

1. If such transportation will exceed this maximum allowable expenditure, then the parents or legal guardians of each student may choose to pay the amount over the annual maximum statutorily established amount with the district board of education in which the student resides being required to provide transportation or the parents or legal guardians of each student shall be entitled to the annual maximum statutorily established amount as aid in lieu of transportation. The parents or legal guardians of each student shall notify in writing their district board of education of their choice of paying the additional amount or of receiving aid in lieu of transportation.

2. Once the parents or legal guardians of each student have notified their district board of education that they agree to pay the amount over the annual maximum statutorily established amount, the parents or legal guardians are no longer entitled to receive aid in lieu of transportation for that school year.

3. The payment of aid in lieu of transportation may be adjusted for late registration or early withdrawal.

4. The district board of education of the school district in which each student resides shall pay aid in lieu of transportation for each half of the academic year after the certification form verifying attendance is submitted by the lead person of the charter school and the voucher for payment, supplied to the parents or legal guardians by each student's district board of education, is properly completed and returned to each student's district board of education. A district board of education shall not be required to pay aid in lieu of transportation when it receives the voucher for payment after the close of the fiscal year.

SUBCHAPTER 5. CERTIFICATION REQUIREMENTS FOR STAFF

6A:11-5.1 Certification

(a) All classroom teachers, principals and professional support staff employed by a charter school must hold appropriate New Jersey certification in accordance with N.J.A.C. 6:11-3.1.

(b) A charter school may request alteration in the "alternate route" certification program for novice teachers provided a candidate is eligible to receive a "Certificate of Eligibility" pursuant to N.J.A.C. 6:11-5.1(a) and (b).

SUBCHAPTER 6. STREAMLINE TENURE

6A:11-6.1 Tenure acquisition

All teaching staff members, janitors and secretaries shall acquire streamline tenure in a charter school after three

consecutive academic years, together with employment at the beginning of the next succeeding academic year, in accordance with the tenure acquisition criteria as set forth in N.J.S.A. 18A:28-5(b), 18A:28-6 and 18A:17-2(b)2.

6A:11-6.2 Filing of and response to tenure charges

(a) Once streamline tenure is acquired, an employee of a charter school shall not be dismissed or receive reduced compensation except for inefficiency, incapacity, conduct unbecoming or other just cause.

(b) In all instances of the filing and certification of streamline-tenure charges, except inefficiency, the following procedures and timelines shall be observed:

1. The lead person of the charter school shall file written charges, executed under oath, accompanied by a supporting statement of evidence with the board of trustees.

2. The board of trustees shall transmit the charges to the affected streamline-tenured employee within three work days of the date that they were filed with the board of trustees. Proof of mailing or hand delivery shall constitute proof of transmittal.

3. The affected tenured employee shall have the opportunity to respond to the charge(s) in a written statement of position and a written statement of evidence, both of which shall be executed under oath and submitted to the board of trustees within 15 days of receipt of the streamline-tenure charges.

4. Upon receipt of the affected employee's response, the board of trustees shall determine within 30 days whether there is probable cause to credit the evidence in support of the charge(s) and whether such charge(s), if credited, are sufficient to warrant a dismissal or reduction of compensation.

5. The board of trustees must notify, in writing, the affected employee of its determination within 15 days. Proof of mailing or hand delivery shall constitute proof of notice.

6. If the board of trustees determines that there is probable cause to credit the charge(s), the board of trustees shall certify the charge(s) to the Commissioner.

7. If the affected employee wishes to contest the certified charges filed against him or her, he or she shall do so in writing to the Commissioner within 15 days of receipt of the board of trustees' determination.

(c) In instances of the filing and certification of streamline-tenure charges for inefficiency, the following procedures and timelines shall be observed:

1. The lead person of the charter school shall file written charges, executed under oath, accompanied by a supporting statement of evidence with the board of trustees.

2. The board of trustees shall transmit the charges to the affected streamline-tenured employee within three work days of the date that they were filed with the board of trustees. Proof of mailing or hand delivery shall constitute proof of transmittal.

3. Upon completion of the 90-day corrective action period, the lead person of the charter school shall notify the board of trustees in writing whether the inefficiencies were corrected.

4. The board of trustees shall transmit the notification to the affected streamline-tenured employee within three work days of the date that it was noticed. Proof of mailing or hand delivery shall constitute proof of transmittal.

5. The affected tenured employee shall have the opportunity to respond to the charge(s) in a written statement of position and a written statement of evidence, both of which shall be executed under oath and submitted to the board of trustees within 15 days of receipt of the inefficiency charges.

6. Upon receipt of the affected employee's response, the board of trustees shall determine within 30 days whether there is probable cause to credit the evidence in support of the charge(s) and whether such charge(s), if credited, are sufficient to warrant a dismissal or reduction of compensation.

7. The board of trustees must notify, in writing, the affected employee of its determination within 15 days. Proof of mailing or hand delivery shall constitute proof of notice.

8. If the board of trustees determines that there is probable cause to credit the charge(s), the board of trustees shall certify the charge(s) to the Commissioner.

9. If the affected employee wishes to contest the certified charges filed against him or her, he or she shall do so in writing to the Commissioner within 15 days of receipt of the board of trustees' determination.

6A:11-6.3 Arbitration

(a) If the streamline tenured employee contests the charges, an arbitrator from a panel of six permanent arbitrators shall be assigned by the Commissioner to determine the case. All employees who acquire streamline tenure in a charter school shall be subject to dismissal or a reduction in compensation only upon the determination of an arbitrator.

1. Arbitrators on the panel shall be listed in alphabetical order and assigned to hear streamline tenure cases on a rotating basis in the order that cases are filed with the Commissioner's office.

2. The hearing shall be held before the arbitrator within 30 days of the Commissioner's assignment of the arbitrator to the case.

3. All necessary discovery procedures shall be completed 15 days prior to the hearing. At least 10 days prior to the hearing, information and witness lists shall be exchanged between the parties.

4. The arbitrator shall render a decision within 20 days of the closing of the hearing.

(b) The decision of the arbitrator is final and binding and cannot be appealed to either the Commissioner or the State Board of Education. Said decision shall be subject to judicial review and enforcement as provided pursuant to N.J.S.A. 2A:24-7 through 24-10.

(c) The board of trustees of the charter school shall forward arbitration decisions to the State Board of Examiners.

SUBCHAPTER 7. FINANCIAL OPERATIONS

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

(a) The Commissioner shall prepare a report no later than February 15 of the prebudget year for the district of residence and non-resident district(s) of an approved charter school establishing a "local levy budget per pupil for the specific grade level" at the charter school rate along with the local and State shares, categorical aids per student and any Federal funds attributable to the students based on projected enrollments to be used by the district of residence and non-resident district(s) for budget purposes for the subsequent year. The established "local levy budget per pupil for the specific grade level" will not be adjusted. The number of students enrolled in the charter school will be adjusted based on average daily enrollment for aid purposes throughout the school year in accordance with the prescribed adjustments listed in N.J.A.C. 6A:11-7.2.

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

1. For the 1997-98 school year, the "local share per pupil for the specific grade level" shall be that part of the "local levy budget per pupil for the specific grade level" which is supported by the general fund tax levy of the district of residence's or non-resident district's budget. In the following years, the "local share per pupil for the specific grade level" shall be that part of the "local levy budget per pupil for the specific grade level" which is supported by the following elements of the district of residence's or non-resident district's budget:

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

2. For the 1997-98 school year only, the general fund tax levy shall be determined as follows: If the "local levy budget per pupil for the specific grade level" is the program budget, then the local share per pupil for the specific grade level at the charter school rate shall be that part of the program budget which is supported by the general fund tax levy. If the "local levy budget per pupil for the specific grade level" is the maximum T&E amount, then the local share per pupil for the specific grade level at the charter school rate shall be that part of the maximum T&E amount which is the portion of the general fund tax levy which supports the district of residence's or non-resident district's maximum T&E amount.

3. For the 1997-98 school year, the "State share per pupil for the specific grade level" shall be that part of the "local levy budget per pupil for the specific grade level" which is supported by the following elements of the district of residence's or non-resident district(s) budget(s): foundation aid and transition aid.

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

- i. Core curriculum standards aid;
- ii. Supplemental core curriculum standards aid; and
- iii. Stabilization aid (including supplemental stabilization aid and supplemental school tax reduction aid).

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

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

1. For the first school year, the average will be based on a projected charter school student population that reflects the relative school population of all the district boards of education in the district of residence.

2. In subsequent years, the average will be based on the actual charter school student enrollment of the prebudget year from all the district boards of education in the district of residence.

(e) A charter school can petition the Commissioner in its *New Jersey Charter Schools Application* for year one of its charter or no later than February 19 of the prebudget year for subsequent years of its charter for a charter school rate greater than the 90 percent presumptive amount or the rate as previously approved by the Commissioner. A charter

school must justify a budget above the presumptive 90 percent by providing a separate accounting and narrative in support of a higher rate and notify the district of residence and/or non-resident district(s). A copy of the petition and justification must be sent to all the district boards of education comprising the region of residence.

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

Amended by R.1998 d.292, effective June 1, 1998.
See: 30 N.J.R. 588(a), 30 N.J.R. 2084(a).

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

Petition for Rulemaking.
See: 31 N.J.R. 2006(a).

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

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

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

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

- 1. Special education aid;
- 2. Bilingual aid;
- 3. Instructional supplement aid; and
- 4. Distance learning network aid.

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

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

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

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

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

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

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

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

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

i. This document listing all enrolled students must be forwarded by the charter school to the district of residence and non-resident district(s) by June 5.

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

iii. The charter school shall transmit to the Commissioner no later than June 18 all enrollment data along with identified categorical aid supplied by the district of residence and non-resident district(s).

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

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

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

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

ii. Categorical aid as defined in 6A:11-1.2; and

iii. Any Federal aid attributable to the student.

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

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

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

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

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

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

6A:11-7.3 Financial requirements

(a) The charter school shall comply with generally accepted accounting principles in accordance with N.J.S.A. 18A:4-14 and N.J.A.C. 6:20-2A.

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

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

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

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

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

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

(f) If, at any time, the Commissioner revokes a school's charter or a charter school becomes insolvent, all assets of the charter school after satisfaction of all outstanding claims by creditors will be distributed equitably by the Commissioner among the participating district of residence and non-resident district(s). A charter school shall include a provision in its bylaws concerning distribution of assets upon revocation or insolvency that is consistent with this rule.

SUBCHAPTER 8. PROGRAM IMPLEMENTATION

Authority

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

Source and Effective Date

R.1998 d.292, effective June 1, 1998.
See: 30 N.J.R. 588(a), 30 N.J.R. 2084(a).

6A:11-8.1 Local education agency

A charter school shall be a local education agency only for the purpose of applying for Federal entitlement and discretionary funds.

6A:11-8.2 Pupil records

Pupil records of a student enrolling in a charter school shall be forwarded from a district board of education or superintendent of a State-operated school district to the lead person of the charter school in accordance with N.J.A.C. 6:3-6.5(c)10.