

CHAPTER 11

CHARTER SCHOOLS

Authority

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

Source and Effective Date

R.1997 d.322, effective August 4, 1997.
See: 29 N.J.R. 1585(a), 29 N.J.R.3492(a).

Executive Order No. 66(1978) Expiration Date

Chapter 11, Charter Schools, expires on August 4, 2002.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 6A:11-1.1 Purpose
- 6A:11-1.2 Definitions

SUBCHAPTER 2. APPLICATION AND APPROVAL, REPORTING, RENEWAL, PROBATION AND REVOCATION, APPEAL AND AMENDMENT PROCESSES

- 6A:11-2.1 Application and approval process
- 6A:11-2.2 Reporting
- 6A:11-2.3 Renewal of charter
- 6A:11-2.4 Probation and revocation of charter
- 6A:11-2.5 Charter appeal process
- 6A:11-2.6 Amendment to charter

SUBCHAPTER 3. SCHOOL ETHICS ACT

- 6A:11-3.1 Board of trustees and administrators

SUBCHAPTER 4. TRANSPORTATION

- 6A:11-4.1 General requirements
- 6A:11-4.2 Transportation of resident students
- 6A:11-4.3 Transportation of non-resident students

SUBCHAPTER 5. CERTIFICATION REQUIREMENTS FOR STAFF

- 6A:11-5.1 Certification

SUBCHAPTER 6. STREAMLINE TENURE

- 6A:11-6.1 Tenure acquisition
- 6A:11-6.2 Filing of and response to tenure charges
- 6A:11-6.3 Arbitration

SUBCHAPTER 7. FINANCIAL OPERATIONS

- 6A:11-7.1 Per pupil calculations, notification and caps
- 6A:11-7.2 Enrollment counts, payment process and aid adjustments
- 6A:11-7.3 Financial requirements

SUBCHAPTER 8. PROGRAM IMPLEMENTATION

- 6A:11-8.1 Local education agency
- 6A:11-8.2 Pupil records

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. The rules define the processes for establishing and operating charter schools; transporting students; complying with the School Ethics Act (N.J.S.A. 18A:12-21 et seq.); certifying classroom teachers, principals and professional support staff; applying streamline tenure for teaching staff members, janitors and secretaries; and conducting the financial operations of the charter schools.

(b) The new rules set out the requirements for applying for a charter and operating a school when a charter is awarded by the Commissioner of Education. In addition, these rules affect students who attend the charter schools, the parents and legal guardians of these students, the district boards of education where these students reside, the district boards of education in which the charter schools are physically located and the people who will serve on the boards of trustees and on the staffs of the charter schools.

6A:11-1.2 Definitions

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

“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 Schools Application* which includes, but is not limited to, a description of the areas listed in N.J.S.A. 18A:36A-5 and N.J.A.C. 6A:11-2.1(b).

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

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

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

“Categorical aid attributable to the student” means special education aid, bilingual aid, early childhood program

aid, demonstrably effective program aid, instructional supplement aid and distance learning network aid.

“Certification” means the endorsement of a person who is employed by a district board of education or a charter school to perform duties that are regulated by N.J.A.C. 6:11 and N.J.S.A. 18A:26-2.

“Charter school rate” means a presumptive amount equal to 90 percent of the “local levy budget per pupil for the specific grade level” unless the Commissioner approves a percentage other than the presumptive 90 percent and which cannot exceed 100 percent of the “local levy budget per pupil for the specific grade level.”

“District of residence” means the district board of education in which a charter school facility is physically located; if a charter school is approved with a “region of residence” of contiguous district boards of education, that region shall be the charter school’s “district of residence.”

“Eligible applicant” means teaching staff members, parents of children attending the schools of the district board(s) of education, a combination of teaching staff members and parents, or an institution of higher education or a private entity located within the State in conjunction with teaching staff members and parents of children attending the schools of the district board(s) of education.

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

“GAAP” means the generally accepted accounting principles established by the Governmental Accounting Standards Board as prescribed by the State Board of Education pursuant to N.J.S.A. 18A:4-14 and N.J.A.C. 6:20-2A.

“Lead person” means the person(s) who perform(s) the organizational tasks necessary for the operation of a charter school; and where a group of individuals shares these organizational tasks, the person designated as responsible for completion of the tasks required by these rules is the lead person.

“Local levy budget per pupil for the specific grade level” starting with the 1998-99 school year means the “program budget per pupil.” For the 1997-98 school year, “local levy budget per pupil for the specific grade level” means the lower of either the “program budget per pupil” or the T&E amount plus the T&E flexible amount (maximum T&E amount) weighted for kindergarten, elementary (grades 1 through 5), middle school (grades 6 through 8) and high school (grades 9 through 12) respectively as set forth in N.J.S.A. 18A:7F-12 for the applicable budget year. “Local levy budget per pupil for the specific grade level” is based on the prebudget year of the district of residence and non-resident district(s).

“Non-resident district” means a district board of education outside the district of residence of the charter school.

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

“One-way mileage” from the student’s home to the charter school means the shortest route along public roadways and/or public walkways from the entrance of the student’s residence nearest such public roadway or public walkway to the nearest public entrance of the charter school as set forth in N.J.A.C. 6:21-1.3(b).

“Panel of six permanent arbitrators” means the group which shall hear all streamline tenure cases. Three arbitrators shall be chosen by the New Jersey Education Association (NJEA) and three by the New Jersey School Boards Association (NJSBA). All arbitrators shall be from either the permanent panel of arbitrators of the American Arbitrators Association or the permanent panel of arbitrators of the Public Employees Relation Commission (PERC).

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

“Program budget” based on the prebudget year means the sum inflated by the CPI rate published most recent to the budget calculation of (1) core curriculum standards aid, (2) supplemental core curriculum standards aid, (3) stabilization aid (including supplemental stabilization aid and supplemental school tax reduction aid), (4) designated general fund balance, (5) miscellaneous local general fund revenue and (6) the district’s general fund tax levy. For the 1997-98 school year, “program budget” based on the prebudget year means the local levy budget (foundation aid, transition aid and local tax levy) in the district of residence and non-resident district’s 1996-97 original approved budget inflated by three percent.

“Program budget per pupil” means the apportionment among the district of residence and non-resident district’s October 15 weighted resident enrollment consistent with N.J.S.A. 18A:7F-12 by grade category and then divided by the same districts’ resident enrollment by grade as of October 15. For the 1997-98 school year, the program budget is apportioned among the district’s October 15, 1996 weighted resident enrollment consistent with N.J.S.A. 18A:7F-12 by grade category which is then divided by the district’s resident enrollment by grade as of October 15, 1996.

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

“Region of residence” means contiguous district boards of education in which a charter school operates and shall be the charter school’s “district of residence.”

(b) The board of trustees of a charter school shall make the annual report available to the parents or guardians of the students enrolled in the charter school.

(c) The district board(s) of education or superintendent(s) of the State-operated school district(s) of the district of residence of a charter school may submit comments regarding the annual report of the charter school to the Commissioner by October 1.

6A:11-2.3 Renewal of charter

(a) The Commissioner may grant a renewal of a charter following the initial four-year charter. The renewal shall be:

1. Based upon the comprehensive review of the school by the Commissioner including, but not limited to, the reviews of a charter school's annual reports, comments on the annual reports from the district board(s) of education or superintendent(s) of the State-operated school district(s) of the district of residence of the charter school and monitoring of the charter school by the county superintendent.
2. For a period of five years.

6A:11-2.4 Probation and revocation of charter

(a) The Commissioner may place a charter school on probationary status for a period of 90 days to allow the implementation of a remedial plan upon a finding that the charter school is not operating in compliance with its charter, statutes or regulations.

1. The Commissioner shall determine the date on which the probationary status will begin and notify the charter school of such date.
2. The charter school must submit a remedial plan to the Commissioner within 15 days from the receipt of the notice of probationary status.
3. The charter school must provide the specific steps that it shall undertake to resolve the condition(s) not fulfilled and/or the violation(s) of its charter.
4. The Commissioner may remove the probationary status of a charter school if the remedial plan is implemented and the causes for the probationary status are corrected.
5. The Commissioner may grant an extension to the probationary status where warranted and extend the probationary period for an additional 90 days if the charter school has implemented its remedial plan but needs additional time to complete the implementation of its corrections.

(b) The Commissioner may revoke a school's charter following review by the Department of Education for one or more of the following reasons:

1. Any condition imposed by the Commissioner in connection with the granting of the charter which has not been fulfilled by the school; or
2. Violation of any provision of its charter by the school.
3. Failure of the remedial plan to correct the conditions which caused the probationary status.

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

6A:11-2.5 Charter appeal process

(a) In accordance with N.J.S.A. 18A:6-9, an appeal may be filed by an eligible applicant for a charter school, a charter school or a district board of education or superintendent of a State-operated school district of the district of residence of a charter school with the State Board of Education according to N.J.A.C. 6:2-1.3 within 30 days from the receipt of a letter from the Commissioner regarding either the approval or final granting or denial of a charter. Notice of appeal must be filed with the Office of the State Board Appeals and the Commissioner.

(b) Within five days of receipt of the notice of appeal, the Commissioner shall transmit the record which consists of all documents, correspondence and evaluations and which constitutes the record of appeal to the State Board of Education.

(c) In accordance with N.J.S.A. 18A:36A-4(d), the State Board of Education shall render a decision within 30 days of the receipt of an appeal regarding the approval, final granting or denial of a charter school application. If the State Board does not render a decision within 30 days, the decision of the Commissioner shall be deemed final.

(d) The Commissioner shall be entitled to participate in any appeal filed with the State Board of Education.

6A:11-2.6 Amendment to charter

(a) A charter school may apply to the Commissioner for an amendment to the charter.

1. The board of trustees of a charter school shall submit in the form of a board resolution the amendment request to the Commissioner and the district board(s) of education or superintendent(s) of the State-operated school district(s) of the district of residence of a charter school.
2. The amendment shall not change the mission, goals and objectives of a charter school.

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

(c) The district board(s) of education or superintendent(s) of the State-operated school district(s) of the district of residence of a charter school may submit comments regarding the amendment request to the Commissioner within 21 days of receipt of the resolution of the board of trustees.

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

Amended by R.1998 d.292, effective June 1, 1998.

See: 30 N.J.R. 588(a), 30 N.J.R. 2084(a).

Rewrote (a) and (c); and in (d), removed a August 25th deadline for notification of decisions by the Commissioner.

SUBCHAPTER 3. SCHOOL ETHICS ACT

6A:11-3.1 Board of trustees and administrators

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

(b) Any employee who is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services by a charter school shall be an administrator as defined in the School Ethics Act (N.J.S.A. 18A:12-23) and the rules promulgated pursuant thereto at N.J.A.C. 6A:28.

Amended by R.2000 d.139, effective April 3, 2000.

See: 31 N.J.R. 4166(a), 32 N.J.R. 1189(a).

In (a) and (b), changed N.J.A.C. references; and deleted a former (c).

SUBCHAPTER 4. TRANSPORTATION

6A:11-4.1 General requirements

(a) A district board of education shall have the following responsibilities for transportation:

1. Transportation or aid in lieu of transportation shall be provided pursuant to N.J.S.A. 18A:39-1 et seq. to students in kindergarten through grade eight who live more than two miles and to students in grades nine through 12 who live more than two and one-half miles from the charter school that they attend. Transportation shall not be required for students attending a school other than a public school when the only transportation provided by districts in which the students reside is for school children transported pursuant to N.J.S.A. 18A:46-1 et seq. or for students transported to a vocational, technical or other public school offering a specialized program. A charter school shall be considered a public school offering a specialized program.

2. The transportation of students to and from a charter school shall be the responsibility of the district board of education of the school district in which each student resides.

3. The district board of education shall provide transportation in accordance with the charter school calendar.

4. By August 1, the district board of education of the school district in which each student resides shall notify the parents or legal guardians and the lead person of the charter school regarding the determination of the request for transportation services.

(b) A charter school shall have the following responsibilities for transportation:

1. The lead person of the charter school shall notify each student's district board of education, in writing, of the need for transportation at the time of each student's registration in the charter school or by May 15 preceding the school year in which transportation services are to be provided, whichever is later. This notification shall include the student's name, address, grade, one-way mileage from the student's home to the charter school and the name of the last school of attendance if any.

2. The lead person of the charter school shall submit the school calendar to the district board(s) of education responsible for providing transportation services by May 15 preceding the school year in which transportation is being requested.

3. Between January 1 and January 10 and between May 1 and May 10 of each year, the lead person of the charter school shall certify, on forms prescribed by the Commissioner, the students that were enrolled for the first half and second half of the academic year respectively. The certification forms shall be returned to each student's district board of education by January 15 certifying the student's attendance for the first half of the academic year and by May 15 certifying the student's attendance for the second half of the academic year.

Amended by R.1998 d.292, effective June 1, 1998.

See: 30 N.J.R. 588(a), 30 N.J.R. 2084(a).

Rewrote (a)1.

6A:11-4.2 Transportation of resident students

The transportation of students to and from a charter school who reside in the district of residence in which the charter school is located shall be provided on the same terms and conditions as transportation is provided to students attending the schools of the district board(s) of education.

6A:11-4.3 Transportation of non-resident students

(a) The district board of education of the school district in which each student resides shall provide transportation of students to and from a charter school who reside outside the district of residence in which the charter school is located within an annual maximum statutorily established amount per student expenditure in accordance with N.J.S.A. 18A:39-1 to be made in two installments.