to a criminal history record check in accordance with rules promulgated by the New Jersey Division of State Police at N.J.A.C. 13:59. The Commission shall request the State Bureau of Identification to attach a SBI Number Flag to the applicant's SBI number in accordance with N.J.A.C. 13:59-1.8.

(e) An initial instructor's license shall not be issued unless the applicant is at least 21 years of age and has a minimum of three consecutive years driving experience with a basic driver's license issued by the Commission pursuant to N.J.S.A. 39:3-10 or a driver's license issued by another state that is substantially similar to this State's basic driver's license.

(f) An applicant who has been licensed to drive by another state or states during the past three consecutive years shall submit a certified abstract of his or her driving record from the state or states in which he or she is or was licensed to drive with the initial application and all renewals thereof.

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Deleted "by the person desiring such license," in (a).

Changed "should" to "shall"; "ten" to "30" and "present" to "the current" in (b).

Added "The instructor's license shall be assigned the same license number for the duration of the license." in (c).

Deleted (d).

Redesignated existing (e) as (d); changed "fingerprinting" to "a name check"; added "the applicant ... by the Division of State Police."

Redesignated existing (f) as (e).

Added (f).

Amended by R.1996 d.265, effective June 3, 1996.

See: 28 N.J.R. 1479(a), 28 N.J.R. 3004(a).

Amended by R.1999 d.186, effective June 7, 1999.

See: 31 N.J.R. 744(a), 31 N.J.R. 1499(b).

In (f), substituted a reference to four years for a reference to three years.

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

Rewrote (d).

Amended by R.2007 d.236, effective August 6, 2007.

See: 38 N.J.R. 4405(a), 39 N.J.R. 3391(a).

Rewrote (e); and in (f), substituted "three consecutive years shall" for "four years must".

13:23-3.5 Instructor's license fee

The instructor's license is valid for the calendar year. The fee for the initial license shall be \$75.00 and the fee for the annual renewal thereof shall be \$50.00.

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Stylistic change.

Amended by R.1995 d.365, effective July 3, 1995.

See: 27 N.J.R. 1521(b), 27 N.J.R. 2592(b).

Increased the fee from \$30 to \$50.

13:23-3.6 Possession of instructor's license

A valid instructor's license shall be in the possession of the instructor at all times when he or she is giving driving instructions, is appearing at a Commission facility to purchase a student permit, or is accompanying a student to or from a Commission facility.

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed "Carrying" to "Possession of" in heading.

Changed "carried by" to "in the possession of".

Deleted "an applicant for a driver's license to the driving test portion of the license examination conducted by the Division of Motor Vehicles".

Added "a student".

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

Rewrote the section.

13:23-3.7 Lost, mutilated or destroyed licenses

(a) In the event a license, or duplicate thereof, is lost, mutilated, or destroyed, a duplicate license shall be issued upon proof of the facts and payment of a fee of \$5.00 and, in the case of a mutilated license, upon surrender of such mutilated license. Such proof shall be submitted in the form of an affidavit indicating:

1. The date the license, or duplicate thereof, was lost, mutilated or destroyed; and

2. The circumstances involving the loss, mutilation or destruction of the license, or duplicate thereof.

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

"\$3.00" was "\$1.00".

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Added "In the event"; " or duplicate thereof, is"; "mutilated"; "Such proof shall be submitted in the form of an affidavit indicating:"; (a)1 and 2.

Deleted (b)1 and 2.

Amended by R.1995 d.365, effective July 3, 1995.
 See: 27 N.J.R. 1521(b), 27 N.J.R. 2592(b).
 In (a) increased the fee from \$3 to \$5.

13:23-3.8 Surrender of instructor's license

An instructor's license or endorsement shall be surrendered to the Chief Administrator upon termination of an instructor's services with, or by, any driving school designated on such license and/or endorsement. When the services of an instructor are terminated by one or more of the schools designated on the instructor's license and/or endorsement, the endorsement certificate for each school so terminating the services of the instructor shall be returned to the Commission within seven days. It shall be the responsibility of the driving school to notify the Commission, in writing, of such termination.

Amended by R.1984 d.216, effective June 4, 1984.
 See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).
 Section substantially amended, "\$3.00" was "\$1.00".
 Amended by R.1991 d.371, effective July 15, 1991.
 See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Added "or endorsement" throughout.
 Changed "drivers" to "driving" throughout.
 Changed "immediately" to "within seven days".
 Deleted reference to the Bureau of Certificate of Ownership and added "notify the Division of Motor Vehicles, in writing, of such termination."

Amended by R.2004 d.444, effective December 6, 2004.
 See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

13:23-3.9 Special tests

(a) An applicant for an instructor's license shall be required to submit to special law-knowledge, driving tests and screening of visual acuity, and may be required to submit additional proof of his or her qualifications as an instructor.

(b) If application is made for an instructor's license by a person who was the holder of an instructor's license within a period of three years prior to the date of such application, the Chief Administrator may waive the testing.

(c) All instructors licensed after July 1, 1984 shall be required to complete the six-hour or eight-hour National Safety Council Defensive Driving Program or a Commission-approved Motor Vehicle Defensive Driving Course. Evidence of having completed such program shall be filed with the Chief Administrator. Instructors shall submit such evidence prior to renewal of the initial instructor's license.

Amended by R.1984 d.216, effective June 4, 1984.
 See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).
 Section substantially amended.
 Amended by R.1991 d.371, effective July 15, 1991.
 See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed "one year" to "three years"; deleted "law-knowledge and driving tests and vision screening"; added "testing" in (b).

Added "either"; "six hour or eight hour"; "Council"; deleted reference to the Bureau of Certificate Ownership and added "Director" in (c).

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

13:23-3.10 Interactive wireless communication devices

(a) Neither a driving school instructor nor a student shall use any interactive wireless communication device in a driving school vehicle that is being operated on a public road or highway for purposes of behind-the-wheel driving instruction. For purposes of this section, "use" shall include, but not be limited to, talking or listening on any interactive wireless communication device or operating its keys, buttons, or other controls.

(b) The prohibition contained in (a) above shall not apply in an emergency situation.

New Rule, R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

Former N.J.A.C. 13:23-3.10, Character of applicant, was reserved.

13:23-3.11 Conduct of instructors

(a) Instructors will conduct themselves in a professional and impersonal manner with students.

(b) Instructors will conduct themselves in accordance with the provisions of N.J.A.C. 13:23-2.37.

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Section substantially amended.

13:23-3.12 Revocation, suspension or refusal to issue or renew instructor's license

(a) The Chief Administrator or his or her designee may deny, suspend, or revoke an instructor's license, or refuse to issue an instructor's license or a renewal thereof, for any of the reasons specified in N.J.S.A. 39:12-1 et seq. or N.J.A.C. 13:23-2.12, or for failure to comply with any of the provisions of this subchapter, or for other good cause, after due notice in writing thereof, in accordance with the provisions of N.J.S.A. 39:12-1 et seq. and the "Administrative Procedure Act," N.J.S.A. 52:14B-1 et seq.

(b) The Chief Administrator or his or her designee may deny, suspend, or revoke an instructor's license, or may refuse to issue an instructor's license or a renewal thereof, if such instructor or applicant has accumulated nine or more points by reason of convictions for violations of the Motor Vehicle Law or has been convicted of a violation of N.J.S.A. 39:4-50, 39:4-50.2, or 39:4-49.1, or has incurred a conviction or administrative determination of a substantially similar offense in any jurisdiction.

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Section substantially amended.

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Added "issue or" in heading.

Deleted "any employee of the Division of Motor Vehicles deputized by him,"; added "his or her designee", "deny", "an instructor's license

or" and references to N.J.A.C. 13:23-2.12 and N.J.S.A. 52:14B-1 et seq.; changed "outlined" to "specified"; deleted "promulgated by the Director; added "or for other good cause" in (a).

Added "or his or her designee", "deny", and reference to N.J.S.A. 39:4-50, 39:4-50.2 and 39:4-49.1; deleted "for instructor's license shall have" in (b).

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

13:23-3.13 License restoration

(a) The fee specified in N.J.S.A. 39:3-10a shall be payable to the Commission for the restoration of an instructor's license that is suspended or revoked pursuant to N.J.S.A. 39:12-1 et seq. or this subchapter. Such license restoration fee shall be paid to the Commission before the license may be restored.

(b) Each suspension or revocation of any instructor's license pursuant to N.J.S.A. 39:12-1 et seq. or any regulation adopted thereunder shall continue in force and effect until such license is restored by the Chief Administrator.

(c) In the case of every suspension or revocation of an instructor's license for a fixed period of time, the licensee, as a condition precedent to restoration, shall make application to the Chief Administrator, in such form as the Chief Administrator may determine, and pay the license restoration fee specified in (a) above. The Chief Administrator may, upon notice and an opportunity to be heard, deny any application for restoration of an instructor's license for good cause.

New Rule, R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

SUBCHAPTER 4. DRIVING SCHOOL CLASSROOMS

13:23-4.1 Classroom facilities

(a) The facilities of each driving school that provides classroom instruction shall include, not necessarily on the immediate premises, sufficient space and sufficient equipment to carry on the business of giving classroom instruction for those students enrolled in the driving school.

(b) The facilities maintained for classroom instruction may be used by one or more driving schools. Whenever the classroom facilities are used by more than one school, the Chief Administrator shall be notified.

Amended by R.1984 d.216, effective June 4, 1984.

See: 16 N.J.R. 209(a), 16 N.J.R. 1354(a).

Section substantially amended.

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed "drivers" to "driving"; added "which provides classroom instruction"; deleted "who so desire" in (a).

Deleted (b) and (c).

Redesignated existing (d) as (b); changed "drivers" to "driving"; added "classroom" and "must be notified"; deleted "maintained for classroom instruction", "a schedule shall be filed with" and "of Motor Vehicles setting forth the day and time each school will provide classroom instruction in the facility".

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

13:23-4.2 Classroom requirements

(a) The classroom facility shall be subject to inspection by the Chief Administrator or his or her designee and shall meet the following requirements:

1. Minimum space required per student is 15 square feet. Existing facilities may apply for and may be granted exemptions from this requirement;
2. Seating facilities and writing surfaces must be available for each student;
3. Adequate lighting, heating, ventilation and toilet facilities;
4. Adequate charts and diagrams or pictures relating to the operation of motor vehicles, and traffic laws;
5. Adequate blackboards which are visible from all seating areas; and
6. Textbooks, reference books and pamphlets relating to the proper operation of motor vehicles and traffic laws.

Amended by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Changed "accommodations" to "requirements" in heading and throughout.

Added "or his or her designee"; added (a)1.

Redesignated existing (a)1 through 5 as (a)2 through 6.

Changed "for no less than ten students" to "must be available for each student" in (a)2.

Amended by R.2004 d.444, effective December 6, 2004.

See: 36 N.J.R. 2180(a), 36 N.J.R. 5372(a).

13:23-4.3 (Reserved)

Repealed by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Former title "Classroom equipment".

13:23-4.4 (Reserved)

Repealed by R.1991 d.371, effective July 15, 1991.

See: 23 N.J.R. 662(a), 23 N.J.R. 2151(a).

Former title "Classroom curriculum".

SUBCHAPTER 5. ADMINISTRATION OF STATE-APPROVED WRITTEN DRIVERS' EXAMINATIONS AND STATE-APPROVED EYE EXAMINATIONS BY DRIVING SCHOOLS

13:23-5.1 Purpose

Section 9 of P.L. 2001, c.420 provides that a driving school licensed pursuant to N.J.S.A. 39:12-2 may be approved to conduct the State-approved written drivers' examination and the State-approved eye examination. The purpose of this subchapter is to establish an application and approval procedure for the issuance of license endorsements to driving schools that seek Commission approval to administer the State-approved written drivers' examination and/or the State-approved eye examination to their students in conjunction with the students' applications for special learners' permits in accordance with N.J.S.A. 39:3-13.1 et seq.

13:23-5.2 Scope

(a) This subchapter shall apply to licensed driving schools that administer the State-approved written drivers' examination and/or the State-approved eye examination to their students in conjunction with applications for special learners' permits in accordance with N.J.S.A. 39:3-13.1 et seq.

(b) A licensed driving school shall not administer the State-approved written drivers' examination or the State-approved eye examination unless such school has been approved by the Commission to administer such examinations in accordance with this subchapter.

(c) A licensed driving school shall not administer the State-approved written drivers' examination or the State-approved eye examination to its students in conjunction with applications for examination permits in accordance with N.J.S.A. 39:3-13.

13:23-5.3 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"State-approved eye examination" means the visual acuity and color perception tests administered to applicants for special learners' permits in accordance with N.J.A.C. 13:21-8.9 through 8.11.

"State-approved written drivers' examination" means the 50-question written law knowledge test administered in English to applicants for special learners' permits in accordance with N.J.A.C. 13:21-8.6.

13:23-5.4 Commission approval

Commission approval to conduct the State-approved written drivers' examination or the State-approved eye examination shall not be issued unless the licensed driving school demonstrates its ability to comply with N.J.A.C. 13:23-5.14 and 5.15 pertaining to test administration and equipment.

13:23-5.5 Application for license endorsement approval

(a) A licensed driving school seeking Commission approval to administer the State-approved written drivers' examination and/or the State-approved eye examination shall apply, in accordance with the provisions of this subchapter, to the Chief Administrator for a driving school license endorsement(s) authorizing it to engage in such activity. Application for such a license endorsement(s) shall be made on a form prescribed by the Chief Administrator. An application may be obtained from the Driving School Section of the Commission. The address of the Driving School Section is:

Motor Vehicle Commission
 Business License Services Bureau
 Driving School Section
 225 East State Street
 P.O. Box 168
 Trenton, New Jersey 08666-0168

(b) An application shall set forth the following:

1. The name of the driving school licensed by the Commission in accordance with N.J.S.A. 39:12-2;
2. If approval to administer the State-approved written drivers' examination is sought, the name(s) of those persons employed by the licensed driving school who have been certified as examination administrators pursuant to the provisions of this subchapter;
3. If approval to administer the State-approved eye examination is sought, the name(s) of those persons employed by the licensed driving school who have been certified as examination administrators pursuant to the provisions of this subchapter; and
4. If approval to administer the State-approved eye examination is sought, the make, model, and serial number of the eye examination equipment that is owned or leased by the licensed driving school.

13:23-5.6 License endorsement fees

- (a) Each initial application for approval to administer the State-approved written drivers' examination shall be accompanied by a license endorsement fee of \$250.00. In the event that the application is withdrawn or denied, \$225.00 shall be returned to the applicant.
- (b) Each renewal application for approval to administer the State-approved written drivers' examination shall be accompanied by a license endorsement fee of \$200.00.
- (c) Each initial application for approval to administer the State-approved eye examination shall be accompanied by a license endorsement fee of \$250.00. In the event that the application is withdrawn or denied, \$225.00 shall be returned to the applicant.
- (d) Each renewal application for approval to administer the State-approved eye examination shall be accompanied by a license endorsement fee of \$200.00.

13:23-5.7 License endorsement renewals

- (a) Each driving school shall, no later than 30 days before the expiration of the license endorsement(s), submit to the Chief Administrator an application to renew its current license endorsement(s) provided that such licensee is not prohibited from applying for a license endorsement as specified in N.J.A.C. 13:23-5.21. An application to renew a license endorsement(s) may be obtained from the Driving

School Section of the Commission at the address specified in N.J.A.C. 13:23-5.5(a).

(b) Each application to renew a license endorsement(s) shall be accompanied by the renewal fee(s) specified in N.J.A.C. 13:23-5.6.

(c) Upon approval of each renewal application, a license endorsement(s) shall be issued to the driving school. Each renewed license endorsement(s) issued to a driving school shall be valid for the calendar year for which it is issued.

13:23-5.8 Surrender of license endorsement

(a) Each license endorsement(s), although issued to a licensee, shall at all times be the property of the State of New Jersey.

(b) Upon any suspension, revocation, refusal to renew or other termination of a license endorsement(s), the license endorsement(s) shall no longer be in force and effect and the license endorsement(s) shall be surrendered forthwith upon demand of a Commission representative.

13:23-5.9 Responsibility of licensees

(a) In the case of a sole proprietorship, the owner and/or possessor of a controlling interest in the driving school shall be responsible to the Chief Administrator for the administration of examinations by the driving school and for all actions performed by his or her employees in connection with the administration of examinations pursuant to this subchapter.

(b) In the case of a partnership or corporation, each partner, or corporate officer and/or director, or any person or entity possessing a controlling interest, as the case may be, shall be held individually and jointly responsible to the Chief Administrator for the administration of examinations by the driving school and for all actions performed by its employees in connection with the administration of examinations pursuant to this subchapter.

13:23-5.10 Notice and recordkeeping requirements

(a) Every license endorsement issued in accordance with this subchapter shall be prominently displayed in the office, waiting area, or other conspicuous location at the driving school that is accessible to the public.

(b) Every driving school approved by the Commission to administer the State-approved written drivers' examination and/or the State-approved eye examination and that imposes a fee(s) for the administration of such examination(s) shall post in a conspicuous location accessible to the public a "Notice to Students" concerning the driving school's approval to administer such examinations and indicating that students may, if they so choose, have such examinations administered by the Commission at a Commission driver testing facility at no cost to the students. The notice shall be prepared and furnished by the Commission.

(c) Every driving school approved by the Commission to administer State-approved written drivers' examinations and/or State-approved eye examinations shall maintain copies of all such examinations administered by the driving school owner or by qualified supervising instructors employed by the school or licensed driving instructors employed by the school. Such copies shall be kept for at least four years and shall be available for audit and inspection by the Chief Administrator, the Director of the Division of Consumer Affairs, the Superintendent of the Division of State Police, or any person designated by them during regular business hours. The records shall include the name of the student examined, the name of the person administering the examination(s), the date(s) of the examination(s), the result(s) of such examination(s), and, in the case of the administration of the State-approved eye examination, the serial number of the eye test machine on which the eye examination was performed. Failure to permit the audit or inspection of such records shall subject the driving school to administrative suspension action pursuant to this subchapter.

13:23-5.11 Additional violations

(a) In addition to any violation of N.J.S.A. 39:12-1 et seq., the Chief Administrator may refuse to issue a license endorsement(s) or suspend or revoke the license endorsement(s) of any driving school if he or she determines that the applicant or licensee has made a false statement or concealed a material fact in connection with the application for the license endorsement(s) or a renewal thereof.

(b) In addition to any violation of N.J.S.A. 39:12-1 et seq., the Chief Administrator may refuse to renew the license endorsement(s) or suspend or revoke the license endorsement(s) of any driving school if he or she determines that the applicant or licensee at any time following submission of the application for the initial license endorsement(s):

1. Has engaged in fraudulent or deceptive practices concerning the administration of the State-approved written drivers' examination or the State-approved eye examination in violation of N.J.S.A. 39:12-1 et seq. or this subchapter;
2. Has failed to comply with any of the provisions of this subchapter;
3. Has failed to properly secure State-approved written drivers' examination documents including, but not limited to, master test forms, blank test forms, and blank New Jersey Driver Examination Certificates;
4. Does not possess vision testing equipment as required by N.J.A.C. 13:23-5.15(b);
5. Has failed to properly maintain and/or secure vision testing equipment;
6. Has failed to properly secure State-approved eye examination test results; or

7. For other good cause.

13:23-5.12 Examination administrators

(a) The licensee or a qualified supervising instructor or a licensed driving instructor in its employ shall be certified by the Commission as an examination administrator.

(b) An examination shall not be administered by any person unless such person has been certified by the Commission as an examination administrator.

(c) Certification shall be predicated upon a person's satisfactory demonstration of his or her ability to administer the State-approved written drivers' examination and/or the State-approved eye examination.

13:23-5.13 Audits

A driving school shall grant the Chief Administrator or his or her designee access to the examination records required to be maintained pursuant to N.J.A.C. 13:23-5.10 for auditing and shall, upon Commission request, furnish advance notice with regard to the dates, times, and locations of its administration of the State-approved written drivers' examination and/or the State-approved eye examination.

13:23-5.14 State-approved written drivers' examination; forms; document security

(a) The State-approved written drivers' examination shall be conducted in accordance with N.J.A.C. 13:21-8.6 as such rule is administered by the Commission at its driver testing facilities; provided, however, that driving schools shall administer the State-approved written drivers' examination on paper examination forms supplied by the Commission. The State-approved written drivers' examination shall be administered by a driving school at its principal place of business, branch office or classroom facility, or at a secondary school where the driving school teaches the classroom portion of a high school driver education program pursuant to N.J.A.C. 13:23-2.23(a).

(b) A driving school that administers the State-approved written drivers' examination shall secure all master test forms, all blank test forms, and all blank New Jersey Driver Examination Certificates in a locked safe that is secured by a combination lock.

13:23-5.15 State-approved eye examination; equipment

(a) The State-approved eye examination shall be conducted in accordance with N.J.A.C. 13:21-8.9 through 8.11 as such rules are administered by the Commission at its driver testing facilities. The State-approved eye examination shall be administered by a driving school at its principal place of business, branch office or classroom facility, or at a secondary school where the driving school teaches the classroom portion of a high school driver education program pursuant to N.J.A.C. 13:23-2.23(a).

(b) The State-approved eye examination shall be administered using vision testing equipment that comports with the vision testing equipment utilized by the Commission at its driver testing facilities.

13:23-5.16 Examination fees; disclosure to students

A driving school that imposes a fee(s) for the administration of the State-approved written drivers' examination and/or the State-approved eye examination shall, in accordance with N.J.A.C. 13:23-2.22, disclose to each student in writing the amount of such fee(s) prior to the administration of such examination(s). The driving school shall inform the student in writing that the student may choose to have such examinations administered by the Commission at a Commission driver testing facility at no cost to the student.

13:23-5.17 Investigations

(a) The Chief Administrator, or any person designated by him or her, shall have the power to investigate and gather evidence of violations of N.J.S.A. 39:12-1 et seq., or of any regulation adopted thereunder by a driving school.

(b) The Chief Administrator, or any person designated by him or her, shall have the power to conduct investigations, administer oaths, interrogate licensees, issue subpoenas, summonses and/or complaints and compel witnesses to appear at any hearing.

(c) Subpoenas shall be served in the same manner, and witnesses shall be entitled to the same fees, as in the case of subpoenas issued out of the Superior Court of New Jersey.

(d) In the case of a failure of any person to comply with any subpoena issued under this subchapter or to testify with respect to any matter concerning which he or she may be lawfully interrogated, the Superior Court, on application of the Chief Administrator, may be requested to issue an order requiring the attendance of such person and the giving of testimony or production of evidence. Any person failing to obey the order of the court may be punished by the court for contempt.

(e) In addition to the authority set forth in (a) above, New Jersey State Police officers and Division of Consumer Affairs investigators are hereby authorized to enforce the provisions of this subchapter.

13:23-5.18 Written notice of suspension or revocation or refusal to grant or renew license endorsement

(a) The Chief Administrator shall notify the applicant, in writing, of any refusal to renew a license endorsement(s) and the grounds thereof. Written notice shall be mailed to the applicant at the address listed on the application or to the place of business on record with the Commission.

(b) The Chief Administrator shall notify the licensee, in writing, of any proposed suspension or revocation of the license endorsement(s) and the grounds thereof. Written

notice shall be mailed to the place of business on record with the Commission. Unless the licensee files with the Chief Administrator a written request for a hearing in accordance with N.J.A.C. 13:23-5.19, the license endorsement(s) shall be suspended or revoked on the date specified in such notice.

13:23-5.19 Request for hearing

(a) If an applicant has been notified in accordance with N.J.A.C. 13:23-5.18(a) that the Chief Administrator refuses to renew a license endorsement, the applicant shall be entitled to an administrative hearing concerning such refusal provided that the applicant has filed and the Chief Administrator has received a written request for a hearing within 25 days. The 25-day period shall commence on the date such notice was mailed to the applicant by the Commission in accordance with N.J.A.C. 13:23-5.18(a).

(b) If a licensee has been notified in accordance with N.J.A.C. 13:23-5.18(b) of a proposed suspension or revocation of its license endorsement(s), the licensee shall be entitled to an administrative hearing concerning such proposed suspension or revocation provided that the licensee has filed and the Chief Administrator has received a written request for a hearing within 25 days. The 25-day period shall commence on the date such notice was mailed to the licensee by the Commission in accordance with N.J.A.C. 13:23-5.18(b).

(c) Any written request for a hearing by an applicant or licensee shall be sent to the Driving School Section of the Commission at the address specified in N.J.A.C. 13:23-5.5(a). The hearing request shall contain the following information:

1. The name, license number, place of business and telephone number of the driving school;
2. A concise statement of facts constituting each ground of defense;
3. A specific admission, denial or explanation of each fact alleged by the Commission in its notice or order to show cause, or if without knowledge thereof, a statement to that effect; any allegation in the Commission's notice or order to show cause that is not answered in accordance with this paragraph shall be deemed to have been admitted; and
4. A statement requesting a hearing.

(d) If the applicant or licensee does not file a written request for a hearing in accordance with (a), (b), or (c) above, the suspension, revocation or refusal to renew the license endorsement(s) shall be effective on the date specified in such notice. The licensee shall cease all examination administration effective on the date specified in such notice.

13:23-5.20 Hearing procedures

Any hearing concerning the suspension, revocation or refusal to renew a license endorsement shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

13:23-5.21 Limitation on issuance of license endorsement during suspension or revocation

A person whose license endorsement is suspended or revoked shall not be entitled to apply for a license endorsement pursuant to this subchapter during the period of suspension or revocation.

13:23-5.22 License endorsement restoration

(a) The fee specified in N.J.S.A. 39:3-10a shall be payable to the Commission for the restoration of a driving school license endorsement that is suspended or revoked pursuant to N.J.S.A. 39:12-1 et seq. or this subchapter. Such restoration fee shall be paid to the Commission before the license endorsement may be restored.

(b) Each suspension or revocation of any driving school license endorsement pursuant to N.J.S.A. 39:12-1 et seq. or any regulation adopted thereunder shall continue in force and effect until such license endorsement is restored by the Chief Administrator.

(c) In the case of every suspension or revocation of a driving school license endorsement for a fixed period of time, the licensee, as a condition precedent to restoration, shall make application to the Chief Administrator, in such form as the Chief Administrator may determine, and pay the restoration fee specified in (a) above. The Chief Administrator may, upon notice and an opportunity to be heard, deny any application for restoration of a driving school license endorsement for good cause.