

STATE BOARD OF EDUCATION
ADMINISTRATIVE CODE
COMMENT/RESPONSE FORM

This comment and response form contains comments from the June 6, 2012 meeting of the State Board of Education when the draft regulations were considered at Second Discussion Level and from the public during the comment and response period.

Topic:	Charter Schools	Meeting Date:	August 1, 2012
Code Citation:	N.J.A.C. 6A:11	Level:	Proposal Level
Division:	Division of Charter Schools, School Choice, and Educational Technology	Completed by:	Office of Charter Schools

Summary of Comments and Agency Responses:

The following is a summary of the comments received from State Board of Education members and members of the public, and the department's responses. Each commenter is identified at the end of the comment by a letter or number which corresponds to the following list:

- A. Edithe Fulton, Member
State Board of Education
- B. Arcelio Aponte, President
State Board of Education
- C. Illan Plawker, Vice President
State Board of Education
- 1. Lisa Grieco-Rogers, Monmouth Junction
- 2. Lisa Witlen, North Brunswick
- 3. Liz Mulholland, Westfield
- 4. Michelle Fine, Ph.D., Montclair
- 5. Rita McClellan, Cherry Hill (multiple signatories – database is attached)
- 6. Andrea L. Spalla, Princeton
- 7. Nancy Pincus, Princeton
- 8. Judith A. Wilson, Superintendent of Schools, Princeton Regional Schools

9. Mo'Neke Ragsdale, Camden
10. Lynne Strickland, Garden State Coalition of Schools
11. Jennifer Keyes-Maloney, New Jersey Principals and Supervisors Association
12. Sean Hadley, New Jersey Education Association
13. John Burns, New Jersey School Boards Association
14. Thomas Papaleo, River Edge
15. Lisa Winter, Basking Ridge
16. Loraine Carapellucci, Cherry Hill
17. Carl Ceposki, Assistant to the Executive Director, Emily Fisher Charter School
18. Christine Rampolla, Save Our School New Jersey
19. Elizabeth Athos, Esq., Education Law Center
20. Lisa Marcus Levine, Princeton
21. Wayne Education Association, Wayne, New Jersey (database of respondents is attached at the end of this document)
22. Donna M. Chiera, President, American Federation of Teachers New Jersey
23. Robert Reilly
24. Darcie Cimarusti, Highland Park
25. Barbara Edwards, Newton
26. "Dear Policymaker" petition (multiple signatories – database is attached)
27. "Dear Members" petition (multiple signatories – database is attached)
28. Stop Virtual Schools (Various versions – database is attached)
29. "Put the Brakes On Virtual Schools" petition (multiple signatories – database is attached)
30. "Dear Board of Education Members" petition (multiple signatories – database is attached)
31. Carlos Perez, CEO, New Jersey Charter Schools Association

32. "Please put a stop to virtual schools" (Various versions – database is attached)
33. Margaret Anzul, Basking Ridge
34. Therese Kearns, Saddle Brook
35. "Please oppose virtual schools" petition (multiple signatories – database is attached)
36. Carol Lapse, Ph.D., Vernon Township (and others – database is attached)
37. Stephanie Marulli, Ramsey
38. Patricia Pyckowski
39. Jim Gibbs
40. Mary Cairns, Egg Harbor Township
41. Mark Steinbrick, Long Branch
42. Colleen Johnson, Egg Harbor Township
43. Barbara Carriere, Montville
44. Fenton and Barbara Hudson, Ocean
45. Jennifer Salgado, Bloomfield

Please note that public comments for inclusion in this Proposal Level were accepted through Friday, July 13, 2012. Comments received after that time will appear in the Adoption Level comment and response section.

1. **COMMENT:** The commenter asked whether the number of individuals working on Charter Schools was comparable to the number of individuals working on traditional district schools. (A)

RESPONSE: The Department of Education's mission is to serve New Jersey's public school districts and our public school students. Students attending charter schools are public school students and they therefore are the beneficiaries of the work of the NJDOE as a whole. In addition, there are 13 individuals devoted full and part time to working on charter school issues.

2. **COMMENT:** The commenter remarked that the State Board of Education had been assured that the Office of Charter Schools had the capacity to do a thorough job of reviewing all charter school applicants. (B)

RESPONSE: The Office of Charter Schools has the capacity to thoroughly review all incoming charter school applications. In addition, the Office of Charter Schools partners with qualified external reviewers, who have knowledge and expertise in the charter field, to participate in all application reviews.

3. **COMMENT:** The commenter noted the difficulty posed to applicants by the statute that requires applicants to designate a facility in the application and asked how the Department of Education could address this issue. The commenter recommended that the securing of a facility be shifted to later in the application process. (C)

RESPONSE: The commenter's concerns are recognized by the Department, however, identification of a facility in the application is mandated by the Charter School Program Act (CSPA), N.J.S.A. 18A:36A-5.

4. **COMMENT:** The commenter expressed concern that the proposed regulations will undermine local democratic control of the public education system by increasing the Commissioner's authority and give the Commissioner unlimited ability to disregard community wishes. (1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 23, 26, 27, 5, 33, 35, 42, 44)

RESPONSE: Pursuant to *N.J.S.A. 18A:36A-3*, the Commissioner has the authority to establish a charter school program that provides for the approval and granting of charter schools. The proposed changes to the regulations fall within that authority. The Charter School Program Act provides for all processes afforded a local district in the Department's review of a potential charter school. The statute provides for notice and opportunity to be heard on the application and provides for an appeal of the Commissioner's decision on the grant of a charter. The proposed regulations provide 90 days in the aggregate for school districts to receive public comment and submit comments on new charter school applications, an increase of 30 days over the previous regulations and the statutory mandate. Moreover, in response to the comments received from stakeholders, the proposed amendments are being modified to permit districts that may not have had an opportunity to submit comments on the Phase One application within the initial 30 day response timeline, to submit any comments on Phase One along with those for Phase Two. All comments will be reviewed and considered by the Commissioner prior to approval or denial of an application.

5. **COMMENT:** The commenter indicated that the proposed regulations would enable virtual schools to apply for a charter and stated that virtual charter schools are not permitted under current charter school legislation. (11, 2, 12, 13, 8, 23, 25, 26, 27, 28, 30, 35, 44)

RESPONSE: All charter schools are subject to the same intense levels of assessment and review. All charter schools must comply with state law and the proposed changes to the regulations do not alter this requirement.

6. **COMMENT:** The commenter expressed concern that the proposed amendments would enable for-profit organizations to open and administer charter schools. (12, 7, 14, 21, 25, 29)

RESPONSE: The Charter School Program Act provides for the establishment of charter schools by private entities located within the State in conjunction with teaching staff members and parents. The only restriction in the statute is that the private entity cannot realize a net profit from its operation of a charter school. (*N.J.S.A* 18A:36A-4). The proposed amendments are consistent with this section of the statute.

7. **COMMENT:** The commenter expressed concern that virtual schools underperform traditional schools. (11, 4, 12, 7, 8, 15, 14, 21, 22, 23, 25, 29, 30, 32, 33, 34, 35, 42, 44)

RESPONSE: Applicants for charter schools, whether traditional or virtual, undergo a rigorous and extensive assessment process before being granted a charter. The evaluation of charter school applicants includes close scrutiny of the school's mission, vision, educational program, curriculum development, student assessment strategies, approach to obtaining high student achievement, organizational and governance soundness and aptitude, financial viability and ability to comply with all applicable Federal and State statutes and regulations. The proposed amendments include additional accountability measures and require consistent school and individual student achievement growth over time. All charter schools must meet the goals and objectives established by the Department in order to maintain their charters.

8. **COMMENT:** The commenter states that the proposed amendments to charter school regulations would undermine the current educational structure and strain fiscal resources. (1, 3, 12, 15, 22, 25, 30, 37, 40, 44, 45)

RESPONSE: The proposed amendments are consistent with current legislation and therefore will not impact the existing educational structure. The manner in which charter schools are funded is unaffected by the proposed amendments.

9. **COMMENT:** The commenter states that the proposed regulations would allow entities outside of New Jersey to operate schools within the state. (27, 30)

RESPONSE: The proposed amendments are consistent with 18A:36-4 which permits private entities that are a part of the establishment of a charter school to be located within the state.

10. **COMMENT:** The commenter is concerned that virtual charter schools will receive an excessive amount of public funding under the current statute. (2, 4, 6, 7, 8, 10, 11, 12, 15, 23, 30, 33, 35, 38, 39, 45)

RESPONSE: The Charter School Program Act, as amended by the annual Appropriations Act, governs the flow of state funds to charter schools. The proposed regulations do not alter the legal funding formula.

11. **COMMENT:** The commenter expressed concern that virtual charter schools would facilitate financial abuses of public monies. (16, 30, 34, 39, 44)

RESPONSE: Virtual charter schools are subject to the same fiscal oversight and auditing requirements as all charter schools.

12. **COMMENT:** The commenter expressed concern that student attendance and other accountability measures would be absent in virtual charter schools. (4, 12, 27, 30, 34, 35, 37, 42)

RESPONSE: The proposed amendments to the charter school regulations include increased accountability measures for all charter schools, articulated in the Performance Framework. The charter school application requires applicants to identify their proposed systems and protocols for meeting the goals and objectives set forth in the Performance Framework. Annual reporting, renewal applications and all observations, contacts and oversight of charter schools, including virtual charter schools, are tied to the Performance Framework.

13. **COMMENT:** The commenter stated that charter schools divert funding from districts without having to comply with the same restrictions imposed on district schools. (12, 15, 30)

RESPONSE: The Charter School Program Act, as amended by the annual Appropriations Act, governs the flow of state funds to charter schools. The proposed regulations do not alter the legal funding formula.

14. **COMMENT:** The commenter stated that charter schools are not required to enroll and maintain students as required in the district schools. (4, 30)

RESPONSE: Pursuant to *N.J.S.A.* 18A:36A-7 a charter school must be open to admit all students on a space available basis and is not permitted to discriminate on any grounds. The proposed amendments do not conflict with this requirement. (3, 4, 42)

15. **COMMENT:** The commenter expressed concern that virtual charter schools will have fewer economically disadvantaged students enrolling in the school. (8, 16, 21, 22, 29)

RESPONSE: All charter school must seek an enrollment of a cross section of the community's school age population. *N.J.S.A.* 18A:36A-8(e). All charter schools will be evaluated against this statutory mandate. Additionally, the proposed amendments do not impact *N.J.A.C.* 6A:11-4.12, which requires that charter schools comply with all applicable laws and regulations governing equity in education.

16. **COMMENT:** The commenter expressed concern that the rationale given for the proposed amendment to *N.J.A.C.* 6A:11-2.4(b)3 stating that probationary status or conditional renewal are not necessary for the revocation of a charter, does not clearly define the word "integrity." (17)

RESPONSE: The Department has removed “conditional renewal” from the proposed regulations.

17. **COMMENT:** The commenter expressed concern that the examples described in the proposed amendment to *N.J.A.C. 6A:11-2.6* increases the types of amendments existing charters may request and does not allow sufficient time for school districts affected by the amendments to provide input. (18, 2, 3, 13, 22)

RESPONSE: The proposed amendment does not change the types of amendments that may be requested, but gives examples in order to clarify the types of amendments that were already permitted by existing New Jersey statute and code. No changes were proposed to the timelines for the submission of amendments and district comment.

18. **COMMENT:** The commenter expressed concern that charter schools are being placed in communities that do not support them and that enrolling students from outside of the district of residence identified in the charter, thereby changing the boundaries of districts sending students to a charter school. (18, 5, 15, 16)

RESPONSE: The Charter School Program Act expresses the Legislature’s intention to create charter schools as an option for school choice within New Jersey’s system of public schools. The Charter School Program Act does not require community buy-in to establish a charter school; however, it does require the involvement of teaching staff members/parents of students attending schools in the district. The regulations are consistent with these express statutory requirements. Moreover the Charter School Program Act permits charters to accept students from outside the district in which the charter school is located. The regulations are also consistent with this statutory authority.

19. **COMMENT:** The commenter expressed concern that the proposed amendment to change the definition of “eligible applicant” to include the term “anywhere in the state” conflicts with the intent of the charter school legislation. (18, 11, 2, 22, 24)

RESPONSE: The revised definition is consistent with the stated intent of the Charter School Program Act of 1995, to promote comprehensive educational reform by providing for the implementation of a variety of educational approaches to be in the best interests of the children of the State. The proposed amendment does not conflict with *N.J.S.A. 18A:36A-4* which defines who may establish a charter school.

20. **COMMENT:** The commenter expressed agreement with the proposed amendments that create a two-part application process but recommends that more detailed criteria be established for determining who may apply for a charter in the “expedited” round. (11, 19)

RESPONSE: The proposed amendment requires that an applicant for the expedited round have “demonstrable” experience and indicates that the criteria for applicants to be eligible for this round will be established in the application, thus providing sufficient

information for interested parties to identify their own eligibility prior to completing the application.

21. **COMMENT:** The commenter expressed a desire to have additional details delineated in the regulations as to what will be included in a preparedness visit as proposed in the amendment to *N.J.A.C.* 6A:11-2.1(h). (11)

RESPONSE: The 15 elements described in the proposed amendment comprise much of the required documentation for the preparedness visit. The Office of Charter Schools provides training and technical assistance for all charter school applicants that keep them well informed of the requirements for successful completion of the preparedness visit. If future experience informs the Department that further articulation of requirements for the preparedness visit are necessary, such articulation will be duly considered.

22. **COMMENT:** The commenter expressed concern that the proposed amendment enabling the Commissioner to grant a “planning year” limits the circumstances under which an approved charter school applicant may receive a planning year. (11)

RESPONSE: The Department has removed “planning year” from the proposed regulations.

23. **COMMENT:** The commenter expressed support for the provision of both the phase one and phases two applications to the district boards of education for review, but is concerned that the manner in which input is received is not delineated, and further recommends that districts of residence conduct public hearings. (11, 13)

RESPONSE: The Department believes that as district boards of education are representatives of the communities in which they reside, they are the most relevant arbiters of the manner in which they will receive input from their constituents. All public comment is collected, analyzed and considered in all decisions regarding new charter schools.

24. **COMMENT:** The commenter expressed concern about the proposed amendment that would allow proven, high quality charter schools to expand their capacity to serve additional students by establishing satellite campuses in “priority” districts, stating that it is contrary to the intent of the charter legislation. (11, 4, 12, 6, 13, 9, 19)

RESPONSE: Providing for additional high quality charter school seats in urban districts is consistent with the stated intent of the Charter School Program Act of 1995, to improve pupil learning; increase the educational choices available to parents and students; and to encourage the use of different and innovative learning methods. No changes were proposed to the timelines for the submission of amendments and district comments.

25. **COMMENT:** The commenter expressed concern that the deletion of the restriction on charters amending their mission, goals and objectives would result in amendments that would substantially change the character of a charter school and thus result in a new entity that is not what the Department approved. (11, 7)

RESPONSE: The purpose of revising the regulations for amendments is to enable charter schools to continuously improve and grow quality programs. All amendments go through an application and approval process (inclusive of public comment) that provides an opportunity for the Department to evaluate and approve the amendments.

26. **COMMENT:** The commenter expressed concern that the Department will only consider performance data in determining whether or not to approve an amendment to a school's charter. (11)

RESPONSE: The review of performance data was added to the existing criteria for the approval of an amendment at *N.J.A.C. 6A:11-2.6(b)* and does not replace it. All of the other criteria remain as vital factors in the amendment process, inclusive of public comment.

27. **COMMENT:** The commenter expressed support of the proposed amendments that standardize and expand accountability measures for charter schools. (11)

RESPONSE: The Department appreciates the support for increased accountability in charter schools.

28. **COMMENT:** The commenter expressed support for proposed amendments that provide for alternatives to closing struggling schools. (11)

RESPONSE: The Department thanks the commenter for their support.

29. **COMMENT:** The commenter expressed concern that the proposed amendments afford the Commissioner excessive discretion in determining approval, probation, renewal and revocations of charters with insufficient detail in the proposed amendments to define the criteria for each status, and do not provide standards to charter schools and charter school applicants to avoid conflicting points of view. (11, 5, 6, 33)

RESPONSE: Pursuant to *N.J.S.A. 18A:36A-3*, the Commissioner has the authority to establish a charter school program that provides for the approval and granting of charter schools. The proposed changes to the regulations fall within that authority. The proposed amendments provide for flexibility to use appropriate and contextual criteria for making approval, renewal and revocation decisions on a school-by-school basis, rather than blanket criteria that may not sufficiently address individual charter school circumstances. The universal application of the Performance Framework provides all charter schools with the standards and expectations that must be met to maintain their charters in good standing.

30. **COMMENT:** The commenter expressed support of the proposed amendment implementing the Performance Framework. (11)

RESPONSE: The Department thanks the commenter for support of the Performance Framework.

31. **COMMENT:** The commenter expressed concern that the proposed amendments to the regulations regarding streamline tenure, referring to a charter school’s educator evaluation system, do not coincide with the timing and terms of the teacher and principal evaluation pilots. (11, 12)

RESPONSE: The commenter’s concern with regards to the timing and terms of the teacher and principal evaluation pilots is not applicable to these regulations.

32. **COMMENT:** The commenter asserts that the agency initiated changes to *N.J.A.C. 6A:11-6.1* give the Commissioner overly broad discretion in determining guidelines for charter schools to develop criteria for the awarding of streamline tenure, and that this discretion is in conflict with the perceived intent of the charter school statutes. (11, 12, 10)

RESPONSE: The agency initiated change was completed to align with the existing statutory language found in *N.J.S.A. 18A:36A-14e*. The Department interprets the statute at *N.J.S.A. 18A:36A-14e* as intending to provide greater flexibility and autonomy to charter schools in regards to tenure, within guidelines established by the Commissioner.

33. **COMMENT:** The commenter expressed support for the proposed amendments regarding closure policies and procedures. (11)

RESPONSE: The Department thanks the commenter for support of the proposed amendments regarding closure.

34. **COMMENT:** The commenter expressed concern about the proposed amendment to *N.J.A.C. 6A:11-14*, however, such a subsection does not exist. This response is to the proposed amendment to *N.J.A.C. 6A:11-4.14* regarding the ability of a charter school’s board of trustees to request an exemption from State regulations under certain conditions. The commenter indicates that the proposed amendment would provide the Commissioner with broad authority to exempt charter school’s from State regulations. (22)

RESPONSE: The proposed amendment restates existing statute at *N.J.S.A. 18A:36A-11a* and therefore does not grant the Commissioner any additional authority other than that already contained in the statute.

35. **COMMENT:** The commenter expressed concern that the proposed amendment to *N.J.A.C. 6A:11-2.1(l)* regarding the provision of a planning year to charter school applicants would present a financial hardship to districts of residence, leave charter school students in the schools of the district of residence, and enable unprepared applicants to prolong the charter school approval process. (20, 1)

RESPONSE: The Department has removed “planning year” from the proposed regulations.

36. **COMMENT:** The commenter expressed concerns that there is not sufficient information regarding the success of charter schools in New Jersey to make a decision about whether to approve the proposed amendments. (1)

RESPONSE: The proposed amendments are consistent with the Charter School Program Act. The Department is confident that the proposed amendments, which increase the accountability of charter schools, will ensure a high quality education for students whose parents choose to enroll them in charter schools.

37. **COMMENT:** The commenter avers that charter schools opened over the last five years are mostly managed by EMOs (Education Management Organizations) typically governed by boards with corporate membership, without proper governance or accountability. (4, 22)

RESPONSE: Of the currently operational charter schools, a very small number contract with non-profit management organizations to manage the schools. Additionally, pursuant to *N.J.S.A. 18A:36A-4*, “an institution of higher learning or a private entity,” can establish a charter school, in so long as representatives of the private entity do not constitute the majority of a board of trustees.

38. **COMMENT:** The commenter expressed concern about the status of the application of Regis Charter School. (5, 16)

RESPONSE: No aspect of the proposed amendments will impact the decision regarding Regis Charter School.

39. **COMMENT:** The commenter expressed concern that students from outside of the region of residence of a charter school were enrolling in the charter school, and that this is in conflict with current charter law. (5)

RESPONSE: Pursuant to *N.J.S.A. 18A:36A-8*, a charter school that has completed the required processes to enroll students in the district or region of residence and has space that remains available, may enroll non-resident students.

40. **COMMENT:** The commenter expressed concern about the unanticipated expenses a school district may incur for non-public students enrolling in a charter school. (5, 6, 8, 15, 16)

RESPONSE: Pursuant to *N.J.S.A. 18A:36A-12d*, the State will pay 100% of the amount required for any student not included in the district’s projected resident enrollment for the school year.

41. **COMMENT:** The commenter expressed concern that students in virtual charter schools will not be exposed to the appropriate social development as students in traditional schools, and not benefit from the physical education, guidance and health services as at a district school. (12, 8, 14, 21, 25, 29, 36, 37, 40, 41, 42, 43, 44)

RESPONSE: Charter schools represent a choice for parents and guardians. The choice of any school is dependent upon whether or not a parent or guardian believes that a particular school is in the best interest of their child.

42. **COMMENT:** The commenter expressed concern that the proposed amendments to the charter school regulations violate current statute by eliminating the word “contiguous” and permitting virtual schools to apply for a charter. (6, 19)

RESPONSE: The proposed amendments eliminating the word “contiguous” are consistent with the current statute, which does not include the term “contiguous.”

43. **COMMENT:** The commenter expressed concern that the proposed amendments would allow 21 days to respond to amendments to a school’s charter. (7)

RESPONSE: The Department is proposing to change the timeline from 21 days to 60 days to provide optimal opportunities for school districts to have input regarding proposed amendments to a school’s charter.

44. **COMMENT:** The commenter expressed appreciation of the implementation of the Performance Framework but indicated that charter schools should be held to the same accountability standards as traditional public schools. (13, 14)

RESPONSE: The proposed amendments include additional accountability measures and require consistent school and individual student achievement growth over time.

45. **COMMENT:** The commenter recommends changes to the per-pupil spending formula. (13)

RESPONSE: The per-pupil spending formula is determined by the existing statute and therefore cannot be changed without legislative initiative (*N.J.S.A.* 18A:36A-12). The proposed amendments to the charter school regulations do not alter the formula.

46. **COMMENT:** The commenter proposed that charter school applications be prioritized by school district performance and that the criteria for application should consider school district performance as a primary consideration for charter school approval. (13)

RESPONSE: The restriction of eligible applicants for a charter to the criteria suggested by the commenter is not consistent with the stated intent of the current statute. Within the application process, the Department does require the applicant to provide evidence of need within the identified district or region of residence for the charter school.

47. **COMMENT:** The commenter expressed concern that the amendment to the regulation regarding the timeline for submitting an amendment to a charter school’s enrollment (from October 15 to February 15) leaves insufficient time for a school district to adjust their budget. (13)

RESPONSE: The Department appreciates the commenter's concern and recognizes the budgetary time constraints. The Department has revised the date to add two weeks (from February 15 to February 1).

48. **COMMENT:** The commenter delineated the documentation, procedures and deliberation processes used in response to the proposed amendments to the charter school regulations. (13)

RESPONSE: The Department appreciates the time, effort and careful consideration taken by the commenter's organization in reviewing the charter school regulations.

49. **COMMENT:** The commenter states that the proposed amendments to the charter school regulations should have been made through the legislative, rather than regulatory, process. (8)

RESPONSE: The proposed amendments to the regulations are within the regulatory authority granted by the Charter School Program Act to the Commissioner and State Board.

50. **COMMENT:** The commenter expressed concern that the proposed amendments can obstruct or subvert existing law and pending legislation. (16)

RESPONSE: The proposed amendments fall within the authority established by the Charter School Program Act. If that Act is amended, the Department will revise its regulations accordingly.

51. **COMMENT:** The commenter expressed concern that a charter school applicant has engaged a management company that was not indicated in the charter application and not overseen by the Department. (16)

RESPONSE: The board of trustees of a charter school must comply with the requirements of *N.J.A.C. 6A:23A-22.5* regarding public school contracts.

52. **COMMENT:** The commenter expressed concern that the State Board of Education will not have input or oversight of the proposed amendments to the charter school regulations. (16)

RESPONSE: It is the duty of the State Board of Education to adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such as are necessary to comply with all of the charter school statutes.

53. **COMMENT:** The commenter avers that the application for an amendment to a school's charter to open a satellite campus requires the same process as a new application, including 60 days for the affected school district(s) to respond. (9)

RESPONSE: The amendment requesting a satellite campus would come from an already approved charter school and would not be considered a new application; therefore it would not be subject to the same approval process.

54. **COMMENT:** The commenter expressed concern that virtual charter schools would not be required to meet specific statutory prerequisites for charter school approval as it relates to a physical facility. (19)

RESPONSE: All charter schools, including virtual charter schools, will be required to meet the requirements set forth in *N. J.S.A.* 18A:36A-5(j).

55. **COMMENT:** The commenter expressed concern that the concept of restructured renewal was created without any statutory authority and that legislative action is needed in order to approve restructured renewal. (19)

RESPONSE: The Department has removed “restructured renewal” from the proposed regulations.

56. **COMMENT:** The commenter states that the proposal for a one-year conditional renewal is not allowed under the statute. (19, 22)

RESPONSE: The Department has removed “conditional renewal” from the proposed regulations.

57. **COMMENT:** The commenter states that the proposal does not follow statutory guidelines for summary revocation of a charter because, “the statute authorizes summary revocation of a charter in the sole instance when a charter school has been placed on probationary status to allow implementation of a remedial plan and the plan is unsuccessful.” (19)

RESPONSE: The Commissioner has the authority as set forth in *N.J.S.A.* 18A: 36A-17 to develop procedures and guidelines for the revocation and renewal for a school’s charter and, as such, summary revocation falls under the above authority. Furthermore, the statute provides the Commissioner the authority to revoke a school’s charter if the school fails to meet any provision of its charter, and does not limit such authority to school’s that are in probationary status.

58. **COMMENT:** The commenter expressed concerns regarding the definition and scope of Performance Framework and state that the Performance Framework should align with QSAC. (19)

RESPONSE: Pursuant to *N.J.A.C.* 6A: 30-1.1(c), charter schools are exempt from regulations implementing QSAC.

59. **COMMENT:** The commenter indicates that the proposed amendment regarding the definition of charter agreement is superfluous as it is duplicative of the charter itself. (19)

RESPONSE: As part of the guidelines established by the Commissioner, the Office of Charter Schools is implementing new accountability measures which will be included as part of the charter agreement, which are not items explicitly defined in an individual charter.

60. **COMMENT:** The commenter stated that the proposed definition of educator evaluation system is not aligned to current statute and code. (19)

RESPONSE: The definition of educator evaluation system is applicable only to instruments developed by charter schools, and approved by the Commissioner, and is therefore outside of the scope of the pilot program and any related statute and code.

61. **COMMENT:** The commenter stated that the proposed change to the requirements for the annual report involves a change of substance rather than that of style. (19)

RESPONSE: The Department understands the definition of attainment to include the achievement of goals or aims, which aligns to evidence of compliance.

62. **COMMENT:** The commenter expressed concern that stating application criteria within the application, rather than at the time of the proposed regulations, was circumventing the Administrative Procedure Act. (19)

RESPONSE: All criteria for the application have been delineated within the charter school regulations.

63. **COMMENT:** The commenter stated that guidelines developed by the Commissioner in relation to streamlined tenure must be promulgated in accordance with the requirements of the Administrative Procedure Act. (19)

RESPONSE: Commissioner regulations will be promulgated in accordance with the requirements of the Administrative Procedure Act.

64. **COMMENT:** The commenter expressed concern that the proposed changes to the charter regulations regarding amendments to a school's charter grant the Commissioner undue authority in the "final" stage of a charter "about to be approved." (10)

RESPONSE: Amendments are only requested and awarded to approved charter schools after the final charter has been granted.

65. **COMMENT:** The commenter expressed concern that the proposed amendment regarding the deadline for the initial recruitment period for new charter schools, from January 15 to February 15, will be burdensome for the districts of residence. (10)

RESPONSE: The section of code to which the commenter refers (*N.J.A.C. 6A:11-4.4*) applies to schools in years subsequent to a charter school's first year. As this does not impact schools newly opened, it is not necessary to change the deadline to align with the revised date for the Commissioner's notification of schools that applied in the expedited

round. The Department is proposing an agency initiated change to revert the date back to that of the original regulation, January 15.

66. **COMMENT:** The commenter expressed concern that pupil transportation costs for charter school students will negatively impact districts of residence. (10)

RESPONSE: Pupil transportation obligations are governed by *N.J.S.A. 18A:36A-13*. The proposed regulations do not address transportation.

67. **COMMENT:** The commenter expressed concern regarding the proposed changes to the regulations for the expedited approval of applications. (22)

RESPONSE: The proposed amendments changed the term, from “early” to “expedited” and otherwise do not impact the expedited approval process except to limit the applicants to proven providers.

68. **COMMENT:** The commenter expressed concern that the proposed amendments to the charter school regulations would create a “parallel” public school system with duplicative services. (27)

RESPONSE: The intent of the Charter School Program Act is to promote comprehensive educational reform by providing for the implementation of a variety of educational approaches. Charter schools do not create a parallel system of education, but are part of the State’s unified system of public education.

69. **COMMENT:** The commenter expressed support for the proposed amendments to the charter school regulations, especially the inclusion of the Performance Framework and the performance based charter contract, the opportunity for charter schools to reduce their regulatory obligations, and the inclusion of closure protocols. (31)

RESPONSE: The Department thanks the New Jersey Charter Schools Association for their support.

70. **COMMENT:** The commenter expressed concern that virtual charter schools will not employ “highly qualified” teachers. (34)

RESPONSE: “Highly qualified” is a status established through the federal No Child Left Behind (NCLB) legislation and applies to all schools accepting NCLB funding. The proposed amendments to the charter school regulations do not alter this requirement.

AGENCY INITIATED CHANGES

1. The Department is removing “conditional renewal” from the proposed amendments as it has become apparent that it is duplicative of processes currently in place and thereby has caused some confusion, as evidenced by commentary from the public.

[“Conditional renewal” means the Commissioner’s renewal of the charter that may be revoked after one year if the charter school has not fulfilled the conditions imposed by the Commissioner in connection with the charter renewal.]

6A:11-2.3 Renewal of charter

- (a) The Commissioner may grant a five-year renewal of a charter following the initial four-year charter **[, or a one-year conditional renewal]**.

[(c) The Commissioner may approve a one-year conditional renewal of a charter if there is a preponderance of evidence accumulated pursuant to (b)2 through 10 above that the school is at risk of revocation of its charter for violations of law, failure to comply with the terms of the school's charter, failure to meet any standards set forth in the Performance Framework, or if the school has been determined by the Department to be a priority or focus school.]

6A:11-2.4(b)3 Failure of the remedial plan to correct the conditions [which] that caused the probationary status. The Commissioner may place a school on probation **[or approve a conditional renewal]** before charter revocation, but probationary **[or conditional]** status is not necessary for revocation; or

2. To clarify the eligibility of applicants for expedited action, as proposed in 6A:11-2.1(g), the Department is adding the following definition to 6A:11-1.2:

“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.

3. To ensure more equitable charter school access for all students in New Jersey, and to maintain consistency in language and intent through all charter school regulations, the Department is proposing to amend 6A:11-1.2 as follows:

"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.

"Region of residence" means **[contiguous]** school districts in which a charter school operates and is the charter school's district of residence. **[A region of residence for a charter school focusing on online instruction need not include contiguous districts and may use any configuration of school districts.]**

4. To provide additional clarity regarding the requirements of the preparedness process, the Department is proposing to further amend 6A:11-1.2 as follows:

“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.**

5. The Department is removing “restructured renewal” from the proposed amendments, as it has become clear that it is redundant of existing structures and has caused unnecessary concern.

[“Restructured renewal” means a charter school that is renewed upon a fundamental restructuring of its organization and practices, subject to approval of the Commissioner.]

6A:11-2.3 Renewal of charter

[(d) The Commissioner may grant restructured renewal of a school that is at risk of revocation of its charter for serious violations of law, the school’s charter or failure to meet one or more of the standards set forth in the Performance Framework.]

6. The Department is proposing the removal of the phrase “...including programmatic and fiscal impact” from 6A:11-2.1(b)2vi as charter school applicants do not have sufficient information to perform such analyses.

vi. Demonstration of need**[, including programmatic and fiscal impact];**
and

7. The Department is proposing the removal of proposed 6A:11-2.1(b)3 and moving 6A:11-2.1(b)3i to 6A:11-2.1(b)3 to replace the removed statement, which is redundant of another section. 6A:11-2.1(b)3ii and iii are subsequently renumbered to 6A:11-2.1(b)3i and ii. The phrase “...in addition ...” is being removed in order not to require applicants to submit duplicate information. Further, 6A:11-2.1(b)3iv is being removed as redundant, and 6A:11-2.1(b)v is renumbered as 6A:11-2.1(b)iii

3. [The Department shall evaluate the phase one application based on the standards to be used for evaluation as set forth in the phase one application form;]

[i.] The Commissioner shall notify an applicant whether they have been approved or denied for “qualified applicant” status upon completion of the phase one review.

[ii.] i. To participate in phase two, qualified applicants shall be required to submit the phase two application within 30 days of the date of notification of eligibility by the Department.

[iii.] ii. The phase two application shall include the following information **[, in addition to the information required pursuant to N.J.S.A. 18A:36A-5]:**

- (1.) Educational program;
- (2.) Goals and objectives;
- (3.) At-risk populations;
- (4.) Staffing information;
- (5.) Financial plan;
- (6.) Governance and organizational plan;
- (7.) Facilities;
- (8.) Daily and annual schedule;
- (9.) Requested waivers; and
- (10.) All required documentation.

[iv. The Department shall evaluate the phase two application.]

[v.] iii. The Commissioner shall notify a qualified applicant about whether it has been invited to participate in an in-depth interview with the Commissioner or his/her designee within the timeline defined by the Department.

8. For clarification purposes, the Department is proposing a change to the wording in proposed amendment 6A:11-2.1(c) as follows:

[(e)](c) The Department [of Education] shall review the [addenda and may seek clarifying information from the applicant] phase one application. Qualified applicants **[satisfying the standards for evaluation]** will be asked to complete the phase two application.

9. To ensure that district boards of education have sufficient opportunity to review and respond to phase one new charter school applications, the Department is proposing the following change to 6A:11-2.1(d)1:

[(f)](d) The district boards of education or State district superintendents of the districts of residence of the proposed charter schools shall review both the phase one and phase two applications [and addenda], if submitted.

1. The recommendations of [these] the district boards of education or State district superintendents shall be forwarded to the Commissioner within [60] 30 days of receipt of the phase one applications, however, if a district board of education or State district superintendent is unable to respond to the phase one application in this timeframe, upon good cause shown to the Commissioner, comments may be submitted on the phase one application along with comments provided on the phase two application.

10. For clarity, the Department is proposing a change to the proposed amendment at 6A:11-2.1(g) as follows:

(g) For phase one of the October 15 expedited application, the Department will review applications received from founders with demonstrable experience operating an education institution. [Criteria for applicants eligible for the expedited round will be set forth in the application.] The application review process for phase two will proceed

as set forth in (d) and (e) above.

11. In order to align all of the steps in the charter approval process, the Department is recommending that subsection 6A:11-2.1(i) be moved to become 6A:11-2.1(h), and that the proposed amendment at 6A:11-2.1(h) be renumbered to 6A:11-2.1(i) as below, and that the phrase "...an application for..." be removed for clarity:

(h) Prior to final granting of the charter, a preparedness visit to prospective charter schools will be conducted by the Department.

[(i)]~~(h)~~(i) The Commissioner may approve **[an application for]** a charter, which shall be effective when all necessary documents and information are received by the Commissioner and following satisfactory completion of the preparedness visit as determined by the Commissioner. The charter school shall submit on or before the dates specified in the letter of approval the documentation not available at the time of the application submission including, but not limited to, copies of:

12. After a thorough review of the results of preparedness visits to new charter schools, the Department is proposing to further amend N.J.A.C. 6A:11-2.1(h)10 and 11, regarding documentation required for satisfactory completion of the preparedness visit, as follows:

10. **An organizational chart and [A] a list of the lead person, school business administrator, teachers and professional support staff including required certifications and criminal background check status;**

11. **[The] [Authorization for Emergent Hiring Pending Completion of Criminal History Check] [authorization for emergent hiring pending completion of criminal history check form or] [Criminal History Approval] [criminal history approval letter for each employee of the charter school;] A budget summary, budget narrative and cash flow statement for the following fiscal year, based on the most recent enrollment projections.**

13. In order to ensure that all due dates and deadlines are aligned to the proposed changes to the charter school regulations, the Department is proposing the following change to N.J.A.C. 6A:11-2.1(j)2 as follows:

[(k)](j) Prior to the granting of the charter, the Commissioner shall assess the student composition of a charter school and the segregative effect that the loss of the students may have on its district of residence. The assessment shall be based on the enrollment from the initial recruitment period pursuant to N.J.A.C. 6A:11-4.4(a) and (b). The charter school shall submit data for the assessment:

1. In a format prescribed by the Commissioner; and
2. No later than 4:15 [P.M.] p.m. on February 15, **or March 15 for charter schools applicants seeking approval through expedited action.**

14. Upon review of the revised regulations, the Department is proposing to re-insert 6A:11-2.1(m), however, due to renumbering, it will be inserted as 6A:11-2.1(l).

(l) A charter school shall locate its facility in its district of residence or in one of the districts of its region of residence.

15. Upon review of the application process for new charter schools, the Department determined that a “planning year” is inherent in the current timing of the application process and therefore withdrawing the proposed amendment at 6A:11-2.1(l):

[(l) The Commissioner may grant a planning year instead of final granting of the charter if a charter school applicant has been approved but has not been able to provide by the deadline the proper documentation.]

16. The Department is proposing to add the requirement that charter schools submit a calendar with the annual report to ensure that current information regarding the school schedule is available to interested parties. The requirement was formerly at 6A:11-2.2(a)2iv and is to be reinserted at 6A:11-2.2(a)1vi:

6A:11-2.2(a)1vi. A calendar for the upcoming school year;

17. The Department is proposing the addition of the phrase “...with no less than 30 days notice” to the proposed amendment at 6A:11-2.3(b)1 to ensure that district boards of education have sufficient time to review and respond to a renewal application:

1. A renewal application submitted by a charter school to the Commissioner, the respective county superintendent of schools and the district board(s) of education or State district superintendent(s) of the district of residence of the charter school no later than 4:15 [P.M.] p.m. on October 15 of the last school year of the current charter, or on a date prescribed by the Commissioner with no less than 30 days notice;

18. The Department is removing the word “summarily” from 6A:11-2.4(a)6 as it is an improper characterization of the revocation described:

6. The Commissioner may [summarily] revoke the charter if the remedial plan is deemed to be insufficient.

19. The Department is proposing a change in the date by which a charter school may request an amendment to their enrollment from February 15 of the previous school year to February 1 for the budgetary considerations of the school district(s) of residence:

6A:11-2.6(a)[1.]2. 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 State district superintendent(s) of the district of residence of a charter school. The amendment request shall:

- i. Include the applicable revised pages to the approved New Jersey Charter School Application; and
 - ii. Be made by [October] February [15] 1 of the previous school year to increase enrollment in the subsequent school year.
20. The Department is proposing to change the amount of time allotted to school district boards of education, at 6A:11-2.6(c), to review and comment on proposed amendments to a school's charter from 21 to 60 days in order to provide optimal opportunities for school districts to have input:
- (c) The district board(s) of education or State district superintendent(s) of the district of residence of a charter school may submit comments regarding the amendment request to the Commissioner within [21] 60 days of receipt of the resolution of the board of trustees.
21. After further consideration of the timelines associated with new charter school applications and reporting requirements for all charter schools, it was determined that previously proposed changes to N.J.A.C. 6A:11-4.4(a) should revert back to the language of the original regulation, as follows:
- (a) No later than [January] January [February] 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.
22. After additional discussion and consideration of the statute related to charter schools and tenure, the Department is proposing to further amend the code as follows:

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.]

[All teaching staff members shall acquire streamline tenure through a demonstration of effectiveness as determined by a charter school's educator evaluation system.] 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.



State of New Jersey
DEPARTMENT OF EDUCATION
PO Box 500
TRENTON, NJ 08625-0500

Proposal
August 1, 2012

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

CHRISTOPHER D. CERF
Acting Commissioner

TO: Members, State Board of Education

FROM: Christopher D. Cerf
Acting Commissioner

SUBJECT: N.J.A.C. 6A:11, Charter Schools

REASON FOR ACTION: Amendments

SUNSET DATE: May 10, 2014

Summary

The Department of Education (Department) proposes to amend N.J.A.C. 6A:11 as noted in this summary. The proposed amendments were developed with input from the Governor's Educational Transformation Task Force and are designed to increase quality instruction, improve academic achievement of students, and increase the availability of high quality educational choices for New Jersey students. The proposed amendments are aligned with the Department's mission and the State Board of Education's strategic plan in that they will enable charter schools to become innovative models of educational excellence. Charter schools can drive change and increase academic achievement through multiple, nontraditional paths of learning, while offering quality educational choices for New Jersey's families.

Specifically, the Department proposes to amend the regulations to increase accountability measures for charter schools and to clearly delineate processes and procedures for application, renewal, closure and evaluation. The proposed amendments are being presented to foster an environment in which quality charter schools can operate and expand. In addition, the amendments define specific terms as related to the all phases of the charter life cycle.

The Department proposes to amend this subchapter as follows:

Subchapter 1. General Provisions

N.J.A.C. 6A:11-1.1 Purpose

Amendments are proposed to update an expired citation regarding New Jersey Administrative Code (N.J.A.C.) that governs the rules for conducting the financial operations of the charter schools from N.J.A.C. 6A:23-9 to N.J.A.C. 6A:23A-22. The name of the subsection has been changed, and Chapter 23 is obsolete. An amendment is proposed at N.J.A.C. 6A:11-1.1(b) for stylistic reasons (remove the words “of Education”) and other grammatical improvements.

N.J.A.C. 6A: 11-1.2 Definitions

Amendments are proposed to the definition of “Administrator” for grammatical improvement.

An amendment is proposed to the definition of “Approval” (removing the term “of a charter”) for stylistic purposes. The citation is changed to correspond to the recodification required by additional proposed amendments.

An amendment is proposed to the definition of the term “certification” from N.J.A.C. 6A:23-9 to N.J.A.C. 6A:23A-22 for reasons cited above.

An amendment is proposed to include a definition of “charter agreement.” A charter agreement is a contract that establishes performance criteria for the charter school and provides measurable goals by which the Department will assess charter schools. Currently there is no charter contract. This change will enable to the Department to hold charter schools to higher levels of accountability.

An amendment is proposed to the definition of “charter school” for grammatical improvement.

The proposed amendment to add “conditional renewal” to the proposed regulations has been removed, as it has become apparent that it is duplicative of processes currently in place and has resulted in undue concern.

An amendment is proposed to include a definition of “demonstrable experience” to clarify eligible participants in the expedited application round.

The Department proposes to amend the definition of “District of residence” to ensure wide and equitable access to charter schools by students throughout the state, and to maintain consistency with the definition of “region” of residence.

The Department proposes to amend this subsection by deleting the definition of “contiguous district boards of education” to facilitate innovative and high quality charter school programs.

An amendment is proposed to the definition of “early action” to rename it “expedited action,” and to change the date for a response to the application from January 15 to February 15. “Expedited” more clearly describes the increased pace of this round of the application process. The date change enables reviewers to more carefully consider the applications in light of the expedited timeline.

An amendment is proposed to include a definition for “educator evaluation system” to ensure consistency with the New Jersey Educator Effectiveness Task Force recommendations for improving student achievement by instituting educator evaluation systems in New Jersey schools.

An amendment is proposed to the definition of “eligible applicant” to include the term “from anywhere in the State” to expand the pool of applicants and thereby to potentially increase the number of high quality charter school seats in New Jersey. The definition was changed for eligible parents of children attending school in the district of “residence” rather than “board of education” for clarification purposes.

An amendment is proposed to the definition of “final granting of a charter” for stylistic purposes. The citation is amended to correspond to the recodification required by additional proposed amendments.

An amendment is proposed to add the term “focus school” and is used as defined by the Department for the purpose of aligning charter school assessment with the State’s accountability system.

Amendments are proposed to update an expired citation by revising the reference in the definition of the term “GAAP” from N.J.A.C. 6A:23-2.1 to N.J.A.C. 6A:23A-16.1 since Chapter 23 is obsolete.

An amendment is proposed to the definition of “lead person” for grammatical improvement.

An amendment is proposed to add the definition of “Performance Framework.” The Performance Framework establishes the academic, fiscal and operational performance indicators that will guide evaluations of each charter school. The Performance Framework, based on nationally recognized best practices, will provide a consistent platform for evaluating charter school quality and is the basis for charter school contracts and for application, annual review and renewal criteria.

The Department proposes to amend this subsection by deleting the definition for “Panel of six permanent arbitrators.” The Department has determined that Chapter 3 is the proper location for all tenure-related regulations.

An amendment is proposed to the definition of “preparedness visit” to include the word “facility” to ensure that the review includes all requisite facility issues, and to add language to further clarify the purpose of the visit.

An amendment is proposed to add the term “priority school,” which is used as defined by the Department for the purpose of aligning charter school assessment with the State’s accountability system.

An amendment is proposed to add the term “qualified applicant.” This term is consistent with the proposed “two phase” process of reviewing new charter applications that is designed to focus on high-quality charter school proposals and quickly eliminate applications that do not meet the Department’s standards. A qualified applicant has met the standards established by the Department in the first phase of the application review process.

An amendment is proposed to the term “region of residence” to remove “contiguous districts” from the definition to enable students from throughout the state access to innovative programs.

The proposed amendment regarding “restructured renewal” has been removed from the proposed regulations as it is redundant of existing structures and has caused unnecessary concern.

An amendment is proposed to the definition of “revocation” for stylistic purposes.

An amendment is proposed to add the term “satellite campus.” Allowing charter schools to amend their charters to open a satellite campus, in a district with a priority school or in a former Abbott District as of July 1, 2012, will enable proven, high quality charter schools to expand their capacity to serve additional students by operating an additional facility.

An amendment is proposed to add the term “school closure protocols,” which establish a set of procedures that will provide for a proactive transition plan for students in a closing charter school, and that stipulate the steps to be taken for the fiscal dissolution of the school.

An amendment is proposed to the definition of “streamline tenure” for grammatical improvement.

The Department proposes to amend this subsection by deleting the definition for “Streamline Tenure Removal” because the Department has determined that Chapter 3 is the proper location for all tenure-related regulations.

An amendment is proposed to the definition of “structured interview” by removing the requirement that a structured interview only takes place during the first three years of a charter. This gives the Department more flexibility in conducting ongoing monitoring and evaluations of charter schools.

Subchapter 2. Application and Approval[,]; Reporting[,]; Renewal[,]; Probation and Revocation[,]; Appeal; and Amendment Processes

N.J.A.C. 6A:11-2.1 Application and renewal process

The Department proposes to amend this subsection by deleting part of the previous subsection 6A:11-2.1(b)1 and reconstituting it as new subsections 6A: 11-2.1(b)2 and 3. The reconstituted 6A:11-2.1(b)2 and 3 specify a two-phased charter school application process. The two-phased review process will improve the screening and assessment of new applications for charter schools. The two-tiered process will enable the Department to quickly eliminate applicants that lack the capacity to meet the Department’s high expectations for quality schools and to focus on applications that meet the Department’s criteria and demonstrate a clear capacity. The proposed amendments will change the timelines for the submission of charter school applications to ensure that there is sufficient time to conduct thorough and consistent evaluations and to ensure that the public, including the related school district(s), have time to provide feedback.

The Department further proposes to recodify 6A:11-2.1(b)2 as 2.1(b)4 and clarify the requirements for a qualified founder to be consistent with the revised definition in 6A:11-1.2 of “eligible applicant.”

The Department further proposes to recodify 6A:11-2.1(b)3 as 6A:11-2.1(b)5 and to amend it by specifying the dates for the Department’s receipt of charter school applications. The revision is to ensure consistency with the proposed two-phased application review process and to provide sufficient time to thoroughly evaluate both the phase one and phase two applications.

The Department proposes to amend this subsection by deleting previous subsections 6A:11-2.1(c) and 6A:11-2.1(d) and recodifying 6A:11-2.1(e) as the new (c), which delineates next steps for applicants who qualify for phase two of the application process. The revision is consistent with the proposed two-phase application review process and serves to further clarify the steps in the process.

The Department proposes to recodify 6A:11-2.1(f) as the new 6A:11-2.1(d) and to amend new (d) to ensure that the review process for the superintendents of the districts of residence of the proposed charter schools provides ample time to review both phase one and phase two applications and that the timeline is consistent with the proposed two-phase application review process.

The Department proposes to recodify 6A:11-2.1(g) as the new 6A:11-2.1(e). An amendment is further proposed to the new (e) to clarify when the in-depth interview will take place in the proposed two-phase application process. In-depth interviews will be conducted with qualified applicants (those having passed the phase-one reviews), enabling the Department to focus the interviews on high-quality applicants.

The Department proposes to recodify 6A:11-2.1(h) as the new 6A:11-2.1(f). An amendment is proposed to the new (f) to maintain consistency with the proposed two-phase new charter application process and to provide additional time for a thorough review by adding a month to the response time. An additional change is made for grammatical improvement.

An amendment is proposed to create a new subsection at 6A:11-2.1(g) to add the requirement that applicants for the expedited round (October 15) must have “demonstrable experience” operating a charter school. This requirement will enable the Department to focus on successful operators who can replicate quality programs, who have a track record of success and who will be able to open within the expedited timeframe.

The Department proposes to recodify 6A:11-2.1(i) as the new 6A:11-2.1(h). An amendment is proposed to the new (i) to clarify that approval for a charter is contingent upon the satisfactory completion of the preparedness process. This ensures that the new charter schools have all policies, procedures, personnel and facility requirements in place before being granted final approval. Further amendments to the new 6A:11-2.1(i) are proposed to (i)10 and 11 to ensure that the preparedness checklist is relevant and thorough. Changes made to items 6A:11-2.1(i)3, 4, 11, 12, 13 and 15 are for stylistic purposes.

The Department proposes to recodify 6A:11-2.1(k) as the new 6A:11-2.1(j). An amendment

is proposed to (j)2 for stylistic purposes, and to align the timeline for reporting enrollment to the changed timeline at 6A:11-2.1(f) for applicants seeking expedited action.

The Department further proposes to recodify 6A:11-2.1(l) as the new 6A:11-2.1(k). An amendment is proposed to this subsection to require that new schools must pass the preparedness process to ensure all policies, procedures, personnel and facility requirements are in place before being granted final approval. The Department also proposes to amend (k) to reflect a change in the code citation reference to the new (h).

The Department proposes removing 6A:11-2.1(m) as in is not consistent with the proposed amendments to the definitions of “region of residence” and “satellite campus,” which provide for the operation of innovative programs and for the expansion of high-quality charter programs.

Upon review of all of the proposed revisions, the Department is proposing to re-insert 6A:11-2.1(m) indicating that a charter school must locate its facility in its district of residence or in one of the districts of its region of residence, however, due to renumbering, it will be inserted as 6A:11-2.1(l).

N.J.A.C. 6A:11-2.2 Reporting

An amendment is proposed to 6a:11-2.2(a) to clarify that the yearly report is a part of an annual review process, to emphasize that it is not just a document to be submitted for compliance. Other amendments to this subsection are for stylistic purposes.

An amendment is proposed to subsection 6A:11-2.2(a)1 that replaces “description” with “evidence.” The intent is to make the annual report outcome oriented and aligned with the expectations of the Performance Frameworks, rather than a subjective narrative response. An amendment is proposed to 6A:11-2.2 (a)1i to link the goals and objectives in the annual report to the goals and objectives established by the Performance Framework. This provides for consistent evaluation of charter schools against high-quality performance standards. An amendment is proposed to 6A:11-2.2(a)1ii to clarify that the annual report must include evidence of compliance with the School Ethics Act and Open Public Meetings Act. Amendments are further proposed for subsections 6A:11-2.2(a)1iii through iv for stylistic purposes and to streamline the contents of the report by removing subsections 2.2(a)vi and vii. Subsections 2.2(a)2vi and vii do not relate to performance criteria and do not support an evidence-based assessment of charter school performance.

The Department proposes to delete subsection 6A:11-2.2(a)2i, 2iv and 2v as they are not deemed relevant to the evaluative purposes of the annual report. An amendment is proposed to subsections 6A:11-2.2(a)2ii through iii to renumber the subsections pursuant to removal of 6A:11-2.2(a)2i. Additional amendments are proposed to this subsection for grammatical and content improvement.

The Department proposes to amend subsections 6A:11-2.2(b)1, 2, 5 and 6 by adding “if the charter school has changed facilities” to eliminate unnecessary paperwork. Other amendments are proposed to subsections 6A:11-2.2(b)6 and 7 for stylistic purposes.

An amendment is proposed to subsection 6A:11-2.2(c)2 for stylistic purposes.

N.J.A.C. 6A:11-2.3 Renewal of charter

An amendment is proposed to subsection 6A:11-2.3(b)1 for stylistic purposes and to provide the Commissioner with flexibility in determining when a renewal application will be required. Such flexibility will enable the Department to structure the renewal process to address the needs and circumstances of each charter school in its renewal year. The Department proposes to add a new subsection 6A:11-2.3(b)2, which will enable the Commissioner to revoke a charter for not meeting established performance standards within the Performance Frameworks. This will ensure the maintenance of high-quality performance standards for all charter schools. The Department proposes to amend 6A:11-2.3(b)3 through 9 to renumber the subsections pursuant to the addition of subsection (b)2. Additional amendments are proposed to the subsections for grammatical and stylistic purposes.

An amendment is proposed to add subsection 6A:11-2.3(b)11 to include a charter school's educator evaluation system as part of the criteria for renewal. This aligns with the Educator Effectiveness Task Force recommendations for improving student achievement by ensuring that charter schools have effective teacher evaluation systems.

The Department proposes an amendment to subsection 6A:11-2.3(c) to provide flexibility to the Commissioner in responding to renewal applications. This will ensure that sufficient time is given to renewal decisions.

N.J.A.C. 6A:11-2.4 Probation and the revocation of charter

The Department proposes to amend 6A:11-2.4(a) to provide the Commissioner with flexibility in the amount of time allotted to a school that has been placed on probation to complete a required remedial plan. It enables the Department to make decisions based on individual school circumstances. An amendment is proposed to subsection 6A:11-2.4(a)3 to clarify that the activities undertaken by a charter school in probationary status are a part of the approved remedial plan.

An amendment is proposed to subsection 6A:11-2.4(a)4 to require evidence that the terms of the probation have been met and to provide to the Commissioner discretion in determining if the evidence is sufficient.

An amendment is proposed to add 6A:11-2.4(a)6 to give the Commissioner the ability to revoke a charter if probation terms have not been met.

The intent of the amendments to subsection 6A:11-2.4(a) is to maintain high standards of quality in the performance of charter schools by ensuring that struggling schools either sufficiently improve their standards of performance or cease operation. Additional amendments are proposed to 6A:11-2.4(a)1 through 5 for stylistic and grammatical purposes.

The Department proposes to amend 6A:11-2.4(b) and (b)1 and 2 for grammatical and stylistic purposes.

An amendment is proposed to 6A:11-2.4(b)3 to give the Commissioner the flexibility to revoke a charter for schools that have not been placed on probation to maintain the integrity of the charter school program. The amendments also would give the Commissioner the option of closing schools with academic, legal, compliance or viability issues that are immediate and severe enough to warrant revocation.

An amendment is proposed to add subsection 6A:11-2.4(b)4 to ensure that the performance standards are maintained as established in the Performance Framework by providing the Commissioner with the option to revoke a charter if the school fails to meet the performance standards.

The Department proposes to delete the existing 6A:11-2.4(c) and replace it with a new (c) that describes the steps that are to be undertaken when a charter school closes for any reason, including non-renewal, revocation, voluntary surrender, etc. The subsection establishes a set of procedures that will provide for a proactive transition plan for students in a closing charter school, and prescribes the steps to be taken for the fiscal dissolution of the school. The school closure protocols are based on best practices identified by nationally recognized charter authorizer organizations. Currently, there is no binding or consistent set of procedures that can protect student, parent, community and school district interests when a charter school closes. The school closure protocols provide appropriate protection and minimize disruption to students' academic progress.

Amendments are proposed to add 6A:11-2.4(c)1 and (c)1i and ii to ensure that notification off all stakeholders happens as quickly as possible.

Amendments are proposed to add 6A:11-2.4(c)2 to require schools to implement a comprehensive closure plan. Subsections 6A:11-2.4(c)2i(1) through (7) require the appointment of an independent trustee and describe the duties of that trustee to ensure ongoing functioning of the school until the closing date imposed by the Commissioner.

Subsections 6A:11-2.4(c)2ii(1) and (2) ensure that parents are well informed of options and next steps for their children, and that students in the school undergoing closure procedures are enrolled in an appropriate school.

Subsections 6A:11-2.4(c)iii(1) through (3) provide for the carefully monitored and secure transfer of student records.

N.J.A.C. 6A:11-2.5 Charter appeal process

Amendments are proposed to 6A:11-2.5 to update an expired citation regarding the filing of an appeal.

N.J.A.C. 6A:11-2.6 Amendment to the charter

An amendment is proposed to add subsection 6A:11-2.6(a)1 to identify how a charter school may amend its charter. This subsection provides charter schools with greater flexibility in

expanding the number of high-quality seats that can be made available.

An amendment is proposed to renumber 6A:11-2.6(a)1 to (a)2 to accommodate the new subsection. An amendment is proposed to new 6A:11-2.6(a)2ii to change the date by which charter schools are to submit amendment requests from October 15 to February 1. The October 15 date precludes new charter schools from submitting an amendment as it is too soon after the opening of school for the Department to determine if an amendment is feasible.

The Department proposes to delete existing 6A:11-2.6(a)2 as it restricts the types of amendments charter schools can request and runs counter to the Department's goal of enabling charter schools to continuously improve and grow quality programs.

An amendment is proposed to subsection 6A:11-2.6(b) to ensure that performance evaluation data is considered when the Commissioner is assessing the feasibility of a charter school's request for an amendment.

An amendment is proposed to subsection 6A:11-2.6(c) to provide more time (from 21 days to 60 days) for school district boards of education to comment on a proposed amendment to a school's charter.

Subchapter 3. School Ethics Act

N.J.A.C. 6A:11-3.1 Board of trustees and administrators

Amendments are proposed to subsections 6A:11-3.1(c) and (d) for stylistic and grammatical purposes.

Subchapter 4. Program Implementation

N.J.A.C. 6A:11-4.1 Local education agency

An amendment is proposed to subsection 6A:11-4.1 for stylistic purposes.

N.J.A.C. 6A:11-4.2 Student records

An amendment is proposed to subsection 6A:11-4.2(c) to be consistent with the revised name of the cited subsection.

N.J.A.C. 6A:11-4.3 Student attendance

An amendment is proposed to subsection 6A:11-4.3 for stylistic purposes.

N.J.A.C. 6A:11-4.4 Initial recruitment period

An amendment was proposed to subsection 6A:11-4.4(a) to change the date for submission of enrollment data from January 15 to February 15, however, further examination of the reporting timeline has resulted in an agency initiated change to revert back to the original

reporting date of January 15.

An amendment is proposed to subsection 6A:11-4.4(b) to replace an obsolete citation.

N.J.A.C. 6A:11-4.7 Limited English proficient students

An amendment is proposed to 6A:11-4.7 for stylistic purposes and to remove the wording restricting the requirement to high school graduation standards to ensure that all limited English proficient students are adequately served, not just those in high school.

N.J.A.C. 6A:11-4.11 Board of trustees and Open Public Meetings Act

An amendment is proposed to subsection 6A:11-4.11(c) for stylistic purposes.

N.J.A.C. 6A:11-4.12 Equity in education

The Department proposes to amend this subsection by updating the full title of N.J.A.C. 6A:7 by adding “Managing for Equality and Equity in Education” and the full title of the Individuals with Disabilities Education Act by updating the year to 2004. Other amendments to this subsection are proposed for stylistic purposes.

N.J.A.C. 6A:11-4.13 Financial operations of a charter school

Amendments are proposed to subsection 6A:11-4.4(b) to replace an obsolete citation and for stylistic purposes.

N.J.A.C. 6A:11-4.14 Charter school operation

An amendment is proposed to add 6A:11-4.14(a), which requires charter schools to operate in accordance with public school law, and 6A:11-4.14(b), which provides the boards of trustees of charter schools the option to request exemptions from certain statutes. This subsection is pursuant to N.J.S.A. 18A:36A-11, Operation of charter school, and is intended to promote the ability of charter schools to operate optimally and develop innovative and effective educational programs that might otherwise be constrained by New Jersey statute (excepting statutes related to assessment, testing, civil rights and student health and safety).

Subchapter 5. Certification Requirements for Staff

N.J.A.C. 6A:11-5.1 Certification

An amendment is proposed to subsection 6A:11-5.1(b)2 to replace an obsolete citation.

Subchapter 6. Streamline Tenure

N.J.A.C. 6A:11-6.1 Tenure acquisition

An amendment is proposed to 6A:11-6.1 that refers streamline tenure acquisition to guidelines developed by the Commissioner. The proposed amendment will enable charter schools to develop teacher evaluation and tenure processes that are relevant and based on their own accountability systems, consistent with the Commissioner's guidelines.

N.J.A.C. 6A:11-6.2 Filing of and response to tenure charges The Department proposes to delete 6A:11-6.2 because the regulations will be moved to N.J.A.C. 6A:3, Controversies and Disputes, which houses regulations for all other tenure charges. The Department has determined that Chapter 3 is the proper location for all tenure-related regulations.

N.J.A.C. 6A:11-6.3 Arbitration The Department proposes to delete 6A:11-6.3 because its contents are being proposed for inclusion in N.J.A.C. 6A:3 for the reasons cited in 6A:11-6.2.

Social Impact Statement

The proposed amendments to N.J.A.C. 6A:11, the regulations governing charter schools, will increase accountability measures for charter schools, provide flexibility for charter schools to implement innovative programs, and enable the Department to have clear and consistent measures of academic, fiscal and organizational performance throughout the charter life cycle. Currently, 27,000 students attend New Jersey charter schools, with the number increasing to approximately 37,000 by September, 2012. The proposed amendments clarify processes for applications, renewal, oversight and closure, and streamline effective practices for both new and existing quality charter operators, while maintaining the commitment to ensuring that New Jersey parents have quality choice options.

Economic Impact Statement

The proposed amendments will have an impact on school districts that are affected by opening new charter schools, expansion of existing charter schools and closure of under-performing charter schools. Efficiency will be further enhanced by the detailing of clear timelines for school district comment in relation to budgeting exigencies. Closure protocols detail the fiscal responsibility of charter schools going through the dissolution process and delineate the lines of communication between the charter school, the school district and the Department.

Federal Standards Statement

The proposed amendments will not be inconsistent with or exceed federal standards or requirements since no such standards or requirements address the mechanisms prescribed in this chapter.

Jobs Impact Statement

No jobs are expected to be lost as a result of the proposed amendments.

Agricultural Impact Statement

The proposed amendments have no impact on the State agricultural industry.

Regulatory Flexibility Statement

The proposed amendments have no impact pursuant to the Regulatory Flexibility Act, N.J.S.A. 52:14B-15 et seq.

Housing Affordability Impact

The proposed amendments have no impact of the average cost of housing. The amendments concern charter schools.

Smart Growth Development Impact

The proposed amendments have no impact on smart growth development.

Full text of the proposed amendments follows (additions underlined thus; deletions indicated in brackets [thus]):

CHAPTER 11. CHARTER SCHOOLS

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 [finance and business services] fiscal accountability rules at N.J.A.C. 6A:[23-9]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 [of Education]. In addition, [these] the rules affect students who attend [the] charter schools, the parents and legal guardians of [these] the students, the district boards of education where [these] the 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 context clearly indicates otherwise.

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

1. Holds a position [which] that requires a certificate [that authorizes] authorizing the holder to serve as school administrator, principal or school business administrator;
2. Holds a position [which] that requires a certificate [that authorizes] authorizing the holder to serve as supervisor [and] 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 [which] that does not require [that] 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 [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[(h)](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:[23-9]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 [that is] operated under a charter granted by the

Commissioner[,] that is independent of the district board of education and [that is] managed by a board of trustees.

["Conditional renewal" means the Commissioner's renewal of the charter that may be revoked after one year if the charter school has not fulfilled the conditions imposed by the Commissioner in connection with the charter renewal.]

["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.

“[Early] 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 [January] February 15.

“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 [board] of [education] 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 [board] of [education] residence.

"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 [of Education] in accordance with N.J.A.C. 6A:11-2.1[(h)](f), [(i)](h) and [(j)](i).

“Focus school” means a Title I high-school with a 2011 graduation rate less than 75 percent; or a Title I school that has the largest within-school proficiency gaps between the highest-achieving subgroup and the combined proficiency of the two lowest-achieving subgroups; or a Title I school with the lowest combined proficiency of the lowest-two performing subgroups; or a non-Title I school that would otherwise meet the aforementioned criteria. All proficiencies for focus schools are based on every test-eligible student in the three most recent years of the SEA’s statewide assessments (0809-0910-1011), averaged across LAL and Math. Focus schools must demonstrate lack of progress (assessed using the state’s student growth percentile methodology) for any and all subgroups on which the focus designation is based.

"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:[23-2.1]23A-16.1.

"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 [these] the organizational tasks, the person designated as responsible for completion of the tasks required by [these] 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.

"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.

“Performance Framework” means the standards for charter schools in each of the following components: instructional program; operations; fiscal management; and governance. The Performance Framework shall be developed by the Department and shall be used by the Department to evaluate the performance of charter schools.

[“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).]

“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.**

“Priority school” means a Tier I or Tier II school under the school improvement grant (SIG) program that is using SIG funds to implement a school intervention model; or a Title I school among the lowest five percent in the State based on the achievement of the “all students” group, that has also demonstrated a lack of progress on those assessments in the “all students” group; or a non-Title I school that would otherwise meet the aforementioned criteria. All proficiencies for priority schools are based on every test-eligible student in the three most recent years of the SEA’s statewide assessments (0809-0910-1011), averaged across LAL and Math.

“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 established by the Department.

"Region of residence" means **[contiguous]** school districts in which a charter school operates and is the charter school's district of residence. **[A region of residence for a charter school focusing on online instruction need not include contiguous districts and may use any configuration of school districts.]**

"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 [of a school] by the Commissioner from [the] a charter school's board of trustees [by the Commissioner].

“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 established by the Commissioner 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 [in order] 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 [who are] employed in a charter school while on leave from a district board[s] of education.

["Streamline tenure removal" means the process by which an employee who has obtained streamline tenure can be dismissed or reduced in compensation.]

"Structured interview" means the performance assessment of the accomplishments of a charter school [during the first three years of its charter] 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.

SUBCHAPTER 2. APPLICATION AND APPROVAL[,]; REPORTING[,]; RENEWAL[,]; PROBATION AND REVOCATION[,]; APPEAL; AND AMENDMENT 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 [of Education] no later than August 31 of each year, [and which includes a description of the areas listed in N.J.S.A. 18A:36A-5 and a description of the following as each relates to the charter school:
 - i. Mission;
 - ii. Goals and objectives;
 - iii. Needs analysis;
 - iv. Founders;
 - v. Student discipline policy and expulsion criteria;
 - vi. Special populations;

- vii. Transportation;
- viii. Self-evaluation process;
- ix. Insurance;
- x. Timetable; and
- xi. Educational equity and access.]

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. 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[, **including programmatic and fiscal impact**];
and
- vii. Community and parent involvement.

3. [The Department shall evaluate the phase one application based on the standards to be used for evaluation as set forth in the phase one application form;]

[i.] The Commissioner shall notify an applicant whether they have been approved or denied for “qualified applicant” status upon completion of the phase one review.

[ii.] i. To participate in phase two, qualified applicants shall be required to submit the phase two application within 30 days of the date of notification of

eligibility by the Department.

[iii.] ii. The phase two application shall include the following information[, in addition to the information required pursuant to N.J.S.A. 18A:36A-5]:

- (1.) Educational program;
- (2.) Goals and objectives;
- (3.) At-risk populations;
- (4.) Staffing information;
- (5.) Financial plan;
- (6.) Governance and organizational plan;
- (7.) Facilities;
- (8.) Daily and annual schedule;
- (9.) Requested waivers; and
- (10.) All required documentation.

[iv. The Department shall evaluate the phase two application.]

v. The Commissioner shall notify a qualified applicant about whether it has been invited to participate in an in-depth interview with the Commissioner or his/her designee within the timeline defined by the Department.

[2.]4. If seeking to operate a charter school with a region of residence, the charter school shall:

- i. Include as qualified founders [a teaching staff member or a parent with a child attending a school of the district board of education in accordance with N.J.S.A. 18A:36A-4(a) from each of the contiguous district boards of education that comprise the region] at least one eligible applicant; and
- ii. Describe its plan to ensure the enrollment of a cross section of the school-

age population of the region of residence, including racial and academic factors. This plan shall include apportionment of available space from each of the district boards of education that comprise the region of residence.

[3.]5. [Submit] For the March 31 application round, submit a hand-delivered or mailed copy of the completed phase one application to the Commissioner, the respective executive county superintendent of schools and the district board(s) of education or State district superintendent(s) of the district of residence of the proposed charter school no later than 4:15 [P.M.] p.m. on March 31. If March 31 falls on a weekend, the phase one application is due no later than 4:15 [P.M.] p.m. on the first subsequent work day. [The Department of Education will review for fast track approval through early action all applications submitted no later than 4:15 P.M. on October 15. If October 15 falls on a weekend, the application is due] For the expedited action round, applications must be submitted no later than 4:15 p.m. on October 15. If October 15 falls on a weekend, the phase one application for expedited action is due no later than 4:15 p.m. on the first subsequent work day. Phase two applications must be submitted no later than 4:15 [P.M.] p.m. on the [first subsequent work day] designated due date.

[(c) Following the initial review of the application, the Department of Education may request subsequent information as addenda to the application.

(d) The applicant shall submit addenda to the Department of Education and the district board(s) of education or State district superintendents of the school district(s) of residence of the proposed charter school.]

[(e)](c) The Department [of Education] shall review the [addenda and may seek clarifying

information from the applicant] phase one application. Qualified applicants **[satisfying the standards for evaluation]** will be asked to complete the phase two application.

[(f)](d) The district boards of education or State district superintendents of the districts of residence of the proposed charter schools shall review both the phase one and phase two applications [and addenda], if submitted.

1. The recommendations of [these] the district boards of education or State district superintendents shall be forwarded to the Commissioner within [60] 30 days of receipt of the phase one applications, however, if a district board of education or State district superintendent is unable to respond to the phase one application in this timeframe, upon good cause shown to the Commissioner, comments may be submitted on the phase one application along with comments provided on the phase two application.

2. The recommendations of [these] the district boards of education or State district superintendents shall be forwarded to the Commissioner within [30] 60 days of receipt of the [addenda] phase two applications.

[(g)](e) [The] Following review of phase two applications, the Commissioner or designee(s) shall conduct an in-depth interview with [each eligible applicant for a charter school] qualified applicants.

[(h)](f) The Commissioner shall notify [eligible] applicants regarding approval or denial of applications no later than [January] February 15 for applicants seeking approval through [early] expedited action and no later than September 30 for all other applications. The notification to eligible applicants [who are] not approved as charter schools shall include reasons for the denials.

(g) For phase one of the October 15 expedited application, the Department will review

applications received from founders with demonstrable experience operating an education institution. **Criteria for applicants eligible for the expedited round will be set forth in the application.** The application review process for phase two will proceed as set forth in (d) and (e) above.

(h) Prior to final granting of the charter, a preparedness visit to prospective charter schools will be conducted by the Department.]

~~(i)~~~~(h)~~**(i)** The Commissioner may approve an application for a charter, which shall be effective when all necessary documents and information are received by the Commissioner and following satisfactory completion of the preparedness visit as determined by the Commissioner. The charter school shall submit on or before the dates specified in the letter of approval the documentation not available at the time of the application submission including, but not limited to, copies of:

1. A directory of the current members of the board of trustees;
2. The bylaws of the board of trustees;
3. The [Certificate of Incorporation] certificate of incorporation;
4. The [Federal] federal Employer Identification Number;
5. The Credit Authorization Agreement for Automatic Deposits;
6. The lease, mortgage or title to its facility;
7. The certificate of occupancy for "E" (education) use issued by the local municipal enforcing official at N.J.A.C. 5:23-2;
8. The sanitary inspection report with satisfactory rating;
9. The fire inspection certificate with "Ae" (education) code life hazard use at N.J.A.C. 5:70-4;

10. An organizational chart and [A] a list of the lead person, school business administrator, teachers and professional support staff including required certifications and criminal background check status;
11. **[The] [Authorization for Emergent Hiring Pending Completion of Criminal History Check] [authorization for emergent hiring pending completion of criminal history check form or] [Criminal History Approval] [criminal history approval letter for each employee of the charter school];** A budget summary, budget narrative and cash flow statement for the following fiscal year, based on the most recent enrollment projections.
12. Evidence of a uniform system of double-entry bookkeeping that is consistent with [generally accepted accounting principles (GAAP)];
13. The resolution of the board of trustees naming the [Affirmative Action Officer] affirmative action officer, the Section 504 [Officer] officer and the Title IX [Coordinator] coordinator;
14. Evidence of enrollment of at least 90 percent of maximum enrollment, as verified by student registrations signed by parent/guardian(s); and
15. Documentation that ensures compliance with all applicable [Federal] federal and State regulations and statutes.

[(j)](i) Prior to final granting of the charter, a preparedness visit to prospective charter schools will be conducted by the Department.]

[(k)](j) Prior to the granting of the charter, the Commissioner shall assess the student composition of a charter school and the segregative effect that the loss of the students may have on its district of residence. The assessment shall be based on the enrollment from the initial recruitment period pursuant to N.J.A.C. 6A:11-4.4(a) and (b). The charter

school shall submit data for the assessment:

1. In a format prescribed by the Commissioner; and
2. No later than 4:15 [P.M.] p.m. on February 15, or March 15 for charter schools applicants seeking approval through expedited action.

[(1)](k) All statutorily required documentation shall be submitted to the Department [of Education] by June 30. The final granting of the charter by the Commissioner shall be effective when all required documentation as listed in [(i)](h) above is submitted and approved by the Department [of Education] no later than July 15 and following satisfactory completion of the preparedness visit as determined by the Commissioner.

[(m)] A charter school shall locate its facility in its district of residence or in one of the districts of its region of residence.]

[(l)] A charter school shall locate its facility in its district of residence or in one of the districts of its region of residence.

[(l)] The Commissioner may grant a planning year instead of final granting of the charter if a charter school applicant has been approved but has not been able to provide by the deadline the proper documentation.]

6A:11-2.2 Reporting

- (a) To facilitate the annual review, each charter school shall submit an annual report to the local board of education, the executive county superintendent and the Commissioner in the form prescribed by the Commissioner. The board of trustees of a charter school shall submit an annual report no later than 4:15 [P.M.] p.m. on August 1 following each full school year in which the charter school is in operation to the Commissioner, the

respective executive county superintendent [of schools] and the district board(s) of education or State district superintendent(s) of the district of residence of a charter school. If August 1 falls on a weekend, the annual report is due on the first subsequent work day.

1. The report in a format prescribed by the Commissioner must include, but is not limited to [a description] evidence of the following:

i. [The achievement of the school's] The school is achieving the mission, goals and objectives of its charter as measured against the Performance Frameworks;

ii. [The efficiency in the governance and management of the school] The board of trustees operates in accordance with the School Ethics Act (N.J.S.A. 18A:12-23) and the Open Public Meetings Act (N.J.S.A. 10:4-6 et seq);

iii. [The attainment of the New Jersey] Curriculum that is compliant with the Core Curriculum Content Standards [and the delivery of an educational program leading to high student academic achievement];

iv. Statewide [Assessment Program] assessment program results and local assessment results of students; and

v. [The degree of parental] Parental and community involvement in the school[;].

vi. A calendar for the upcoming school year;

[vi. The school's public relations and outreach efforts; and

vii. The student admissions policies and staff recruitment plan.]

2. The report must include a copy of the following:

- [i. The resolution of the board of trustees naming the lead person of the charter school;]
 - [i]i. A directory of the current members of the board of trustees; and
 - [i]ii. Amendments to the bylaws of the board of trustees adopted during the previous year[;].
 - [iv. A calendar for the upcoming school year; and
 - v. The resolution of the board of trustees naming the Affirmative Action Officer, the Section 504 Officer and the Title IX Coordinator.]
3. 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.
4. The district board(s) of education or State district superintendent(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.
- (b) The board of trustees of a charter school shall submit documentation annually to the Commissioner for approval prior to the opening of school on dates specified by and in a format prescribed by the Commissioner. The documentation shall include, but is not limited to, copies of:
- 1. A new lease, mortgage or title to its facility if the charter school has changed facilities;
 - 2. A valid certificate of occupancy for "E" (education) use issued by the local municipal enforcing official at N.J.A.C. 5:32-2 if the charter school has changed facilities;
 - 3. An annual sanitary inspection report with satisfactory rating;
 - 4. An annual fire inspection certificate with "Ae" (education) code life hazard use at

N.J.A.C. 5:70-4;

5. A list of the lead person, teachers and professional support staff if any charter school staff has changed;
 6. The [Authorization for Emergent Hiring Pending Completion of Criminal History Check] authorization for emergent hiring pending completion of criminal history check form or [Criminal History Approval] criminal history approval letter for each employee of the charter school if any charter school staff has changed; and
 7. Evidence of a uniform system of double-entry bookkeeping that is consistent with [generally accepted accounting principles (GAAP)].
- (c) On an annual basis, the Commissioner shall assess the student composition of a charter school and the segregative effect that the loss of the students may have on its district of residence. The assessment shall be based on the enrollment from the initial recruitment period pursuant to N.J.A.C. 6A:11-4.4(b). The charter school shall submit data for the assessment:
1. In a format prescribed by the Commissioner; and
 2. No later than 4:15 [P.M.] p.m. on January 15.

6A:11-2.3 Renewal of charter

- (a) The Commissioner may grant a five-year renewal of a charter following the initial four-year charter[, **or a one-year conditional renewal**].
- (b) The Commissioner shall grant or deny the renewal of a charter upon the comprehensive review of the school including, but not limited to:
 1. A renewal application submitted by a charter school to the Commissioner, the respective county superintendent of schools and the district board(s) of education

or State district superintendent(s) of the district of residence of the charter school no later than 4:15 [P.M.] p.m. on October 15 of the last school year of the current charter, or on a date prescribed by the Commissioner **with no less than 30 days notice**;

2. If the charter school failed to meet any standards set forth in its charter agreement or the Performance Framework;
3. The review of a charter school's annual reports pursuant to N.J.A.C. 6A:11-2.2(a);
- [3.] 4. Comments of the annual reports from the district board(s) of education or State district superintendent(s) of the district of residence of the charter school;
- [4.] 5. Student performance on the Statewide [Assessment Program] assessment program pursuant to N.J.A.C. 6A:8-4.1;
- [5.] 6. Monitoring of the charter school by the executive county superintendent;
- [6.] 7. Monitoring of the charter school by the Commissioner or designee(s);
- [7.] 8. The annual assessments of student composition of the charter school;
- [8.] 9. The recommendation of the district board(s) of education or State district superintendent(s) of the district of residence forwarded to the Commissioner within 30 days of receipt of the renewal application; and
- [9.] 10. A structured interview with the Commissioner or designee(s) with:
 - i. A member of the charter school board of trustees;
 - ii. The lead person of the charter school;
 - iii. A teacher at the charter school; and
 - iv. A parent or other representative of the charter school.
11. The review of the charter school's educator evaluation system.

[(c) The Commissioner may approve a one-year conditional renewal of a charter if there

is a preponderance of evidence accumulated pursuant to (b)2 through 10 above that the school is at risk of revocation of its charter for violations of law, failure to comply with the terms of the school's charter, failure to meet any standards set forth in the Performance Framework, or if the school has been determined by the Department to be a priority or focus school.

1. Terms of the conditional renewal shall be determined by the Commissioner;
2. Failure to comply with the terms of the conditional renewal at any time may result in revocation of the charter prior to the end of the renewal year.]

[(d) The Commissioner may grant restructured renewal of a school that is at risk of revocation of its charter for serious violations of law, the school's charter or failure to meet one or more of the standards set forth in the Performance Framework.]

[(c)](e) (c) The Commissioner shall notify a charter school regarding the granting or denial of the renewal on or before February 28 of the last school year of the current charter, or on a date prescribed by the Commissioner. The notification to a charter school that is not granted a renewal shall include reasons for the denial.

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] time as determined by the Commissioner 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, within the remedial plan, 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] school provides sufficient evidence, as determined by the Commissioner, that the terms of the probation have been met and the causes for the probationary status are corrected [.];
5. The Commissioner may grant [an] extensions 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[.]; and
6. The Commissioner may [summarily] revoke the charter if the remedial plan is deemed to be insufficient.

(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] that 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] that caused the probationary status. The Commissioner may place a school on probation [or approve a conditional renewal] before charter revocation, but probationary [or conditional] status is not necessary for revocation; or
4. Failure of the charter school to meet any standards set forth in its charter

agreement or the Performance Framework.

[(c) The Commissioner shall 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.]

(c) Upon the decision of the Commissioner to revoke or not renew a school's charter, or upon the decision of the board of trustees to surrender a charter, the board of trustees must implement school closure protocols including, at a minimum:

1. The board of trustees, within 48 hours of receipt of notification, shall:
 - i. Provide in writing to the Commissioner a complete list of names and addresses of all students and staff currently enrolled and working in the school, so the Commissioner may send the appropriate notice to the parents or guardians and staff;
 - ii. Notify in writing all administrators, staff, parents, guardians, students and special education providers.
2. Implement a comprehensive closure plan:
 - i. Within 10 business days of receipt of notification, the board of trustees must appoint an independent trustee whose appointment is subject to the approval of the Commissioner. Duties of the independent trustee include, but are not limited to, the following:
 - (1) Review budget to ensure that funds are sufficient to operate the school through the end of the school year, if applicable, and terminate any spending deemed non-essential to the operation of the school;
 - (2) Maintain all financial records;

- (3) Notify all entities doing business with the school;
- (4) Notify retirement and benefits systems in which the school's employees participate;
- (5) Inventory and evaluate assets;
- (6) Ensure appropriate payment of outstanding debt; and
- (7) Ensure appropriate distribution of remaining assets.

ii. Provide for appropriate enrollment:

- (1) District(s) of residence of a charter school undergoing closure proceedings must, in cooperation with the Department and the charter school, establish dates and times for parents and guardians to enroll students; and
- (2) The charter school must make all reasonable efforts to ensure that students enrolled at the time of the receipt of the closure notification have taken action to enroll in another school.

iii. Ensure transfer of student records:

- (1) The charter school shall update all student records and have them available upon request for review by the Department;
- (2) The charter school shall document the transfer of all records, including the number of general and special education records to be transferred, and the printed name and signature of the charter school representative releasing the records; and
- (3) School districts receiving transferred students shall provide to the appropriate county office of education printed name(s) and signature(s) of representative(s) of the district(s) certifying receipt

of the student records.

6A:11-2.5 Charter appeal process

An eligible applicant for a charter school, a charter school or a district board of education or State district superintendent of the district of residence of a charter school may file an appeal according to [N.J.A.C. 6A:4-2.5] N.J.S.A. 18A:6-9.1.

6A:11-2.6 Amendment to charter

(a) A charter school may apply to the Commissioner for an amendment to the charter following the final granting of the charter.

1. Examples of what a charter school may seek an amendment for include, but are not limited to, the following:

- i. Expanding enrollment;
- ii. Expanding grade levels;
- iii. Changing or adding a district or region of residence; or
- iv. Opening a new satellite campus;

[1.]2. 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 State district superintendent(s) of the district of residence of a charter school. The amendment request shall:

- i. Include the applicable revised pages to the approved New Jersey Charter School Application; and
- ii. Be made by [October] February [15]1 of the previous school year to increase enrollment in the subsequent school year.

- [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. The Commissioner shall review a charter school's performance data in assessing the need for a possible charter amendment.
- (c) The district board(s) of education or State district superintendent(s) of the district of residence of a charter school may submit comments regarding the amendment request to the Commissioner within [21] 60 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.

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 [the Financial and Personal/Relative Disclosure Statements] 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 [which] 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.

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] 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, [Student Records] School District Operations.

6A:11-4.3 Student attendance

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

6A:11-4.4 Initial recruitment period

- (a) No later than [January] **January** [~~February~~] 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:[23-9.4]23A.
- (c) A charter school may conduct subsequent recruitment and enrollment periods if vacancies remain in its enrollment after the initial recruitment period.

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.

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.

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 [New Jersey] Core Curriculum Content Standards [for high school graduation] in accordance with N.J.S.A. 18A:7A-4 and 18A:7A-5 and N.J.A.C. 6A:15, 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.

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.

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.

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.

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 [(IDEA--B)] of [1997] 2004 at 20 U.S.C. §§ 1400 et seq., and 34 C.F.R. 300 et seq.

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

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

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.

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:23[-9.3]A to oversee fiscal operations of the charter school.

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.]

[All teaching staff members shall acquire streamline tenure through a demonstration of effectiveness as determined by a charter school's educator evaluation system.] 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.

[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 charge(s), executed under oath, accompanied by a supporting statement of evidence with the board of trustees.
 - 2. The board of trustees shall transmit the charge(s) 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 charge(s).
 - 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 charge(s) 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 charge(s) executed under oath, accompanied by a supporting statement of evidence with the board of trustees.
 2. The board of trustees shall transmit the charge(s) 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 charge(s).
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 charge(s) 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 charge(s), 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.]