

**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-5.1c, Chapter 11, Charter Schools, expires on November 6, 2014. See: 46 N.J.R. 1388(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).

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).

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).

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

“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. 6A:23A-16.1.

“High-performing nonpublic school” means a nonpublic school that ranked in the 66th percentile or higher on a norm-referenced achievement test in the school year prior to the school year in which a conversion application is submitted pursuant to N.J.A.C. 6A:11-2.7.

“In-depth interview” means the performance assessment of the founders of a charter school during the application and approval process for a charter.

“Initial recruitment period” means the period during which there are the first outreach efforts by a charter school to a cross section of the community for the application, random selection process (if applicable) and enrollment of students for the next school year.

“Lead person” means the person who performs the organizational tasks necessary for the operation of a charter school. Where a group of individuals shares the organizational tasks, the person designated as responsible for completion of the tasks required by the rules is the lead person.

“Monitoring” means an on-site review at a charter school to corroborate and augment the annual reports and to verify compliance with statutes, regulations and the terms of the charter.

“Nonpublic conversion charter school” means a charter school that has been authorized pursuant to N.J.S.A. 18A:36A-4.1.

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

“Non-resident student” means a student from a non-resident district attending a charter school.

“Norm-referenced achievement test” means the California Achievement Test (CAT); Metropolitan Achievement Test (MAT); Stanford Achievement Test (SAT); or the Comprehensive Test of Basic Skills (CTBS) or one of the tests within the CTBS.

“Performance Framework” means the standards that shall be used by the Department to evaluate the performance of each charter school that has signed a charter agreement. The Performance Framework shall be included in every charter agreement and posted on the Department’s website. The academic performance section of the Performance Framework is aligned with the New Jersey Department of Education accountability measures as defined in the February, 2012 No Child Left Behind waiver of Adequate Yearly Progress measures granted by the United States Department of Education. Academic performance assessments include, but

are not limited to, measurement of student achievement data in absolute terms based on Proficiency and Advanced Proficiency scoring in both Language Arts Literacy (LAL) and Math, in comparative terms against the LAL and Math scores of the district of residence and demographically similar (peer) schools, in terms of student achievement progress over time (individual student achievement over time as compared to similar scoring students), in terms of school-wide growth percentiles and subgroup growth percentiles based on standardized test scores over time, post-secondary readiness, including performance on and participation in national standardized tests and post-secondary enrollment, and all State and Federal accountability requirements. Additionally, each charter school will be responsible for unique mission-specific goals included in their charter agreement. Criteria for the operations component consist of, but are not limited to, compliance with statutory requirements set forth in N.J.S.A. 18A:36C-1 et seq. and all applicable statutes in Title 18A, and regulatory requirements that ensure equitable access, pursuant to N.J.A.C. 6A:7, Managing for Equality and Equity in Education, and 6A:11-4.12, Equity in education; safe and secure learning environments pursuant to N.J.A.C. 6A:16, Programs to Support Student Services. The standards for the fiscal management section of the Performance Framework include the generally accepted accounting principles set forth in N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency and Budgeting, and contain near-term indicators that include debt to asset ratio, total margin and cash flow measures, and sustainability indicators that include current ratio, unrestricted days cash on hand, enrollment variance and default on loans measures.

“Preparedness visit” means the on-site inspection by Department personnel that gauges readiness for school opening. The preparedness visit shall include a review of program, facility, and fiscal documentation and interviews with board of trustee members and staff members of the proposed charter school to assess organizational leadership and capacity.

“Qualified applicant” means an applicant determined by the Department to have submitted an application in the first phase of the application process that met the charter school application quality standards as set forth at N.J.A.C. 6A:11-2.1(b)3ii.

“Qualified founder” means an individual who can establish a charter school pursuant to N.J.S.A. 18A:36A-4. A charter school may be established by teaching staff members, parents with children attending the schools of the district, or a combination of teaching staff members and parents.

“Region of residence” means contiguous school districts in which a charter school operates and is the charter school’s district of residence.

“Renewal” means the granting of the continuation of a charter for a five-year period by the Commissioner following a comprehensive review conducted by the Commissioner.

“Resident student” means a student who resides in the area served by the district board of education that is the same as the district of residence of the charter school.

“Revocation” means the withdrawal of a charter by the Commissioner from a charter school’s board of trustees.

“Satellite campus” means a school facility, located within a district with a priority school or a former Abbott District as of July 1, 2012, operated by a charter school under the school’s charter that is in addition to the facility identified in the charter school application or charter, if subsequently amended.

“School closure protocols” means procedures set forth at N.J.A.C. 6A:11-2.4(c) for the revocation, non-renewal, or surrender of a charter.

“School Ethics Act” means the statute N.J.S.A. 18A:12-21 et seq. designed to set standards to guide the conduct of school officials and ensure maintenance of those standards to ensure and preserve public confidence in the integrity of elected and appointed school board members and school administrators.

“School official” means a member of the board of trustees or an administrator of a charter school.

“School year” means July 1 to June 30 of any given academic year. If operating with an extended school year, this term means an alternate fiscal year beginning no later than September 1 and ending no later than August 31 of any given academic year.

“Streamline tenure” means the tenure process for all charter school teaching staff members, janitors, and secretaries who are either newly employed in a charter school or employed in a charter school while on leave from a district board of education.

“Structured interview” means the performance assessment of the accomplishments of a charter school for renewal of the charter.

“Waiting list” means the document identifying the names of grade-eligible students with applications to a charter school pending acceptance for the subsequent school year, based upon the order of random selection from a lottery following a recruitment period.

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

Rewrote “Local levy budget per pupil for the specific grade level” definition; and inserted “inflated by the CPI rate published most recent to the budget calculation” preceding “of (1)” in the “Program budget” definition.

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 section.

Amended by R.2004 d.322, effective August 16, 2004.  
See: 36 N.J.R. 1313(a), 36 N.J.R. 3895(a).

Rewrote the section.

Amended by R.2007 d.183, effective June 4, 2007.  
See: 39 N.J.R. 289(a), 39 N.J.R. 2242(a).

In definition “Certification”, substituted “6A:9” for “6:11”; and added definitions “Contiguous district boards of education” and “Preparedness visit”.

Amended by R.2010 d.050, effective March 1, 2010.  
See: 41 N.J.R. 4002(a), 42 N.J.R. 627(a).

Added definition “Early action”.

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

Rewrote definitions “Administrator”, “Application”, “Certification”, “Charter school”, “Eligible applicant”, “Final granting of a charter”, “GAAP”, “Lead person”, “Preparedness visit”, “Revocation”, “School Ethics Act”, “Streamline tenure” and “Structured interview”; substituted definition “Approval” for definition “Approval of a charter”; in definition “Approval”, deleted “of Education” following “Department” and updated the N.J.A.C. reference; added definitions “Charter agreement”, “Demonstrable experience”, “Educator evaluation system”, “Expedited action”, “Performance Framework”, “Qualified applicant”, “Qualified founder”, “Satellite campus” and “School closure protocols”; and deleted definitions “Early action”, “Panel of six permanent arbitrators” and “Streamline tenure”.

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

Added definitions “Failing school district”, “High-performing non-public school”, “Nonpublic conversion charter school” and “Norm-referenced achievement test”.

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

### 6A:11-2.1 Application and approval process

(a) The Commissioner with the authority of N.J.S.A. 18A:36-1 et seq. may approve or deny an application for a charter after review of the application submitted by an eligible applicant and the recommendation(s) from the district board(s) of education or State district superintendent(s) of the district of residence of the proposed charter school.

(b) An eligible applicant for a charter school shall:

1. Complete the New Jersey Charter School Application, which shall be annually disseminated by the Department no later than August 31 of each year.
2. The application process shall be conducted in two phases: phase one and phase two. The phase one application shall include in an executive summary the following information:
  - i. The name of the proposed charter school;
  - ii. Mission;
  - iii. Educational program overview;
  - iv. Applicant and founder information;
  - v. Enrollment and admission information;
  - vi. Demonstration of need; and

public conversion charter school shall provide enrollment preference pursuant to section 8 of P.L. 1995, c. 426 (N.J.S.A. 18A:36A-8).

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

**6A:11-2.11 Employment of staff in a nonpublic conversion charter school**

(a) A nonpublic conversion charter school may continue to employ teaching staff and other employees of the nonpublic school upon its conversion. However, any employee who is not certified in accordance with the provisions of subsection c of section 14 of P.L. 1995, c. 426 (N.J.S.A. 18A:36A-14) shall take immediate action toward receiving appropriate New Jersey certification and shall be in full compliance with all certification requirements as per N.J.A.C. 6A:9 within two years of the school's conversion.

(b) Any employee hired following the conversion of the nonpublic school to charter school status shall meet the requirements of subsection c of section 14 of P.L. 1995, c. 426 (N.J.S.A. 18A:36A-14).

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

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) Each administrator shall hold the certificate or perform the tasks as defined in N.J.A.C. 6A:11-1.2 and in the School Ethics Act (N.J.S.A. 18A:12-23) and the rules promulgated thereto at N.J.A.C. 6A:28.

(c) Each school official shall file financial and personal/relative disclosure statements annually on or before April 30 or within 30 days of his or her election or appointment in accordance with N.J.A.C. 6A:28-1.5.

(d) Each member of the board of trustees of a charter school shall, during the first year of his or her first term on the board, complete a training program prepared and offered by the New Jersey School Boards Association that shall include in its content instruction relative to the board member's responsibilities under the School Ethics Act in accordance with N.J.A.C. 6A:28-1.6.

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).

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

In (c), substituted "financial and personal/relative disclosure statements" for "the Financial and Personal/Relative Disclosure Statements"; and in (d), substituted "that" for "which".

SUBCHAPTER 4. PROGRAM IMPLEMENTATION

**6A:11-4.1 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:11-4.2 Student records**

(a) A district board of education or a State district superintendent shall forward to the lead person of a charter school records of a student transferring to the charter school in accordance with N.J.A.C. 6A:32-7.

(b) The lead person of a charter school shall forward to the district board of education or the State district superintendent records of a student transferring from the charter school in accordance with N.J.A.C. 6A:32-7.

(c) A charter school shall create, maintain, and dispose of student records in accordance with N.J.A.C. 6A:32, School District Operations.

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).

Replaced "N.J.A.C. 6:3-6.1" with "N.J.A.C. 6:3-6, Pupil Records".  
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), updated the N.J.A.C. references; and in (c), substituted "6A:32, Student Records" for "6:3-6, Pupil Records".

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 a comma following "maintain", and substituted "School District Operations" for "Student Records".

**6A:11-4.3 Student attendance**

A charter school shall record in the school register student attendance during school hours on each day that the school is in session in accordance with N.J.A.C. 6A:32-8.1(c).

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).

Amended 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).

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).

Inserted "in the school register" preceding and deleted "in the school register" following "student attendance".

**6A:11-4.4 Initial recruitment period**

(a) No later than January 15 of subsequent school years, a charter school shall submit to the Commissioner the number of students by grade level, gender and race/ethnicity from each district selected for enrollment from its initial recruitment period for the following school year.

(b) The number of students by grade level from each district selected for enrollment from the initial recruitment period of a charter school is used to establish a per-pupil amount for the specific grade level at the charter school rate in accordance with N.J.A.C. 6A:23A.

(c) A charter school may conduct subsequent recruitment and enrollment periods if vacancies remain in its enrollment after the initial recruitment period.

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).

In (a) and (b), inserted “, gender and race/ethnicity” after “grade level”.

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

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

Rewrote (c).

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

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

Deleted former (a); and recodified former (b) through (d) as (a) through (c).

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), updated the N.J.A.C. reference.

**6A:11-4.5 Waiting list**

(a) A charter school shall maintain a waiting list for admission of grade-eligible students that:

1. Begins with the close of the annual initial recruitment period and first random selection process and ends with the close of the subsequent school year; and
2. Is divided into two groups: students from the district of residence or region of residence and students from non-resident districts.

(b) During the recruitment period, a charter school shall notify parents that their children’s names remain on the waiting list for enrollment for the subsequent school year only.

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).

In (b), replaced “periods” with “period”.

**6A:11-4.6 Age eligibility for kindergarten**

(a) A charter school shall enroll a student selected for admission to kindergarten based on the student reaching the age of five in that school year by:

1. October 1 in accordance with N.J.S.A. 18A:38-5; or

2. A date later than October 1 that is established by the district board of education in which the student resides.

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).

In (a)2, substituted “later” for “earlier”.

**6A:11-4.7 Limited English proficient students**

A charter school shall provide an enrolled limited English proficient student with all required courses and support services to meet the Core Curriculum Content Standards in accordance with N.J.S.A. 18A:7A-4 and 18A:7A-5 and N.J.A.C. 6A:15, Bilingual Education.

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).

Inserted “New Jersey” preceding “Core Curriculum Contents Standards”.

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

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

Substituted “Core Curriculum Content Standards” for “*New Jersey Core Curriculum Content Standards* for high school graduation”, and inserted “, Bilingual Education”.

**6A:11-4.8 Students with educational disabilities**

A charter school shall provide an enrolled student with educational disabilities with a free, appropriate public education in accordance with the Individuals with Disabilities Education Act, Part B (IDEA—B) at 20 U.S.C. §§ 1400 et seq., 34 C.F.R. 300 et seq., N.J.S.A. 18A:36A-11(b), and N.J.A.C. 6A:14, Special Education.

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).

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

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

Inserted “, Special Education”.

**Case Notes**

Where the Greater Newark Charter School had placed a charter school special education student at a private school and the student subsequently moved from Newark to East Orange, the East Orange school district was not authorized to change the student’s private placement; although the student was required to register in the East Orange district, the student was still an enrollee of the charter school under N.J.S.A. 18A:36A-8(b). A school district’s challenge to a charter school’s placement of a special education student or to the district’s responsibility for costs is through an appeal to the Commissioner of Education under the Charter School Program Act, N.J.S.A. 18A:36A-11(b), and not through the IDEA. *E.M. ex rel. J.B. v. East Orange Bd. of Educ.*, OAL Dkt. No. EDS 12493-07, 2008 N.J. AGEN LEXIS 378, Final Decision (June 26, 2008).

Under N.J.S.A. 18A:36A-11(b), the school district of residence is not responsible for the costs of home instruction for disabled charter school students, as opposed to private day or residential school placement; clear statutory and regulatory distinctions exist between “home instruction,” which may be provided for through contracts with “private clinics and agencies,” N.J.A.C. 6A:14-5.1(c)iv, and “private schools for the disabled.” *Golden Door Charter School v. State-Operated School Dist. of Jersey City*, OAL Dkt. No. EDU 1169-06, 2007 N.J. AGEN LEXIS 302,

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 absolute 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 Kletzkyn 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 Kletzkyn 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 Kletzkyn 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 Acquisition of streamline tenure

(a) All teaching staff members, janitors, and secretaries shall acquire streamline tenure in a charter school after five consecutive full academic years of effective employment as determined by the Department-approved educator evaluation system established by each charter school and in accordance with the charter school's uniform policies and procedures. Streamline tenure policies shall be developed and adopted by each charter school's board of trustees prior to June 30, 2013.

(b) All teaching staff members, janitors, and secretaries who have acquired streamline tenure prior to June 30, 2013, shall retain streamline tenure status and shall not be dismissed or reduced in compensation except for inefficiency, incapacity, or conduct unbecoming.

(c) The Commissioner may void acquired streamline tenure status for all applicable charter school employees if stipulated in the terms of probation pursuant to N.J.A.C. 6A:11-2.4.

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".

New Rule, R.2013 d.104, effective August 19, 2013.

See: 45 N.J.R. 8(a), 45 N.J.R. 1955(a).

### 6A:11-6.3 Process for tenure disputes

(a) The charter school board of trustees shall adopt a policy that establishes a uniform process, including pro-