

CHAPTER 11
CHARTER SCHOOLS

Authority

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

Source and Effective Date

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

Chapter Expiration Date

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

Chapter Historical Note

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

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

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

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

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

Subchapter 2, Application and Approval, Reporting, Renewal, Probation and Revocation, Appeal and Amendment Processes, was renamed Application and Approval; Reporting; Renewal; Probation and Revocation; Appeal; and Amendment Processes by R.2013 d.005, effective January 7, 2013. See: 44 N.J.R. 2151(a), 45 N.J.R. 26(a).

Subchapter 2, Application and Approval, Reporting, Renewal, Probation and Revocation, Appeal, and Amendment Processes, was renamed Application and Approval, Reporting, Renewal, Probation and Revocation, Appeal, Amendment, and Conversion Processes; and the Chapter Appendix was adopted as new rules by R.2013 d.077, effective May 6, 2013. See: 45 N.J.R. 10(a), 45 N.J.R. 1101(a).

Administrative correction. See: 45 N.J.R. 1103(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

6A:11-1.1 Purpose

(a) The purpose of this chapter is to provide the rules to govern the implementation of the Charter School Program Act, N.J.S.A. 18A:36A-1 et seq. The rules define the processes for: establishing and operating charter schools; complying with the School Ethics Act (N.J.S.A. 18A:12-21 et seq.); implementing programs; certifying classroom teachers, principals, and professional support staff; and applying streamline tenure for teaching staff members, janitors, and secretaries. The rules for conducting the financial operations of the charter schools are set forth in the fiscal accountability rules at N.J.A.C. 6A:23A-22.

(b) The rules set out the requirements for applying for a charter and operating a school when a charter is awarded by the Commissioner. In addition, the rules affect students who attend charter schools, the parents and legal guardians of the students, the district boards of education where the students reside, the district boards of education in which charter

schools are physically located, and the people who serve on the boards of trustees and on the staffs of charter schools.

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

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

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

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

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

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

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

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

In (a), rewrote the last sentence.

Amended by R.2013 d.005, effective January 7, 2013.

See: 44 N.J.R. 2151(a), 45 N.J.R. 26(a).

Rewrote the section.

6A:11-1.2 Definitions

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

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

1. Holds a position that requires a certificate authorizing the holder to serve as school administrator, principal, or school business administrator;
2. Holds a position that requires a certificate authorizing the holder to serve as supervisor who is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services of a charter school; or
3. Holds a position that does not require the person to hold any type of certificate but is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services by a charter school.

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

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

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

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

"Certification" means the endorsement of a person who is employed by a district board of education or a charter school board of trustees to perform duties that are regulated by N.J.A.C. 6A:9 and 6A:23A-22, and N.J.S.A. 18A:26-2.

"Charter agreement" means a written agreement between a charter school and the Commissioner that sets forth criteria the charter school shall be expected to satisfy, including, but not limited to, measurable performance goals and indicators in the charter school's Performance Framework.

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

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

"Demonstrable experience" means a record of success in engendering student growth and improving the academic performance of at-risk, English language learner, and special education students; and evidence of financial stability.

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

"Educator evaluation system" means a system by which a charter school measures the effectiveness of an educator through a measurement of student learning growth and educator practice.

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

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

"Failing school district" means a school district identified by the Department as a "district in need of improvement" in the 2010-2011 school year pursuant to the provisions of the No Child Left Behind Act of 2001, Pub. L. 107-110, as identified in the chapter Appendix, incorporated herein by reference, or that has been identified as a "Priority" or "Focus" school (see N.J.A.C. 6A:33-1.2).

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

Commissioner's Decision (March 15, 2007), aff'd, SB No. 10-07, 2007 N.J. AGEN LEXIS 887 (N.J. State Bd. of Educ. August 1, 2007), aff'd per curiam, 2008 N.J. Super. LEXIS 129 (App.Div. 2008).

6A:11-4.9 Home instruction for students

A charter school shall provide home instruction due to temporary illness or injury for an enrolled student in accordance with N.J.A.C. 6A:16-10.1.

New Rule, R.2000 d.403, effective October 2, 2000.
 See: 32 N.J.R. 2523(a), 32 N.J.R. 3560(a).
 Amended by R.2007 d.183, effective June 4, 2007.
 See: 39 N.J.R. 289(a), 39 N.J.R. 2242(a).
 Updated the N.J.A.C. reference.

6A:11-4.10 Pupil transportation

In accordance with N.J.S.A. 18A:36A-13 and N.J.A.C. 6A:27-3.1, a district board of education shall provide transportation or aid in lieu of transportation to a student in kindergarten through grade 12 who attends a charter school.

New Rule, R.2000 d.403, effective October 2, 2000.
 See: 32 N.J.R. 2523(a), 32 N.J.R. 3560(a).
 Amended by R.2007 d.183, effective June 4, 2007.
 See: 39 N.J.R. 289(a), 39 N.J.R. 2242(a).
 Updated the N.J.A.C. reference.

6A:11-4.11 Board of trustees and Open Public Meetings Act

(a) A charter school shall constitute its board of trustees no later than April 15 of the year in which its application is approved.

(b) The board of trustees of a charter school shall operate in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.

(c) The board of trustees shall send a copy of all meeting notices and meeting minutes to the respective executive county superintendent of schools.

(d) The board of trustees shall include a report on changes in student enrollment in the monthly minutes.

New Rule, R.2000 d.403, effective October 2, 2000.
 See: 32 N.J.R. 2523(a), 32 N.J.R. 3560(a).
 Amended by R.2004 d.322, effective August 16, 2004.
 See: 36 N.J.R. 1313(a), 36 N.J.R. 3895(a).
 Added (d).
 Amended by R.2013 d.005, effective January 7, 2013.
 See: 44 N.J.R. 2151(a), 45 N.J.R. 26(a).
 In (c), inserted "executive".

6A:11-4.12 Equity in education

A charter school shall comply with all applicable laws and regulations governing equity in education including, but not limited to: N.J.S.A. 18A:36-20; N.J.S.A. 10:5-1 et seq.; N.J.A.C. 6A:7, Managing for Equality and Equity in Education; Titles VI and VII of the Civil Rights Act of 1964 at 42 U.S.C. §§2000d et seq. and 2000e et seq., respectively; Title IX of the Education Amendments of 1972 at 20 U.S.C. §§1681 et seq.; Section 504 of the Rehabilitation Act of 1973

at 29 U.S.C. §792; the Americans with Disabilities Act of 1990 at 42 U.S.C. §§12101 et seq.; and the Individuals with Disabilities Education Act of 2004 at 20 U.S.C. §§1400 et seq., and 34 C.F.R. 300 et seq.

New Rule, R.2000 d.403, effective October 2, 2000.
 See: 32 N.J.R. 2523(a), 32 N.J.R. 3560(a).
 Amended by R.2002 d.358, effective November 4, 2002.
 See: 34 N.J.R. 2920(a), 34 N.J.R. 3806(a).
 Deleted (b); changed existing (a) to be an uncodified paragraph.
 Recodified from N.J.A.C. 6A:11-4.13 by R.2004 d.322, effective August 16, 2004.
 See: 36 N.J.R. 1313(a), 36 N.J.R. 3895(a).
 Former N.J.A.C. 6A:11-4.12, Public school contracts law, recodified to N.J.A.C. 6A:23-9.7.
 Amended by R.2007 d.183, effective June 4, 2007.
 See: 39 N.J.R. 289(a), 39 N.J.R. 2242(a).
 Updated the N.J.A.C. reference.

Amended by R.2013 d.005, effective January 7, 2013.
 See: 44 N.J.R. 2151(a), 45 N.J.R. 26(a).

Substituted a semicolon for a comma following "18A:36-20", "10:5-1 et seq.", "respectively", "§§1681 et seq.", "§792" and "§§12101 et seq.", inserted "Managing for Equality and Equity in Education;" and substituted "2004" for "1997".

6A:11-4.13 Financial operations of a charter school

A charter school shall be subject to the provisions of N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency and Budgeting Procedures.

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

See: 32 N.J.R. 2523(a), 32 N.J.R. 3560(a).
 Amended by R.2002 d.358, effective November 4, 2002.
 See: 34 N.J.R. 2920(a), 34 N.J.R. 3806(a).

Deleted (b); changed existing (a) to be an uncodified paragraph.
 Recodified from N.J.A.C. 6A:11-4.14 and amended by R.2004 d.322, effective August 16, 2004.

See: 36 N.J.R. 1313(a), 36 N.J.R. 3895(a).
 Former N.J.A.C. 6A:11-4.13, Equity in education, recodified to N.J.A.C. 6A:11-4.12.

Amended by R.2013 d.005, effective January 7, 2013.
 See: 44 N.J.R. 2151(a), 45 N.J.R. 26(a).

Substituted "N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency and Budgeting Procedures" for "the finance and business services rules, N.J.A.C. 6A:23".

6A:11-4.14 Charter school operations

(a) A charter school shall operate in accordance with its charter and the provisions of law and regulation that govern other public schools.

(b) The board of trustees of a charter school may request that the Commissioner exempt the school from State regulations concerning public schools, except those pertaining to assessment, testing, civil rights, and student health and safety, if the board of trustees satisfactorily demonstrates to the Commissioner that the exemption will advance the educational goals and objectives of the school.

New Rule, R.2002 d.358, effective November 4, 2002.
 See: 34 N.J.R. 2920(a), 34 N.J.R. 3806(a).
 Recodified to N.J.A.C. 6A:11-4.13 by R.2004 d.322, effective August 16, 2004.

See: 36 N.J.R. 1313(a), 36 N.J.R. 3895(a).
 Section was "Finance and business services rules".
 New Rule, R.2013 d.005, effective January 7, 2013.
 See: 44 N.J.R. 2151(a), 45 N.J.R. 26(a).

SUBCHAPTER 5. CERTIFICATION REQUIREMENTS FOR STAFF

6A:11-5.1 Certification

(a) All classroom teachers, principals and professional support staff employed by the board of trustees of a charter school shall hold appropriate New Jersey certification in accordance with N.J.A.C. 6A:9-5.1.

(b) The board of trustees of a charter school shall employ or contract with:

1. A lead person or another person who holds a New Jersey standard school administrator or supervisor certificate or a New Jersey standard or provisional principal certificate in accordance with N.J.A.C. 6A:9-8.6 to direct and guide the work of instructional personnel including, but not limited to, the supervision and evaluation of staff and the development and implementation of curriculum; and

2. A person who holds a New Jersey standard or provisional school business administrator certificate in accordance with N.J.A.C. 6A:9-12.7 and 6A:23A to oversee fiscal operations of the charter school.

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

Rewrote section.

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

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

Rewrote (b) as (b) and (b)1; added (b)2.

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

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

In (b)2, amended the N.J.A.C. reference.

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

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

In (a) and (b)1, updated the N.J.A.C. references; and in (b)2, updated the first N.J.A.C. reference.

Amended by R.2013 d.005, effective January 7, 2013.

See: 44 N.J.R. 2151(a), 45 N.J.R. 26(a).

In (b)2, updated the N.J.A.C. reference.

SUBCHAPTER 6. STREAMLINE TENURE

6A:11-6.1 Tenure acquisition

An employee of a charter school shall acquire streamline tenure pursuant to guidelines developed by the Commissioner. The charter school shall specify the security and protection to be afforded to the employee in accordance with the Commissioner's guidelines.

Repeal and New Rule, R.2013 d.005, effective January 7, 2013.

See: 44 N.J.R. 2151(a), 45 N.J.R. 26(a).

Section was "Tenure acquisition".

Case Notes

Contrary to the conclusion of the ALJ, the provisions of the Family and Medical Leave Act (FMLA) should not have been read as an ab-

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

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

Initial Decision (2008 N.J. AGEN 639) adopted, which determined that N.J.S.A. 18A:26-10 and N.J.S.A. 18A:28-8 are applicable to teaching staff members of charter schools despite the fact that different tenure statute and rules apply to charter school teachers. In re Suspension of Teaching Certificate of Raghunandan, OAL Dkt. No. EDU 11437-07, EDU 11556-07, EDU 11745-07, EDU 11956-07, EDU 11971-07, EDU 11972-07 and EDU 12569-07 (Consolidated), 2008 N.J. AGEN LEXIS 723, Interlocutory Review Decision (July 9, 2008).

6A:11-6.2 (Reserved)

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

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

Substituted "charge(s)" for "charges" throughout.

Repealed by R.2013 d.005, effective January 7, 2013.

See: 44 N.J.R. 2151(a), 45 N.J.R. 26(a).

Section was "Filing of and response to tenure charges".

6A:11-6.3 (Reserved)

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

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

In (a), substituted "charge(s)" for "charges".

Repealed by R.2013 d.005, effective January 7, 2013.

See: 44 N.J.R. 2151(a), 45 N.J.R. 26(a).

Section was "Arbitration".

SUBCHAPTER 7. (RESERVED)

Subchapter Historical Note

Subchapter 7, Financial Operations, was recodified as 6A:23-9.4, 6A:23-9.5 and 6A:23-9.6, by R.2004 d.322, effective August 16, 2004.
See: 36 N.J.R. 1313(a), 36 N.J.R. 3895(a).

SUBCHAPTER 8. (RESERVED)

APPENDIX

<u>COUNTY</u>	<u>DISTRICT</u>	<u>COUNTY</u>	<u>DISTRICT</u>
Atlantic	Greater Egg Harbor Regional	Mercer	Hamilton Township
Atlantic	Hamilton Township	Mercer	Trenton
Atlantic	Mainland Regional	Middlesex	Middlesex County Vocational and Technical School
Atlantic	Somers Point	Middlesex	New Brunswick
Bergen	Ramapo Indian Hills Regional	Monmouth	Asbury Park
Burlington	Burlington City	Monmouth	Freehold Borough
Burlington	Burlington County Institute of Technology	Monmouth	Freehold Regional
Burlington	Lenape Regional	Monmouth	Long Branch
Burlington	Mount Laurel Township	Monmouth	Monmouth Regional
Burlington	Rancocas Valley Regional	Monmouth	Red Bank Regional
Camden	Black Horse Pike Regional	Monmouth	Shore Regional
Camden	Camden City	Ocean	Lakewood Township
Camden	Camden County Technical School	Ocean	Pinelands Regional
Camden	Eastern Camden County Regional	Passaic	Clifton
Camden	Mount Ephraim Borough	Passaic	Lakeland Regional
Camden	Sterling High School	Passaic	Passaic City
Camden	Winslow Township	Passaic	Passaic Valley Regional
Cumberland	Cumberland Regional	Passaic	Passaic County Vocational
Cumberland	Fairfield Township	Passaic	Paterson
Cumberland	Millville	Salem	Penns Grove-Carneys Point Regional
Essex	Essex County Vocational Technical School	Salem	Salem City
Essex	Irvington Township	Sussex	Sussex County Technical School
Essex	Newark	Union	Elizabeth
Essex	City of Orange Township	Union	Linden
Hudson	Jersey City	Union	Roselle Borough
Hudson	West New York	Union	Union Township
Hunterdon	Hunterdon Central Regional	Charter	East Orange Community Charter School
Mercer	Ewing Township	Charter	Lady Liberty Academy Charter School
		Charter	University Academy Charter School

New Rule, R.2013 d.077, effective May 6, 2013.
 See: 45 N.J.R. 10(a), 45 N.J.R. 1101(a).