

## CHAPTER 3A

### REGULATORY EQUIVALENCY AND WAIVER

**Authority**  
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#### SUBCHAPTER 1. EQUIVALENCY AND WAIVER PROCESS

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#### SUBCHAPTER 1. EQUIVALENCY AND WAIVER PROCESS

##### 6:3A-1.1 Purpose

The purpose of this chapter is to provide regulatory flexibility for school districts to meet the requirements of the rules contained in the New Jersey Administrative Code Title 6; this includes: educational services commissions, jointure commissions, regional day schools, county special services, Marie Katzenbach School for the Deaf, private schools for the handicapped, college operated programs and programs operated by the Departments of Human Services and Corrections as well as school districts; agencies and clinics are excluded. Regulatory flexibility may be granted as a waiver to a specific rule or as an equivalency to a specific rule so that school districts can provide effective and efficient educational programs. The Commissioner, with authority delegated by the State Board, may on a case-by-case basis, approve a waiver or an equivalency to a specific rule.

##### 6:3A-1.2 Definitions

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

"Equivalency" means the granting of approval to achieve the intent of a specific rule through an alternate means that is different from, yet judged to be comparable to or as effective as, those prescribed within the rule.

"Waiver" means the granting of approval to avoid compliance either with the specific procedures or the substantive requirements of a specific rule for reasons that are judged educationally, organizationally and fiscally sound.

##### 6:3A-1.3 Criteria for an equivalency or waiver

(a) An equivalency or waiver to a specific rule must meet the following criteria:

1. The spirit and intent of New Jersey Statutes Title 18A, applicable Federal laws and regulations, and the New Jersey Administrative Code Title 6 are served by granting the equivalency or waiver;
2. The provision of a thorough and efficient education to the students in the district is not compromised as a result of the equivalency or waiver; and
3. There will be no risk to student health, safety or civil rights by granting the equivalency or waiver.

##### 6:3A-1.4 Equivalency process

(a) The Commissioner, with authority delegated by the State Board for the purpose of this rule, may act to approve an equivalency to a specific rule based on an application submitted by a school district. The completed application must be signed by the chief school administrator and approved by the district board of education. The application developed by the Department and completed by the district shall at a minimum:

1. Describe what the district intends to accomplish that is currently prevented or disallowed by an existing rule;
2. Describe the conditions or reasons for the proposed equivalency including the reference of the specific rule which necessitates the proposal;
3. Describe the projected measurable results which will provide programs or services that are at least equal to the required current rule; and
4. Demonstrate that the school district's educational community, including the district board of education, parents, administration and staff, have been informed of the proposed equivalency to the specific rule through public comment and input.

##### 6:3A-1.5 Waiver process

(a) The Commissioner, with authority delegated by the State Board for the purpose of this rule, may act to approve a waiver to a specific rule based on an application submitted by a school district. The completed application must be signed by the chief school administrator and approved by the district board of education. The application developed by the department and completed by the school district shall at a minimum:

1. Describe what the school district intends to accomplish that is currently prevented or disallowed by an existing rule;

2. Describe the conditions or reasons for the proposed waiver including the reference of the specific rule which necessitates the proposal;

3. Describe the projected measurable results which will demonstrate that the waiver is educationally, organizationally and fiscally sound; and

4. Demonstrate that the school district's educational community, including the district board of education, parents, administration and staff, have been informed of the proposed waiver to the specific rule through public comment and input.

**6:3A-1.6 Review and duration of the equivalency or waiver**

(a) The school district shall submit reports and documentation of the measurable results for periodic review from time to time as required by the Commissioner.

(b) The Commissioner will present quarterly reports and an annual evaluation to the State Board of the equivalencies and waivers that have been granted.

(c) The Commissioner may rescind the equivalency or waiver to the rule if the district is not complying with the intent of the specific rule. The Commissioner shall provide the district with a reasonable period of time to comply with all applicable rules after the equivalency or waiver approval is rescinded.

(d) An equivalency or waiver shall not be granted for a period of more than three years.