

EDUCATION

STATE BOARD OF EDUCATION

DIVISION OF DISTRICT AND SCHOOL IMPROVEMENT

Charter Schools

Proposed Amendments: N.J.A.C. 6A:11-1.2 and 2.1

Authorized By: State Board of Education, Lucille E. Davy, Commissioner, Department of
Education and Secretary, State Board of Education

Authority: N.J.S.A. 18A:36A-1 through 18

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2009-331

Submit written comments by January 1, 2010 to:

Ms. Rochelle Hendricks, Assistant Commissioner
Division of District and School Improvement
New Jersey Department of Education
River View Executive Plaza
Building 100, P.O. Box 500
Trenton, New Jersey 08625-0500

The agency proposal follows:

Summary

The Department of Education is proposing amendments to N.J.A.C. 6A:11, Charter Schools. This chapter is not scheduled to expire until May 10, 2012. However, the proposed amendments will allow the Department of Education to provide an expedited approval process for applicants who seek fast track review in order to open a new charter school within a shorter time frame.

The charter school rules were adopted in August 1997 and amended in May 1998, October 2000, October 2002, and again in October 2007. Many associations and individuals provided input on developing and implementing procedures for the operation of charter schools in the State. Those amendments to N.J.A.C. 6A:11 reflected conclusions drawn from the comprehensive evaluation of the New Jersey charter schools initiative as well as clarifications in current rules and the need for compliance with the November 2000 amendments to N.J.S.A. 18A:36A-1 et seq. enacted as P.L. 2000, c. 142.

The proposed amendments are aligned with the Department's mission and a Federal initiative to advance charter schools as a public school option. Charter schools can drive change through multiple, non-traditional, paths of learning and offer educational choice for New Jersey's families. Student achievement is critical in the success for all charter schools. Charter schools must continue to meet both state and national standards in order to be a viable choice for New Jersey's families. Charter schools have the flexibility to be innovative learning models which can facilitate improved student achievement across the state.

The following summary of the rules serves to describe the proposed amendments. The amendments proposed are related to creating an expedited approval process for charter school applicants.

Subchapter 1. General Provisions

This subchapter defines the purpose of the rules and contains the definitions of the relevant words and terms used in the chapter.

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

An amendment is proposed at N.J.A.C. 6A:11-1.2 to add a definition for “early action” which will allow applicants to apply early and receive an early decision regarding the status of the application.

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

This subchapter defines the processes for charter schools to meet the requirements of the Charter School Program Act of 1995 (N.J.S.A. 18A:36A-1 et seq.). The proposed amendments establish a due date of August 31 for the dissemination of charter school applications and create an accelerated approval process. This will permit the Department of Education to expedite the approval process so that charter schools filing for “early action” can be approved and open more expeditiously. This subchapter further details the procedures for probation and revocation of a charter.

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

N.J.A.C. 6A:11-2.1(b)1 outlines the processes for applications submission and evaluation and notification of approval or denial of a charter by the Commissioner. It is amended to include a due date of August 31 for the Department of Education to disseminate the charter school applications.

N.J.A.C. 6A:11-2.1(b)3 is amended to establish the due date and time of 4:15 P.M. on October 15 for applicants to submit charter school applications for early action. In addition, "executive" is added before "county superintendent" to update the position to its current title.

N.J.A.C. 6A:11-2.1(c) is amended to include the word "initial" to the review of the application. The amendment also deletes the plural form of the word "application."

N.J.A.C. 6A:11-2.1(e) is amended to change the word "evaluate" to "review" and to add that the Department of Education may request clarifying information from the applicant.

N.J.A.C. 6A:11-2.1(h) is amended to require the Commissioner to notify eligible applicants regarding approval or denial by January 15 for applicants seeking fast track approval. The existing September 30 due date will apply to all other applicants.

N.J.A.C. 6A:11-2.1(k)2 directs the Commissioner to conduct an assessment, prior to granting the charter, of the student composition and segregative effect that the loss of the students may have on the district of residence. It is amended to change the date for the submission of data for the assessment from January 15 to February 15.

The Department is proposing a 60-day comment period for this proposal. Therefore, the proposal is exempt from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The intent of the proposed amendments is to create an expedited approval process for charter school applicants that are prepared to do so on a fast track timeline. This expedited process will shorten the approval process in half thus allowing more charter schools to open within a shorter time frame. This will positively affect the citizens of New Jersey by increasing the public school options for parents throughout the State.

Economic Impact

The proposed amendments to the rules are intended to increase the number of highly effective and efficient charter schools in New Jersey. Charter schools are designed to provide an economically streamlined approach to providing a high quality public education. Charter schools are models of economic frugality. Charter schools operate on reduced funding per pupil in comparison to districts to provide an educational option for New Jersey's families. The

Department does not foresee any additional cost for school districts from the proposed amendments.

Federal Standards Statement

The Federal requirements or standards applicable to charter schools concerning students with educational disabilities and equity in education pursuant to the Individuals with Disabilities Education Act, Part B (IDEA—B) at 20 U.S.C. §§1400 et seq. and 34 CFR 300 et seq., Titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. §§2000d et seq. and 2000e et seq. respectively), Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §792) and the Americans with Disabilities Act of 1990 (42 U.S.C. §§12101 et seq.) are not exceeded by the proposed amendments. There are no other Federal standards that apply. Therefore, a Federal standards analysis is not necessary.

Jobs Impact

Charter schools employ over 1,500 administrators, teachers and support staff to serve approximately 18,800 students. The Early Action Process proposed in amendments is intended to facilitate the opening of more charter schools in New Jersey. Consequently, this will have a positive impact on job creation for both teachers and administrators. In addition, jobs are created to perform other services required to operate the charter schools such as office management, food service and custodial positions.

Agriculture Industry Impact

No impact on the agriculture industry will occur as a result of the proposed amendments to the rules governing charter schools.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendments do not impose recording, recordkeeping or other compliance requirements on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A 52:14B-16 et seq. These amendments impact solely charter schools, which are New Jersey public schools, and district boards of education that have students enrolled in charter schools.

Smart Growth Impact

The proposed amendments will have no impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The proposed amendments will have no impact on the average cost of housing in the State as the amendments concern creating a fast track approval process for charter school applicants.

Smart Growth Development Impact

As the proposed amendments concern creating a fast track approval process for charter school applicants, the amendments would not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers under the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

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.

...

“Early 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 15.

...

6A:11-2.1 Application and approval process

(a) (No change.)

(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. – xi. (No change.)

2. (No change.)

3. Submit a hand-delivered or mailed copy of the completed 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. on March 31. If March 31 falls on a weekend, the application is due no later than 4:15 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 no later than 4:15 P.M. on the first subsequent work day.**

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

(d) (No change.)

(e) The Department of Education shall [evaluate] **review** the addenda **and may seek clarifying information from the applicant.**

(f) – (g) (No change.)

(h) The Commissioner shall notify eligible applicants regarding approval or denial of applications [by] **no later than January 15 for applicants seeking fast track approval through early 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.

(i)-(j) (No change.)

(k) 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. (No change.)

2. No later than 4:15 P.M. on [January] **February** 15.

(l) – (m) (No change.)