

**STATE BOARD OF EDUCATION
ADMINISTRATIVE CODE
COMMENT/RESPONSE FORM**

This comment and response form contains comments from and since the October 5, 2016, meeting of the State Board of Education when the draft regulations were considered at First Discussion Level.

Topic:	Charter Schools	Meeting Date:	January 4, 2017
Code Citation:	N.J.A.C. 6A:9B, 11, 23A and 26	Level:	Second Discussion
Division:	Legal and External Affairs	Completed by:	Office of Charter and Renaissance Schools

Summary of Comments and Agency Responses:

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

- A. Mark W. Biedron, President
State Board of Education
- B. Joseph Fisicaro, Vice President
State Board of Education
- C. Dr. Ronald Butcher, Member
State Board of Education
- D. Edithe Fulton, Member
State Board of Education
- E. Dr. Ernest Lepore, Member
State Board of Education
- F. Andrew Mulvihill, Member
State Board of Education
- 1. Donna M. Chiera, President
American Federation of Teachers New Jersey (AFTNJ)
- 2. Assemblyman John S. Wisniewski
19th Legislative District
- 3. Steve Beatty, Teacher
Bridgewater-Raritan School District
- 4. Ricardo Belgrave, Parent

Atlantic City

5. Meaghan Bertsch, Director of Pipeline and Partnerships
KIPP New Jersey
6. Marie Blistan, Vice President
New Jersey Education Association (NJEA)
7. Bob Bowdon, Executive Director
Choice Media
8. Elizabeth Brantley-Holmes, Parent
City of Newark
9. Rev. Winston Broomes Jr.
Atlantic City
10. Kevin Bryant, Director of Recruitment
Uncommon Schools
11. John Burns, Counsel
New Jersey School Boards Association
12. Susan Cauldwell
Save Our Schools New Jersey
13. Lori Cobb, Chief Academic Officer
iLearn Schools
14. Denise Cole, Resident
City of Newark
15. Nicole Cole, President and CEO
New Jersey Charter Schools Association
16. Jody Demas, Parent
Palmyra
17. Janellen Duffy, Executive Director
JerseyCAN: The New Jersey Campaign for Achievement Now
18. Dawn Fantasia, Chief Communications Officer
iLearn Schools
19. Ian Fallstich, Lead Administrator
M.E.T.S. Charter School
20. Altorice Frazier, Parent
City of Newark
21. Anne F. Garcia, Ed. D., Executive Director
Vineland Public Charter School

22. Nihat Guvercin, CEO
iLearn Schools
23. Irene Hall, Chief Supervisor and Leader
Discovery Charter School
24. Ruthven Haneef Auguste, Parent
City of Newark
25. Flohisha Johnson, Parent
City of Newark
26. Yolanda Johnson, Founder and CEO
Parents Educating Parents Inc.
27. Jennifer Keyes-Maloney, Assistant Director of Government Relations
New Jersey Principals and Supervisors Association
28. Sharon Kregel, Policy and Outreach Director
Education Law Center
29. Natasha Levant, Parent
City of Newark
30. Charles Love, Parent
City of Newark
31. Barbara Martinez, Chief External Officer
Uncommon Schools
32. Cindy Matute-Brown, Enrollment and Truancy Officer
Golden Door Charter School
33. Christine McGoey, Parent
Montclair
34. Mary Jo McKinley, Ed.D., Director
Academy Charter High School
35. Liz Mulholland, Founder
Westfield Cares About Schools
36. National Association of Charter School Authorizers
37. New Jersey Association of Colleges for Teacher Education
38. Juneisy Padilla, Kindergarten Teacher
KIPP New Jersey
39. Lawrence Patton, Head of School
Princeton Charter School

40. Nicole Pollard Alford, Board of Trustee Member
Pace Charter School of Hamilton
41. Kyle Rosenkrans, Director of Strategic Initiatives
KIPP New Jersey
42. Delores Sabb Davis, Parent
City of Newark
43. Christina Scano, Founder/Principal
John P. Holland Charter School
44. Namil Sercan, Principal
Central Jersey College Prep Charter School
45. Deborah Smith Gregory, President
Newark NAACP
46. Jillianne Steelman, Director of Curriculum and Instruction
Unity Charter School
47. Ruben Stewart, Parent
Atlantic City
48. Wendell Steinhauer, President
NJEA
49. Corey L. Teague
Paterson Parents Against PARCC
50. Leonora Tennant, Parent
51. Jaime Valente, Director of Performing Arts
Teaneck Community Charter School
52. Mark Valli, CEO
Community Charter School of Paterson
53. Leslie Wade, Director of Human Assets
KIPP New Jersey
54. Crystal Wortham, Parent of charter school students
City of Newark
55. [Attached list of email senders](#)
56. Lunedar Girault-Albert

1. **COMMENT:** At the November 2, 2016, State Board meeting, the commenter tabled Item G, Charter Schools, at Second Discussion. (A)

RESPONSE: The Department presents this comment-response form and the attached Summary and rule text at Second Discussion at the January 4, 2017, State Board meeting. This document contains the proposed rulemaking as presented at Second Discussion and replaces the agenda item initially made public for the November 2, 2016, State Board meeting.

2. **COMMENT:** The commenter complimented the Department on the proposed rulemaking, saying it strikes the right balance between providing additional flexibility to charter schools as well as additional monitoring in certain areas. **(F)**

RESPONSE: The Department thanks the commenter for the support.

3. **COMMENT:** The commenter said the achievement results of charter schools presented by the Department are spectacular. The commenter highlighted the increased student outcomes for charter school students in the State’s urban communities. **(F)**

RESPONSE: The Department thanks the commenter for the support. In exchange for greater autonomy, the State holds charter schools accountable for student outcomes. Results from the 2015 administration of the Partnership for Assessment of Readiness for College and Careers (PARCC) assessments demonstrate that many charter schools are meeting expectations in terms of student outcomes. According to the PARCC results, proportionally more charter school students than students in their districts of residence met or exceeded grade-level expectations in both English language arts (ELA) and mathematics, in both the elementary and middle grades. The same success in student performance occurred within the four State-operated school districts. In fact, for the entire length of this administration, the percent of students who have demonstrated proficiency on State assessments has been higher in charter schools than in the charter schools’ districts of residence.

4. **COMMENT:** The commenter asked if the academic progress of charter schools, as presented by the Department, was determined by using State assessment results, student growth objectives, or other measures. **(D)**

RESPONSE: Student outcomes for charter schools presented by the Department were based on previous years’ State assessment results. Specifically for the 2015 PARCC assessment, the figures showed the percent of students whose scores were classified as either Performance Level 4 (“Meeting Expectations”) or Performance Level 5 (“Exceeding Expectations”). For the New Jersey Assessment of Skills and Knowledge (NJASK), the data represented the percent of students whose scores were considered “Proficient” or “Advanced Proficient.” The transition from NJASK to PARCC in ELA and mathematics allowed the Department to revise the Academic Performance Framework, which the Department uses to evaluate academic outcomes of specific grade spans within each charter school and rank charter school seats in terms of quality or performance.

The Academic Performance Framework is comprehensive; it relies on student performance on ELA and mathematics PARCC assessments, as well as student growth percentiles and other indicators of future educational success, such as rates of chronic absenteeism. The framework was designed to reward charter schools that move all students forward. For that reason, it examines not only the achievement of all students, but also of students with disabilities, English language learners (ELLs), and economically

disadvantaged students. The amount of progress all students are making relative to their academic peers is also of principle concern, which is why the framework takes into account the progress of all students, including students who scored “Partially Proficient” in the previous year and students who scored “Advanced Proficient” in the previous year.

In the Academic Performance Framework, every measure compares the charter school’s outcome to outcomes of schools across the State, the district of residence, and schools serving similar populations of students. In this way, the Department reviews the charter school’s outcomes in context and can determine how the school performed relative to other schools.

5. **COMMENT:** The commenter asked if the Department has a break-down of student achievement results based on the types of charter school operators (multi-state network, grassroots, etc.). The commenter also asked if the Department has a long-term goal of understanding what “recipes” work best. **(E)**

RESPONSE: The Department does not break down academic achievement results by the type of charter school operator.

However, the Department differentiates the charter application process based on the experience of the charter school operator. The Department currently runs two application cycles for prospective charter schools each year in March and October. October is an expedited application process reserved for founders with demonstrable experience operating an education institution. Experienced operators include applicants that are replicating an existing school model or applicants that intend to contract with an education service provider (ESP), such as a charter management organization or education management organization.

While the Department has a separate application process for experienced operators, the method for reviewing applications and interviewing candidates remains the same across application cycles. The Department is committed to authorizing charter school applicants that are most likely to succeed and provide a high-quality education to students, regardless of their affiliation with an ESP. Additionally, the Department holds all charter schools accountable to the same standards, which are outlined in the Performance Framework.

6. **COMMENT:** The commenter asked what will be the length of time for the proposed pilot program for the certification of teachers, administrators, and school business administrators in charter schools and what criteria will be used to determine whether a charter school is high performing and can participate in the pilot. **(A)**

RESPONSE: The pilot programs proposed at N.J.A.C. 6A:9B-11.12, 12.5, and 12.7 will be for five years. Interested charter schools will apply to the Commissioner for acceptance into each pilot program separately and will have to demonstrate a track record of success to be considered. The Department defines track record of success for teacher and principal certification pilot programs as the criteria in proposed N.J.A.C. 6A:9B-11.12(e)1 and 12.5(n)1.

7. **COMMENT:** The commenter asked why a new pathway for charter school certifications is necessary. **(C)**

RESPONSE: The Charter School Program Act provides for certification flexibility, so the Department is proposing the pilot programs to explore this flexibility and support innovative hiring practices. Charter school stakeholders have expressed that the current traditional pathway to certification is time-consuming and duplicative, as charter schools devote significant time and resources to training and professional development and are ultimately held accountable for student outcomes. Additionally, when speaking with high-quality out-of-State charter operators, flexibility from certification requirements is critical to the operator potentially expanding into New Jersey. The more flexibility the Department can create regarding charter certification, the more competitive New Jersey will be in attracting high quality charter operators to serve students in the State. By comparison, at least 25 states exempt charter schools from most education statutes and regulations, including Pennsylvania, New York, Washington, D.C., and Massachusetts. Regarding teachers specifically, Washington, D.C. does not require teachers in charter schools to be certified. New York permits up to five teachers or 30 percent of a charter school's teaching staff (whichever is less), plus five teachers of mathematics, science, computer science, technology, or career and technical education to be uncertified. Pennsylvania allows up to 25 percent of a charter school's teachers to be noncertified. In Massachusetts, charter teachers within the first year of being hired must pass the state licensure test or obtain a teaching certificate.

The proposed pilot programs will offer charter schools with a track record of success more latitude in hiring candidates who can meet certain standards and demonstrate relevant education and experience.

8. **COMMENT:** The commenter asked why the Department is proposing additional flexibility for the certification of charter school employees when N.J.A.C. 6A:9B-11.12 already provides for a charter school certificate of eligibility (CSCE). **(D)**

RESPONSE: The current CSCE, which allows a candidate to teach only in a charter school, applies only to teachers and not to principals or school business administrators. In response to conversations with charter school stakeholders, the Department has proposed pilot programs for charter schools that will incorporate teachers, principals, and school business administrators. The proposed pilot programs will be available only to charter schools with a track record of success and will consider education and experience.

9. **COMMENT:** The commenter asked whether the proposed pilot program will lead to a dual certification for candidates who teach in a charter school or if the proposal will mean the students attending charter schools will receive a different level of education from teachers with different training than their counterparts in traditional public schools. **(B)**

RESPONSE: The certificates earned in the pilot program are limited to charter schools and not transferable to traditional public schools, whereas traditional certificates are accepted by either type of school. Interested charter schools must apply to the Department to participate in each pilot program and will be accepted only if they meet the specified criteria. For example, charter schools applying to access the teacher certification pilot program will have to demonstrate a history of high academic performance and ensure there are systems in place, such as a robust professional development program, to support individuals who are certified through this pilot.

Once charter schools receive Department approval, candidates who seek a charter school certificate must satisfy certain criteria outlining their capacity to serve in a teacher, principal, or school business administrator role. The pilot program is not the only

pathway for individuals who work or seek to work in charter schools. Teachers, principals, and school business administrators may also follow the traditional pathway for certification and obtain certificates that are accepted in both charter schools and traditional public schools.

Charter schools, like traditional public schools, are responsible for supporting, coaching, and evaluating teachers to ensure that students receive a high quality education. The Department will continue to hold charter schools accountable for student outcomes regardless of whether the school employs teachers certified under the pilot program.

- 10. COMMENT:** The commenter asked by what date each year will charter schools be required to submit their professional development plans (PDPs) to the Department, as stipulated under proposed N.J.A.C. 6A:9C-5.5. The commenter also asked whether the Department will have enough time to review all of the PDPs and ensure charter schools are providing staff with appropriate support and professional development opportunities. **(D)**

RESPONSE: The Department is proposing at Second Discussion to delete proposed N.J.A.C. 6A:9C-5.5. Please see Agency-initiated Change 3.

- 11. COMMENT:** The commenter asked if a charter school would be able, under proposed amendments to N.J.A.C. 6A:11-4.7, to open a preschool if the district of residence does not have a State-funded preschool program. **(A)**

RESPONSE: Current practice does not allow charter schools to provide preschool if the district of residence does not offer preschool. The Department proposes amendments at Second Discussion to clarify this in N.J.A.C. 6A:11-4.7(b). The proposal would allow preschool students already enrolled in a charter school to progress into kindergarten without having to go through the lottery process.

- 12. COMMENT:** The commenter asked for the per pupil cost for charter school students based on a random sampling of 10 percent of charter schools and their districts of residence. The commenter also asked if the proposed amendments to N.J.A.C. 6A:26-7.5 will affect the per pupil cost. **(C)**

RESPONSE: The proposed amendments to N.J.A.C. 6A:26-7.5 will not affect per pupil costs for students attending charter schools.

The 2014-2015 [Taxpayers' Guide to Education Spending](#) was used to determine per pupil costs in charter schools and in districts of residence. The table below provides information on per pupil spending for eight charter schools that were selected randomly. Charter schools are ordered by the size of the difference in per pupil spending between the main sending district and the charter school. Per pupil spending in 2014-2015 in the eight charter schools ranged from \$12,845 (compared to \$23,466 in the main sending district) to \$18,541 (compared to \$22,013 in the main sending district).

Charter School	County	Comparison School District	Charter School Calculated Per Pupil Spending 2014-2015	Comparison District Calculated Per Pupil Spending 2014-2015
Elysian CS of Hoboken	Hudson	Hoboken	\$16,280	\$24,440
University Academy CHS	Hudson	Jersey City	\$17,397	\$23,466
Newark Legacy CS	Essex	Newark	\$15,877	\$22,013
Freedom Prep CS	Camden	Camden City	\$16,983	\$25,027
Soaring Heights CS	Hudson	Jersey City	\$12,845	\$23,466
Bergen Arts and Science CS	Bergen	Garfield	\$15,051	\$20,409
North Star Academy CS of Newark	Essex	Newark	\$18,541	\$22,013
Barack Obama Green CHS	Union	Plainfield	\$17,431	\$19,232

13. **COMMENT:** The commenter requested an in-depth review at Second Discussion regarding the following components of the proposed charter school rulemaking: criteria to determine high-performing charter schools and the proposed amendments related to the certification pilot program, weighted lottery, facilities, and budgetary controls. **(A)**

RESPONSE: The Department is prepared to present an in-depth review of these topics at Second Discussion.

14. **COMMENT:** The commenter said the Department’s desire to “incentivize operators both in-State and out-of-State to invest in New Jersey” has the potential to encourage unchecked growth in the charter school sector, replicating the worse aspects of school privatization experienced in New Jersey and other states. **(1)**

RESPONSE: While the Department is eager to grow seats in high-performing charter schools, the Department also shares the commenter’s concerns about *unchecked* growth. For this reason, the proposed regulatory package does not impact the Department’s oversight of charter school applications or expansion requests. All charter school applicants must take part in a rigorous, two-phase application process, which includes community input and an analysis of fiscal impact. Moreover, charter schools must submit to the Department an amendment request to expand. The expansion request process also includes community input and an analysis of fiscal impact. The growth of the charter school sector will continue to be closely monitored by the Department.

15. **COMMENT:** The commenter said the regulations should focus on how to support all public schools and, in particular, to see that charter school proliferation does not undermine traditional public schools. **(1)**

RESPONSE: The proposed regulations must conform to the scope of the Charter School Program Act and, therefore, this rulemaking addresses only charter schools. However, community and fiscal impact on resident districts is considered by the Department when making decisions about opening or expanding charter schools.

16. **COMMENT:** The commenter asked if the certification pilot program at N.J.A.C. 6A:9B-11.12 was proposed because charter schools have a difficult time recruiting and retaining teachers. The commenter also questioned why the Department proposed the pilot program when it recently revised educator preparation regulations to raise standards so all individuals entering the teaching profession are truly prepared to educate all students in the State. **(1)**

RESPONSE: The Department believes in holding high standards for educators, which is why educator preparation regulations were recently revised. At the same time, the Department recognizes that statute provides charter schools greater flexibility in exchange for greater accountability.

The Charter School Program Act explicitly allows for the Commissioner to make adjustments to the alternate-route program to expedite the certification of persons who may be qualified by education and experience. The Department has not fully explored the flexibility the Commissioner maintains under the charter school statute. Providing flexibility around certification is not uncommon across the country. By introducing a five-year pilot that will be monitored and studied, the Department will be able to provide flexibility to charters gradually and thoughtfully.

17. **COMMENT:** The commenter expressed support for the proposed rule at N.J.A.C. 6A:11-2.3(b)12 to require charter schools to have a surety bond to insure against outstanding legal, audit, and pension debt expenses. **(1)**

RESPONSE: The Department thanks the commenter for the support.

18. **COMMENT:** The commenter said the proposal at N.J.A.C. 6A:11-2.3(c) regarding the expedited review of high-performing charter schools is based almost entirely on academic performance and would allow charter schools to expand more easily to additional facilities. The commenter also said the proposal ignores the destabilizing impact that continued charter school growth could have on school districts in New Jersey, citing a report and research that indicate charter schools negatively impact urban communities in terms of diminished revenue and educational opportunities for students who remain in traditional public schools. **(1)**

RESPONSE: While the proposed expedited renewal process is reserved for charter schools with a history of high academic performance and no major fiscal or compliance issues, the expedited process itself will still involve a comprehensive and rigorous review of five years' worth of documents pertaining to the charter school's instructional, financial, and organizational practices. School districts have the opportunity, pursuant to N.J.A.C. 6A:11-2.3(b), to provide input during the renewal process. The Department also reviews and considers all comments submitted by community stakeholders.

The proposed expedited renewal process would not allow charter schools to expand more easily. While charter schools may request an expansion at the time of renewal, the Commissioner will continue to have the authority to renew the charter without granting the expansion. The growth of the charter school sector will continue to be closely monitored by the Department.

19. **COMMENT:** The commenter cited a NAACP resolution and the Movement for Black Lives’ policy agenda calling, in part, for a national moratorium on charter schools as recognition of the destabilizing effect of charter schools. **(1)**

RESPONSE: The Department thanks the commenter for the information. However, it is outside the scope of the proposed rulemaking.

20. **COMMENT:** The commenter stated it is important to question whether charter schools should be given an expedited renewal due to the extent that high-performing charter schools have fewer special education students and have higher student attrition. The commenter also said a less thorough review of high-performing charter schools is a disservice to everyone due to the extent that the charter schools’ relative success is built on which students enter and stay and to the extent that charter schools have high suspension rates, are less welcoming to special education students, do not fill empty seats mid-year, or have other policies that configure enrollment in ways that provide academic advantage. **(1)**

RESPONSE: Proportionately, there are fewer students with disabilities enrolled in charter schools than in traditional public schools across the State. In recent years, the Department has focused on increasing access and equity in charter schools. The proposed regulatory changes will allow charter schools to better represent a cross-section of the school-age population of their communities. Coupled with the introduction of universal enrollment in Newark and Camden in which most Newark- and Camden-based charter schools participate, the Department expects to see an increase in the proportion of students with disabilities enrolled in charter schools in the coming years.

Though abbreviated, the proposed expedited renewal process will still involve a comprehensive and rigorous review of five years’ worth of documents pertaining to the charter school’s instructional, financial and organizational practices. The annual report, which is reviewed as part of this process, addresses targeted questions about charter school admissions and enrollment practices, as well as attrition rates, discipline policies, and suspension rates. In addition, the renewal application requires charter schools to describe their practices for identifying and serving students with disabilities and ELLs. The renewal process, expedited or not, will continue to include interviews with school administrators and special education and English as a second language coordinators. The Department will continue to take appropriate action when concerns arise regarding access and equity.

21. **COMMENT:** The commenter said weighted lotteries for charter school enrollment, which is proposed at N.J.A.C. 6A:11-4.5, appear to create opportunities for more at-risk students to attend charter schools. The commenter also stated while some charter schools may use weighted lotteries for “good ends,” the lotteries are another tool for charter schools to configure enrollment in a way that is optimal for the charter schools. **(1)**

RESPONSE: The proposed rules regarding weighted lotteries specifically will allow a charter school to establish a weighted lottery to favor educationally disadvantaged students, including, but not limited to, students who are economically disadvantaged, students with disabilities, migrant students, limited English proficient students, neglected or delinquent students, or homeless students, in an effort to better represent a cross section of the community’s school-age population.

To establish a weighted lottery, a charter school will be required submit to the Department a request for an amendment to its charter. Among other components, the process includes a formal letter summarizing the amendment request and rationale for seeking the amendment. The Commissioner may grant or deny an amendment request based upon the information submitted.

A weighted lottery simply increases the likelihood that students who are identified as part of a specified set of educationally disadvantaged students are randomly selected for admission. A weighted lottery does not permit a charter school to reserve or set aside seats for particular students.

22. **COMMENT:** While expressing support, in principle, for sibling preference for enrollment in charter schools and acknowledging the preference’s benefits from a parent perspective, the commenter stated sibling preference can become another step toward creating a a closed community in charter school systems that appear to systematically under-enroll certain types of at-risk students and to use discipline as a tool to configure enrollment. **(1)**

RESPONSE: Sibling preference is expressly permitted in statute. Pursuant to N.J.S.A. 18A:36A-8.c, a charter school may give enrollment priority to a sibling of a student enrolled in the charter school.

23. **COMMENT:** The commenter stated that a focus on charter school expansion has the potential to exacerbate current problems in the State. The commenter cited a study that indicated the charter schools chosen most often by families in Newark had higher suspension rates and enroll fewer students eligible for free and reduced-price lunch than Newark’s other charter schools and traditional public schools. The commenter also cited data that indicate charter schools in Newark serve a lower percentage of special education students than the Newark Public Schools. **(1)**

RESPONSE: The Department is committed to ensuring access and equity in charter schools. The Department has developed the Organizational Performance Framework to evaluate the extent to which a charter school is equitable and organizationally sound. The portion of the Organizational Performance Framework regarding access and equity specifically addresses charter school admissions and enrollment policies, as well as attrition and suspension rates. Additionally, the framework addresses the school’s compliance with applicable laws and regulations pertaining to students with disabilities and ELLs.

With respect to the regulatory proposal, the weighted lottery would give charter schools an opportunity to provide increased chances of obtaining a seat in the school to educationally disadvantaged students and to better represent a cross section of its community’s school-age population. Through its universal enrollment system, Newark already gives weighted preference to educationally disadvantaged students. The weighted preference, over time, will likely lead to greater demographic parity between charter schools and district public schools.

24. **COMMENT:** The commenter expressed support for the additional requirements for charter schools to meet open records and open meetings laws. The commenter also stated Connecticut applies its open records law, in part, to charter school management organizations, which would be an even more positive development. **(1)**

RESPONSE: Current N.J.A.C. 6A:11-4.11(c) requires a charter school board of trustees to send a copy of all meeting notices and meeting minutes to the respective executive county superintendent. The proposed amendments would require the charter school board of trustees to post a copy of all meeting notices and minutes on the school's website rather than sending them to the executive county superintendent.

All charter schools and school districts must follow the State's Open Public Records Act (OPRA) and Open Public Meetings Act (OPMA), which are governed by statutory titles and regulations outside of the Department's purview.

25. **COMMENT:** The commenter stated the proposed rulemaking weakens the high standards for professionals who teach children and decreases accountability measures that ensure charter schools maintain quality and transparency. (2)

RESPONSE: With respect to certification, the proposed regulations offer an alternative pathway to certification reserved for eligible charter schools. This alternative route to certification is aligned with statute, as N.J.S.A. 18A:36A-14 permits the Commissioner to make appropriate adjustments to expedite the certification of persons who are qualified by education and experience. The proposal is also in line with the foundational premise of charter schools, which is the granting of autonomy in exchange for accountability. By considering a candidate's prior experience, the proposed certification route will offer charter schools additional flexibility in hiring.

In terms of accountability, greater autonomy with inputs, such as the credentialing of staff members, does not mean less accountability to demonstrate strong student outcomes. The Department will continue to monitor charter schools and hold them to the academic, organizational, and fiscal standards outlined in the Performance Framework. This framework is used to guide high-stakes decision making, including replication, expansion, renewal, and revocation.

Furthermore, the proposed rulemaking includes changes designed to increase transparency and provide stakeholders with information about how charter schools are performing. For example, the regulatory proposals require the Department to publish Academic Performance Framework reports and require charter schools to publish their board of trustee minutes online.

26. **COMMENT:** The commenter stated high-performing charter schools can be a valuable asset to the community and, as innovators, should function to improve traditional public schools while providing parents with greater public school options. (2)

RESPONSE: The Department agrees that high-performing charter schools can be, and are, valuable assets to the community. By providing greater autonomy, as the proposed rulemaking intends, charter schools can offer high-quality educational options for parents and students and implement innovative educational practices to be shared more broadly.

27. **COMMENT:** The commenter said instead of working with communities to foster partnerships between charter schools and traditional public schools, the Administration has allowed charter schools to become catalysts for community divisions and the financial and academic destruction of traditional public schools. (2)

RESPONSE: The Department encourages the sharing of charter school best practices. [The Department's website](#) includes best practices and resources from several high-

performing charter schools. Additionally, charter schools and school districts have partnered to provide professional development. For example, Newark Public Schools has partnered with Uncommon Schools, a charter management organization, to provide professional development on instructional coaching.

In addition to promoting the sharing of best practices, the Department emphasizes community involvement in its approval and monitoring of charter schools. The application to open a charter school requires the applicant to describe how parents, families, and the community were involved in the application process and how the applicant will ensure ongoing family and community engagement. Along the same lines, the charter school annual report and renewal application ask targeted questions about the ways in which each charter school engages families and communities, and about the partnerships the charter school has established with community organizations.

- 28. COMMENT:** The commenter said the Administration has funded traditional public schools at levels lower than what is required by the State’s school funding law while financially and administratively enhancing charter schools, which causes even greater diversions of limited funds from traditional schools to charter schools. The commenter said the proposed rulemaking would exacerbate the inequities between traditional public schools and charter schools. **(2)**

RESPONSE: The proposed rulemaking does not impact the manner in which charter schools or traditional public schools are funded.

- 29. COMMENT:** The commenter said regulations pertaining to charter schools should not be revised until traditional public schools are adequately funded and there is a renewed focus on how charter schools can improve educational practices in traditional public schools. **(2)**

RESPONSE: The Department thanks the commenter. However, charter schools are authorized by statute, and the Department is obligated to implement the statute through rulemaking.

- 30. COMMENT:** The commenter expressed support for the proposed charter school rulemaking because it will update the State’s charter school policies and bring New Jersey in line with modern practices that hold true to key components of charter schools: transparency and accountability balanced with the flexibility needed to innovate and deliver a great education to students. **(17)**

RESPONSE: The Department thanks the commenter for the support.

- 31. COMMENT:** The commenter expressed support for the proposed charter school rulemaking because it will increase current accountability measures already in place for charter schools and balance the accountability with much-needed autonomy to make decisions that have a direct impact on student outcomes and achievement. **(15)**

RESPONSE: The Department thanks the commenter for the support.

- 32. COMMENT:** The commenter expressed support for the proposed charter school rulemaking because it supports what is in the best interest of the nearly 50,000 charter school students in New Jersey. The commenter also stated the proposed rulemaking will

provide an opportunity for charter schools to create new pathways to success for students. (15)

RESPONSE: The Department thanks the commenter for the support.

33. **COMMENT:** The commenters expressed support for the proposed rulemaking because it balances flexibility and autonomy for charter schools with increased accountability. (55)

RESPONSE: The Department thanks the commenter for the support.

34. **COMMENT:** The commenter expressed opposition to the proposed charter school rulemaking because it is a complete abrogation of State and Federal laws. The commenter also stated the proposed rulemaking will diminish the sacrifices of the teaching community to lower the standards for corporate profits at the expense of children. (6)

RESPONSE: The proposed regulations fall within the scope of State and Federal laws. The certification pilot program, for example, is expressly permitted in statute. Pursuant to N.J.S.A. 18A:36A-14.c, the “[C]ommissioner shall make appropriate adjustments in the alternate route program in order to expedite the certification of persons who are qualified by education and experience.”

The proposed certification pilot program will not lower standards for teachers, but rather will create an alternate pathway for candidates who have met certain standards based on academic performance, assessment, or experience to teach in charter schools with a track record of success. Since the pilot program will be limited to charter schools that can demonstrate a history of high performance, the pilot program teachers—and ultimately their students—will benefit from the support structures in place.

35. **COMMENT:** The commenter said the proposed rulemaking would hold charter schools to lower standards than traditional public school when charter schools are not living up to their promise of greater educational outcomes. (12)

RESPONSE: The proposed rulemaking will not decrease charter school accountability for student outcomes. Unlike traditional public schools, charter schools in New Jersey are held accountable for student outcomes, which means a charter may be nonrenewed or revoked for poor performance on State assessments. As described in the response to Comment 3, the majority of charter schools outperformed their district counterparts on the 2014-2015 PARCC assessments. In mathematics, 79 percent (54 of 68) of charter schools serving elementary grades (i.e., grades three through five) and 75 percent (42 of 55) of charter schools serving middle grades (i.e., grades six through eight) outperformed their school district counterparts. In English language arts, 87 percent (59 of 68) of charter schools serving elementary grades and 89 percent (49 of 55) of charters serving middle grades outperformed their school district counterparts.

36. **COMMENT:** The commenter opposed the proposed rulemaking because it will continue to deregulate a charter school system that has no true oversight or transparency. The commenter also stated the proposed rulemaking will deregulate crucial areas that need oversight to insure equality for all citizens in Newark and throughout the State. (14)

RESPONSE: The Department currently monitors and oversees charter schools in the State and will continue to do so. The Department is committed to authorizing charter schools consistent with national best practices and has developed a Performance

Framework to assess the academic performance, organizational capacity, and fiscal health of all charter schools. Moreover, the Department [lists](#) the following as its core values regarding charter schools: focus on student outcomes, high expectations, safeguard public interests, transparency, and continuous. Regardless of the regulatory changes, the Department will continue to monitor charter schools.

37. **COMMENT:** The commenter opposed the proposed rulemaking because it will loosen standards without addressing the serious accountability problems in many charter schools. The commenter said the proposed rulemaking should be increasing regulations governing charter schools to improve conditions within charter schools and to ensure students are not shortchanged an excellent education. **(32)**

RESPONSE: The Department is committed to authorizing high-quality charter schools and to providing charter schools autonomy and opportunities for innovation in exchange for accountability for student outcomes. The proposed rulemaking aligns with this vision; by increasing autonomy and streamlining procedures, charter schools will be able to innovate and produce strong educational outcomes for students. The Department has and will continue to hold charter schools accountable to high standards. The proposed rules will not eliminate the Department’s responsibility to monitor charter performance and to ensure they are providing a high-quality option for students.

38. **COMMENT:** The commenter opposed the proposed rulemaking because it will allow uncertified teachers and administrators to run charter schools in exchange for “performance” and will create an incentive for charter schools to provide a lesser education to students. **(33)**

RESPONSE: Teachers and principals will continue to hold certifications as the pilot program will not eliminate certification but, rather, will provide a separate pathway to certification.

Academic performance in charter schools carries significant weight in high-stakes decision-making. Therefore, charter schools are incentivized to provide a high-quality education to their students and are ultimately held accountable to student outcomes.

39. **COMMENT:** The commenter opposed the proposed rulemaking because it will allow charter school organizations to have a separate set of rules that do not hold charter schools to the State’s highest standard. The commenter also said charter schools must have the same guidelines for teacher certification, operating procedures, and financing as traditional public schools. **(45)**

RESPONSE: The Charter School Program Act grants charter schools flexibility and autonomy in certain areas in exchange for greater accountability for student outcomes. This balance distinguishes charter schools from traditional public schools. Charter schools also differ from traditional public schools by receiving proportionately less funding per pupil and no State funding for facilities. Each charter school has its own board of trustees that has autonomy to operate and to manage finances, although the board must act within the parameters of State and Federal law.

With respect to certification, the charter school statute expressly permits certification flexibility. Pursuant to N.J.S.A. 18A:36A-14.c, “the commissioner shall make appropriate adjustments in the alternate route program in order to expedite the certification of persons who are qualified by education and experience.”

The Department holds charter schools accountable for providing a high-quality public education. The Performance Framework outlines the academic, organizational, and fiscal standards to which charter schools are held.

40. **COMMENT:** The commenter said the proposed rulemaking is regressive and fails to improve the charter school system. The commenter also stated the proposed rulemaking reflects a lessening or elimination of regulations. **(48)**

RESPONSE: The proposed rules increase regulatory flexibility for charter schools to operate in New Jersey. The goal is to minimize operational roadblocks for charter schools and enable them to innovate and produce strong educational outcomes for students.

41. **COMMENT:** The commenters expressed support for the pilot program for certification of charter school teachers, principals, and school business administrators (SBAs) because current certification requirements limit the pool of qualified applicants. The commenters also stated the proposed regulations will allow charter schools to hire qualified individuals who meet the unique needs of each charter school. **(13, 39, 44, 46)**

RESPONSE: The Department thanks the commenters for the support.

42. **COMMENT:** The commenter said the proposed pilot program for certification will allow charter schools to identify quality talent and to develop new employees through a robust and sustained professional development and support system, which allows the charter school system's administrators and teachers to grow and mature more quickly compared to other schools. **(13)**

RESPONSE: The Department thanks the commenter for the support.

43. **COMMENT:** The commenter expressed support for the proposed pilot program for certification of charter school employees because it will allow certified public accountants to serve as SBAs and will allow individuals with leadership experience in a charter school to become charter school principals. **(19)**

RESPONSE: The Department thanks the commenter for the support.

44. **COMMENT:** The commenter opposed the proposed pilot program for certification of charter school employees because it will allow charter schools to grant provisional certification to staff, regardless of whether they meet statutory requirements that govern public school employees. The commenter also stated it seems as if the proposed pilot programs are a move to eliminate certification. **(3)**

RESPONSE: The charter school pilot program is not intended to eliminate certification, but, rather, to create a pathway to certification that takes into consideration prior education and work experience. In fact, the Charter School Program Act explicitly requires charter schools to employ New Jersey certified teachers. Additionally, the Department—not charter schools—will be responsible for granting certificates to eligible applicants. As mentioned previously, the certification pilot program falls within the scope of the charter school statute.

45. **COMMENT:** The commenter opposed the proposed pilot program for certification of charter school employees because it will allow charter schools to certify employees based

on a loose set of criteria, which will open the floodgates for unprepared and unqualified individuals to work in publicly funded charter schools. The commenter also stated the proposed pilot program will allow the Department to supplant statute and high standards in the education profession, which will harm students. (6)

RESPONSE: The proposed certification pilot program will be limited to charter schools with a track record of success. Candidates from eligible charter schools will have to satisfy the criteria in N.J.A.C. 6A:9B-11.12, 12.5, and 12.7 by demonstrating relevant education or experience. Given the program's limitation to charter schools with a track record of success and to eligible individuals who seek a charter-specific certification, the Department does not anticipate this program will lead to a large number of certifications.

46. **COMMENT:** The commenter said the proposed certification pilot program runs counter to the Department's current certification regulations for teachers and increased requirements on educator preparation programs, which providers implemented over a short period of time and at an expense to educator preparation programs and candidates. The commenter also stated continuously raising the bar for traditional-route (certificate of eligibility with advanced standing or CEAS) and alternate-route (certificate of eligibility or CE) candidates while simultaneously all but eliminating any bar for the charter school certificate of eligibility (CSCE) unfairly discriminates against individuals who have invested time, care, and money and undermines the credibility of the recent reforms related to the CEAS and CE. (37)

RESPONSE: The Department holds high standards for educators, which is why educator preparation regulations were recently revised. At the same time, the Department recognizes State statute provides charter schools greater flexibility in exchange for greater accountability. Through the pilot program, the Department is exploring this statutory flexibility for charter schools that have demonstrated a track record of success.

47. **COMMENT:** The commenter said the proposed charter school certification pilot program will create an uneven playing field of deliberately less-prepared candidates who will compete for charter school jobs against candidates who currently are required to expend more effort, time, care, and money to earn certification. (37)

RESPONSE: The proposed pilot program will attract candidates who seek to work only in a charter school setting. As a result, the Department does not anticipate that the proposed pilot will lead to a large number of certifications or dramatically alter the "playing field."

An individual who finishes the traditional route to certification will have the benefit of being able to work in both a charter school and a traditional public school setting, which provides access to a larger pool of potential openings.

Regarding competition for charter school jobs, charter schools are incentivized to place in the classroom the strongest teachers who will produce the greatest results for students, regardless of whether they have a charter school certificate or a traditional certificate. Given the nature of the open position, a charter school may prefer someone with work experience in a particular field or, by contrast, someone with a more traditional background. Again, the decision is ultimately up to the discretion of charter schools approved to participate in the pilot.

48. **COMMENT:** The commenter suggested the Department withdraw its proposed charter school certification pilot program and instead repeal the CE and CEAS reforms so all certification pathways are equal. (37)

RESPONSE: The Department has proposed amendments to the charter school certification pilot program (see Agency-initiated Change 2). The Department is not pursuing repealing the CE and CEAS reforms. However, the Department is committed to studying and monitoring the impact of the proposed reforms.

49. **COMMENT:** The commenter said there is no data to support the lessening of certification requirements for charter school employees, yet the Department is focused on collecting data in areas such as college grades of pre-service teachers and educator student growth objectives and percentiles. (12)

RESPONSE: The certification pilot program stems from the premise that charter schools are subject to closure based on student performance data and, as a result, are incentivized to hire and develop competent employees who align with the charter school's mission and are committed to improving student outcomes. The certification pilot program will rely on data to limit access to charter schools that have demonstrated a track record of success. Moreover, the Department will use data collected from the pilot program, such as evaluations and student assessment results, to evaluate the program and make a recommendation to the State Board about whether to continue it as a permanent route to certification.

50. **COMMENT:** The commenter said proposed pilot program for certification of charter school employees is an attempt to attract out-of-State charter school operators to New Jersey. The commenter said at least three out-of-State operators already successfully run charter schools in New Jersey, which has had few incidents of charter school fraud and waste compared to reports of the same in out-of-State charter schools. (12)

RESPONSE: The Department is committed to authorizing high-quality charter school operators to ensure students have high-quality educational options. New Jersey has strict laws around certification in charter schools, so providing more flexibility has the potential to encourage in-State operators to expand and out-of-State operators to come to New Jersey and provide high-quality options for families. Furthermore, the certification pilot program will be limited to charter schools that have demonstrated a track record of success. For the principal and teacher certification pilot programs, this will involve a demonstration of strong academic performance. For the school business administrator pilot program, this will involve charters schools meeting fiscal management standards for the last two years as evidenced by independent audits.

To address concerns about fraud and waste, the Department monitors charter schools to ensure fiscal health and compliance. The Department reviews annual budgets, audits, and as needed, quarterly financials, and also maintains a working relationship with the school business administrators at charter schools. Additionally, the Department holds charter schools accountable through the Financial Performance Framework, which includes, but is not limited to, the generally accepted accounting principles set forth in N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency and Budgeting Procedures, and indicators of near- and long-term viability.

51. **COMMENT:** The commenter said the proposed pilot program for certification of charter school employees will allow new charter schools to essentially be filled with teachers and

administrators who are less qualified and inexperienced and have no knowledge of child development/cognition or teaching practices. (16)

RESPONSE: As previously stated, the proposed pilot program will be limited to charter schools that have demonstrated a track record of success. Interested charter schools must apply to the Department to participate in each pilot program and will be accepted only if they meet the specified criteria. For example, charter schools applying to access the teacher certification pilot program will have to demonstrate a history of strong academic performance and ensure there are systems in place, such as professional development programs, to support individuals who are certified through this pilot.

Additionally, the Department still will require teachers and principals to be qualified and experienced to be certified through the pilot program; however, the definitions of “qualified” and “experienced” will expand. For example, the certification pilot program will provide an avenue for individuals with experience teaching in a private school to obtain a CSCE, provided they meet one of the other assessment or GPA requirements.

52. **COMMENT:** The commenter said the proposed pilot program for certification of charter school employees will negatively affect communities of poor and minority students and will put at risk the quality of New Jersey’s entire education system. (16)

RESPONSE: Charter schools, like traditional public schools, are responsible for supporting, coaching, and evaluating their employees to ensure students receive a high-quality education. The Department will continue to hold charter schools accountable for student outcomes regardless of whether the school employs teachers certified under the pilot program.

53. **COMMENT:** The commenter opposed the proposed pilot program for certification of charter school employees because certification is one area where standards cannot and should not be compromised in the name of flexibility or innovation – regardless of whether the proposed change is targeted at charter schools or traditional public schools. (27)

RESPONSE: The Charter School Program Act explicitly allows the Commissioner to make adjustments to the alternate-route program to expedite the certification of persons who may be qualified by education and experience. By introducing a five-year pilot program that will be monitored and studied, the Department will be able to provide flexibility to charters gradually and thoughtfully.

54. **COMMENT:** The commenter expressed support for the charter school teacher certification pilot program because it will allow charter school to test a program that, if successful, could be replicated elsewhere, which would fulfill the original mission of charter schools as laboratories of innovation from which all public schools can learn. (41)

RESPONSE: The Department thanks the commenter for the support.

55. **COMMENT:** The commenter expressed support for the charter school teacher certification pilot program because it will demonstrate whether there is a consistent correlation between a teacher’s grade point average (GPA) and effective teaching. The commenter also stated the pilot program will help increase the percentage of African-American and Hispanic teachers in charter schools. (31)

RESPONSE: The Department thanks the commenter for the support.

56. **COMMENT:** The commenter expressed support for the charter school teacher certification pilot program because the previous increase in the required GPA of teacher candidates and the additional basic skills assessments have not achieved their desired goal in the charter network's schools. The commenter stated the increased certification requirements have been detrimental to some of its teachers and impede the ability of high-performing charter schools to train teachers in the manner that will result in the most student progress. **(10, 31)**

RESPONSE: The Department thanks the commenter for the support.

57. **COMMENT:** The commenter expressed support for the charter school teacher certification pilot program because it will help charter school operators recruit the best possible teachers and diversify their workforces by creating greater flexibility to consider candidates who might not fit the traditional mold of a 3.0 GPA and a specified Praxis score. **(5, 41)**

RESPONSE: The Department thanks the commenter for the support.

58. **COMMENT:** The commenter said the current GPA requirements for teacher certification disproportionately impact minority candidates who are otherwise qualified and meet the factors the charter school operator uses to identify effective classroom teachers (mission alignment, experience working with children, grit, and response to feedback). The commenter also said the charter school teacher certification pilot program will increase the pool of qualified African-American candidates. **(5)**

RESPONSE: The Department thanks the commenter for the support.

59. **COMMENT:** The commenter said the current GPA requirements for teacher certification disproportionately impact minority candidates who are otherwise qualified to teach. The commenter also said the charter school teacher certification pilot program will increase the pool of qualified minority candidates, who can serve as role models to charter school students. **(38)**

RESPONSE: The Department thanks the commenter for the support.

60. **COMMENT:** The commenter expressed support for the charter school teacher certification pilot program because it will allow charter school to use other criteria for certification such as prior experience or relevant professional or educational work rather than a GPA or Praxis score. **(41)**

RESPONSE: The Department thanks the commenter for the support.

61. **COMMENT:** The commenter stated that while the current charter school certificate of eligibility (CSCE) have significantly improved the ability of charter schools to recruit the best teachers on the market, the proposed pilot program will enable charter schools to compete more easily for strong teachers, particularly in mathematics, science, world languages, and drama. **(39)**

RESPONSE: The Department thanks the commenter for the support.

62. **COMMENT:** The commenter stated the current CSCE includes a Praxis testing process that takes a minimum of two to three months to complete, during which time candidates can take employment elsewhere or students lose valuable time learning in the classroom. (19)

RESPONSE: The Department thanks the commenter for the support.

63. **COMMENT:** The commenter stated the current CSCE does not provide for the certification of career and technical education (CTE) professionals and the proposed certification pilot program will enable charter schools to more easily hire qualified CTE candidates. (19)

RESPONSE: Certification for career and technical education (CTE) professionals is not included within the pilot program's scope. CTE already has an experienced-based "exception" for certain endorsements that reduces or eliminates the standard requirements.

64. **COMMENT:** The commenter expressed support for the proposed certification pilot program because it will require charter schools to demonstrate why a non-certificated candidate is being hired. The commenter also stated it makes sense to hire certified teachers when possible, but charter schools need the flexibility to hire qualified – not necessarily certified – teachers who possess the knowledge and skills to teach their assigned subjects. (44)

RESPONSE: The Department thanks the commenter for the support. To be clear, the proposed certification pilot program will not eliminate the requirement for charter schools to hire certificated teachers; rather, the proposed rulemaking will create an alternate pathway for individuals to achieve certification. The Department is confident charter schools will continue to hire teachers who have been certified through the traditional route for the majority of vacancies.

65. **COMMENT:** The commenter expressed support for the proposed certification pilot program because numerous highly qualified employees with teaching experience in alternative environments and advanced degrees must become certified via the alternate route, which impacts the amount of time the teachers can spend with students and does not improve their teaching practice. (46)

RESPONSE: The Department thanks the commenter for the support.

66. **COMMENT:** The commenter opposed the charter school employee certification pilot program because it is ill advised to place an enhanced support requirement on charter schools already often administratively and financially strapped. (27)

RESPONSE: The certification pilot program will be limited to charter schools that have a track record of success and already have support systems in place for staff members. In the application process to participate in the pilot, charter schools will have to demonstrate they have the organizational capacity to support the teachers who will participate in the pilot.

67. **COMMENT:** The commenter opposed the charter school employee certification pilot program because creating a new class of certification actually limits the ability for staff to

move between and among different schools within a community, which further enforces the current silos that exist between traditional schools and charter schools. If charter schools serve as "innovation laboratories," the commenter said charter school staff also should be able to apply, and be encouraged to seek, employment in the traditional public school setting. (27)

RESPONSE: The pilot is designed for a narrow set of teachers who are seeking to work in charter schools for the duration of their teaching career. Charter school employees who seek a certification that is transferable to a traditional public school setting can apply through the regular process.

68. **COMMENT:** The commenter opposed the charter school employee certification pilot program because it will “water down” professional licensing standards and contradicts current law and policy. (48)

RESPONSE: The Charter School Program Act explicitly allows for the Commissioner to make adjustments to the alternate-route program to expedite the certification of persons who may be qualified by education and experience. The Department has not fully explored this statutory flexibility.

The proposed certification standards take into account prior education and experience, as well as outcome measures, with the understanding that charter schools are granted greater autonomy in exchange for accountability. By introducing a five-year pilot program limited to charter schools with a track record of success, the Department will be able to provide flexibility to charters gradually and thoughtfully.

69. **COMMENT:** The commenter stated the charter school employee certification pilot program would create a system that does not have an equivalency of credentials, would allow for multiple and varied assessments between charter schools, and would prohibit portability between charter schools and traditional public schools. The commenter also stated the pilot program would be a disadvantage for traditional public schools by creating a costly compliance burden via regulations charter schools can avoid. (48)

RESPONSE: Charter schools will not be setting their own certification guidelines. The criteria for teacher, principal, and school business administrator candidates are spelled out in the proposed regulations at N.J.A.C. 6A:9B-11.12(e), 12.5(n), and 12.7(l). While approved charter schools will submit a letter of recommendation on behalf of candidates who seek a charter school certificate through the pilot program, the Commissioner ultimately will be responsible for determining whether candidates meet the stated criteria for certification.

Certificates earned in the pilot program will be limited to charter schools and will not be transferable to traditional public schools, whereas traditional certificates are accepted by either type of school. For charter school employees who seek a certification that is transferable to a traditional public school setting, they can apply through the regular certification process.

70. **COMMENT:** The commenter asked how the charter school employee certification pilot program will be regulated and how decreasing requirements for superintendents and SBAs improves the quality of education for charter school students. (49)

RESPONSE: The pilot program will extend to teachers, principals, and SBAs. The Department will develop and conduct an evaluation of the pilot program based on annual submissions from pilot program participants. For the teacher and principal pilot programs, the Department will collect data, including, but not limited to, evaluations and State assessment results. For the school business administrator pilot program, the Department will develop and conduct an evaluation based on the charter school's annual independent audit. Based on the information gathered, the Department will make a recommendation to the State Board whether to continue each pilot program, and if so, whether to continue the pilot program as a permanent alternate route to certification.

The pilot program will be limited to charter schools that have a track record of success and the structures in place to support a candidate certified through the program. By easing the way for individuals who have the background and experience to succeed as a teacher, principal, or SBA but do not necessarily meet the current standards for certification, charter schools will be able to increase the pool of potential applicants.

71. **COMMENT:** The commenter questioned what criteria the Department will use to determine which charter schools will be permitted to participate in the charter school employee certification pilot program. (27)

RESPONSE: The Department has revised the proposed regulations at N.J.A.C. 6A:9B-11.12(e), 12.5(n), and 12.7(l) to specify the criteria the Department will use to determine which charter schools will be permitted to participate in the pilot program (see Agency-initiated Change 2). To be eligible to apply for the teacher and principal pilot programs, charter schools will be required to have received a Tier Rank 1, the highest rating in the Academic Performance Framework for the last two years. If the charter school does not have a Tier Rank, the charter school operator will be required to demonstrate its school(s) outperformed resident district schools in both mathematics and ELA on State assessments for the last two years. To be eligible to apply for the school business administrator pilot program, a charter school will be required to meet fiscal management standards for the last two years, as evidenced by the annual independent audit with an unqualified audit opinion that is devoid of significant conditions or internal control weaknesses and significant or "repeat" findings.

Charter schools that meet the eligibility threshold to apply and want to participate in the pilot program will be required to submit a formal application to the Department. To participate in the teacher pilot program, a charter school will be required to submit an application that includes, but is not limited to: the charter school's name; evidence of meeting the eligibility criteria stated in the above paragraph; rationale for participation in the pilot program; a description of positions to be filled; and a description of the professional development that pilot program teachers will receive.

The application to participate in the principal pilot program will be similar; however, it will not require a description of the positions to be filled and will require a description of the professional development that pilot program principals will receive.

Lastly, the application charter schools will be required to submit to participate in the SBA pilot program will include, but will not be not limited to: the charter school's name; evidence of meeting the eligibility criteria; a viable annual budget; a Service Organization Controls report of the charter management organization, if available; evidence of stable enrollment; and evidence of fiscal internal controls consistent with

Generally Accepted Accounting Principles (GAAP) and Generally Accepted Government Auditing Standards (GAGAS), and rationale for participation in the pilot program.

Within 60 days of receipt, the Department will be required to review an application and to notify a charter school whether it has been approved to participate.

72. **COMMENT:** The commenters said the proposed certification pilot program contradicts the Department's currently certification regulations for teachers and increased requirements on educator preparation programs. **(11, 27)**

RESPONSE: The Department has high standards for educators, which is why educator preparation regulations were recently revised. At the same time, the Department recognizes the charter school statute provides greater flexibility in exchange for greater accountability. Through the pilot program, the Department is exploring this statutory flexibility for charter schools that have demonstrated a track record of success. Relief from certification requirements in charter schools is not an anomaly. Nationally, many states offer some sort of flexibility around certification for charter schools teachers.

73. **COMMENT:** The commenter stated the standard certification process is not the only pathway to achieving student success. The commenter also said expanding the certification process for charter schools is essential to ensuring students continue to have access to high-quality, highly qualified educators and administrators. **(46)**

RESPONSE: The Department thanks the commenter for the support.

74. **COMMENT:** The commenter expressed support for the charter school teacher certification pilot program because it will ensure charter schools do not lose otherwise great teachers because of rigid State certification rules. The commenter also said the pilot program will reduce stress on classroom teachers, help charter schools support a diverse and growing workforce, and free-up human resource professionals to provide even better support to employees. **(53)**

RESPONSE: The Department thanks the commenter for the support.

75. **COMMENT:** The commenter expressed support for the charter school teacher certification pilot program because her experience as a parent of charter school students indicates the charter school does an excellent job of recruiting and training excellent teachers. **(54)**

RESPONSE: The Department thanks the commenter for the support.

76. **COMMENT:** The commenter expressed support for the charter school teacher certification pilot program because it will enable charter schools to attract more candidates for hard-to-fill Spanish teachers, which are important particularly in communities with large Hispanic populations. The commenter said the pilot program will allow charter schools to hire candidates who have years of teaching experience in Puerto Rico but are not currently eligible for reciprocal certification in New Jersey. **(21)**

RESPONSE: The Department thanks the commenter for the support.

77. **COMMENT:** The commenter expressed support for the charter school teacher certification pilot program because it will allow charter schools to certify teachers, which could provide greater longevity for teachers in charter schools. (21)

RESPONSE: The Department thanks the commenter for the support.

78. **COMMENT:** The commenter expressed support for the charter school teacher certification pilot program because it will provide flexibility for hiring qualified candidates who do not currently qualify for teaching positions because they have not yet begun the certification process or do not qualify because the current process is too rigid. (52)

RESPONSE: The Department thanks the commenter for the support.

79. **COMMENT:** The commenter opposed the charter school teacher certification pilot program because eliminating the baseline requirements that a teaching staff member should possess to adequately provide teaching and learning jeopardizes the quality of instruction students receive. (27)

RESPONSE: The certification pilot program will not eliminate all baseline requirements but, rather, will provide more flexibility in attaining certification by recognizing prior educational and work experience. The pilot program is intentionally limited to charter schools that have demonstrated a track record of success and have systems in place to support teachers to ensure all students receive a high-quality education.

80. **COMMENT:** The commenter stated the charter school teacher certification pilot program is alarming because it will loosen standards for teacher certification, particularly at a time when teacher evaluations weigh heavily on test scores. (32)

RESPONSE: The teacher certification pilot program still will require teacher candidates to meet certain criteria for participation. Candidates will be required to possess a letter of recommendation from an approved charter school and a bachelor's or advanced degree. In addition, candidates will be required to satisfy two of the following criteria: meet the GPA requirements, pass the basic skills assessment, pass the appropriate State test(s) of subject-matter knowledge, or have relevant educational or work experience that will translate into successful teaching. By relaxing the standards to accommodate relevant education or work experience, charter schools will be able to diversify their teaching staff with individuals who bring unique perspectives and experiences. Additionally, teachers in the pilot program will be required to complete 50 professional development hours annually while employed under the provisional certificate.

Charter school academic performance, as measured largely by State assessment results, will be considered by the Department when determining which charter schools will be eligible to participate in the program. Additionally, State assessment results for teachers in tested subjects and grade levels, as well as evaluations for teachers in the pilot program, will be considered by the Department when evaluating the pilot program. Autonomy in exchange for accountability is the premise of charter schools and, therefore, integral to the pilot program's design.

81. **COMMENT:** The commenter stated the charter school teacher certification pilot program will result in the development of two classes of teachers: teachers who have treated their profession with the utmost respect and invested in the proper training and

certifications, and teachers who have been deemed worthy by charter school operators but not by the Department through traditional methods. **(51)**

RESPONSE: Eligible charter schools that are approved to participate in the pilot program will recruit candidates who satisfy the criteria in N.J.A.C. 6A:9B-11.12(e), but the Department -- not the charter school operator -- ultimately will be responsible for reviewing applications and determining certification eligibility.

To earn a CSCE through the pilot program, the candidate will be required to possess a letter of recommendation from the charter school, hold a bachelor's or an advanced degree from a regionally accredited college or university, and satisfy two or more of the following: meet the GPA requirements; pass the basic skills assessment; pass the appropriate State test(s) of subject-matter knowledge; or have relevant educational or work experience that will translate into successful teaching. By meeting two of the requirements, committing to teaching in a charter school with a track record of success, and participating in the professional development opportunities available, a teacher will demonstrate respect for and investment in the profession.

- 82. COMMENT:** The commenter stated the charter school teacher certification pilot program will allow charter school boards of trustees to determine whether staff is properly certified, which is an overreach of charter school boards of trustees' power and puts them on a level far above district boards of education. **(51)**

RESPONSE: The proposed teacher certification pilot program will require a teacher candidate from a Department-approved participating charter school to submit an application to the Department demonstrating he or she has met the criteria in N.J.A.C. 6A:9B-11.12(e)5 to receive a CSCE. The Department, not the charter school board of trustees, will be responsible for determining whether the individual has satisfied the stated criteria.

- 83. COMMENT:** The commenter stated the charter school teacher certification pilot program will potentially lead to 89 different sets of certification guidelines from individual charter schools that would lead to one certification. The commenter also said the proposal is ill-advised from both an educational and an administrative perspective. **(51)**

RESPONSE: Charter schools will not be setting their own certification guidelines. The teacher certification pilot program criteria is included in the proposed regulations at N.J.A.C. 6A:9B-11.12(e) (see Agency-initiated Change 2.) While candidates may have different experiences to satisfy the criterion for relevant educational or work experience, candidates will be required to demonstrate how their experience will translate into successful teaching. Moreover, certifying individuals with varied experiences has the potential to diversify and enhance the teaching force.

- 84. COMMENT:** The commenter opposed the charter school teacher certification pilot program because it will lessen requirements in charter schools that currently have low teacher applicant pools because of less-than-professional working conditions and will limit "second-class" teachers to a charter school that provides its students with a lesser educator compared to traditional public schools. **(51)**

RESPONSE: The pilot program will be limited to charter schools that have received a Tier Rank 1, the highest rating in the Academic Performance Framework, for the last two

years. If the charter school does not have a Tier Rank, the charter school operator will be required to demonstrate its school(s) outperformed resident district schools in both mathematics and ELA on State assessments for the last two years. Charter schools meeting the standards generally have strong academic and organizational systems in place to support teachers and to ensure the school environment is conducive to teaching and learning.

By taking into account other criteria such as prior education or work experience, charter schools with a track record of success will have the ability to diversify their teacher applicant pools. Charter school students can benefit from having teachers who bring unique experiences to the classroom, such as work in the field directly related to the subject area in which they teach.

- 85. COMMENT:** The commenter asked how many teachers currently operate under the CSCE and whether the program has been successful. The commenter further asked whether there is there data to back up the expansion of the program to other job titles (principal, SBA). **(27)**

RESPONSE: Since 2013, 121 teachers have accessed the CSCE, and 89 have obtained the charter school provisional certificate.

The decision to expand the certificates to charter school principal and SBA is based largely upon comments from charter school stakeholders. As mentioned in the comments supporting the pilot program, many charter schools also have identified candidates who have the background, education, or experience to successfully serve in a teacher, principal, or SBA role but have been unable to obtain certificates through the traditional route. The pilot program has the potential to diversify and expand the pool of candidates.

The Department has intentionally has proposed to limit the pilot program to charter schools with a track record of success. The Department is committed to monitoring, studying, and evaluating the program.

- 86. COMMENT:** The commenters stated the charter school teacher certification pilot program contradicts the Department’s increased requirements for new teachers to pass a performance assessment (edTPA). **(3, 6)**

RESPONSE: The Department holds high standards for educators, which is why the educator preparation regulations were recently revised to include requirements such as edTPA. However, State statute provides charter schools greater flexibility in exchange for greater accountability. This exchange distinguishes charter schools from traditional public schools. Moreover, statute permits certification flexibility for charter schools. The Department is exploring this flexibility by creating an alternate pathway for individuals who can demonstrate their capacity through education and experience.

- 87. COMMENT:** The commenters asked how the Department will determine “successful teaching experience” in private or public school settings under proposed N.J.A.C. 6A:9B-11.12(e)3 and what criteria will be used in the determination. **(11, 27)**

RESPONSE: The Department has proposed at Second Discussion to revise the certification pilot program for teachers at N.J.A.C. 6A:9B-11.12(e), which does not include the following provision previously proposed at N.J.A.C. 6A:9B-11.12(e)3ii(D):

“Has prior successful teaching experience in a public or private school setting.” Please see Agency-initiated Change 2 for the full text of the proposed pilot program.

- 88. COMMENT:** The commenter suggested the Department include at N.J.A.C. 6A:9B-11.12(e)6, which states the Department will evaluate the pilot program and recommend whether to continue it, to include to whom the Department will make the recommendation. **(11)**

RESPONSE: The Department thanks the commenter for the suggestion. The Department has clarified at N.J.A.C. 6A:9B-11.12(e)9, 12.5(n)9, and 12.7(l)9 that the Department must make the recommendation to the State Board. Please see Agency-initiated Change 2 for the full text of the proposed pilot program.

- 89. COMMENT:** The commenter stated the pilot program for certification of charter school administrators proposed at N.J.A.C. 6A:9B-12.4 does not list any criteria as to what is meant by “sufficient” management and leadership to earn certification. **(11)**

RESPONSE: The Department has revised the proposed pilot program for certification of charter school principals proposed at N.J.A.C. 6A:9B-12.5(n) (see Agency-initiated Change 2). The application to obtain a charter school certificate of eligibility will require an individual to possess a letter of recommendation from an approved charter school, hold a bachelor’s or higher degree, have at least two years of teaching experience, and have relevant management and leadership experience that he or she can demonstrate will translate into success in a principal role. The onus will be on the candidate to explain how his or her experience is relevant to the principal role; it ultimately will be the Department’s decision whether the candidate satisfies the criteria.

- 90. COMMENT:** The commenter asked what parameters the Department will explore and who will be included in the review of the Department’s evaluation of the charter school employee certification pilot program’s success and whether it should be continued. **(27)**

RESPONSE: The Department will develop and conduct an evaluation of the pilot programs based on annual submissions from pilot program participants see Agency-initiated Change 2). For the teacher and principal pilot programs, the Department will collect data, including, but not limited to, evaluations of pilot program participants and State assessment results. For the SBA pilot program, the Department will develop and conduct an evaluation based on the charter school’s annual independent audit. Based on the information gathered, the Department will make a recommendation to the State Board about whether to continue each pilot program, and if so, whether to continue the pilot program as a permanent alternate route to certification.

- 91. COMMENT:** The commenter said the requirement proposed at N.J.A.C. 6A:9B-12.4(o)5i for the charter school to provide a written recommendation for the issuance of a charter school standard certification instead should indicate the recommendation must come from the charter school board of trustees. **(11)**

RESPONSE: The proposed pilot program for principals has moved to N.J.A.C. 6A:9B-12.5. The Department thanks the commenter for the recommendation to require the recommendation to come from the charter school board of trustees. Please see Agency-initiated Change 2 for rule text of the recommended change at N.J.A.C. 6A:9B-12.5(n)8iii.

92. **COMMENT:** The commenter opposed the charter school principal certification pilot program because the basis for traditional principal certification (five years of classroom experience, advanced training consistent with the Professional Standards of School Leaders, and a comprehensive mentorship process) is well grounded in educational research, while the pilot program would allow an individual with no advanced educational training or experience to serve as a principal. **(27)**

RESPONSE: The Department has amended the principal pilot program to require candidates for the principal charter school certificate of eligibility to possess a letter of recommendation from the approved charter school; hold a bachelor's or higher degree; have at least two years of teaching experience; pass a State-approved assessment for principals; and have relevant management and leadership experience that he or she can demonstrate will translate into success in a principal role (see Agency-initiated Change 2). Additionally, the revised principal pilot program will require candidates to receive professional development.

93. **COMMENT:** The commenter opposed the charter school SBA certification pilot program because the traditional educational experience, training, and mentorship SBAs must complete to become certificated are equally critical to their success. The commenter also questioned how the Department will ensure SBAs operating under the pilot program are properly trained to navigate the unique rules of school finance. **(27)**

RESPONSE: The revised SBA certification pilot program proposed at N.J.A.C. 6A:9B-12.7(l) will require a candidate to meet the existing requirements in N.J.A.C. 6A:9B-12.7(a) or to possess a Master in Business Administration or a certified public accountant license (see Agency-initiated Change 2). To receive a charter school standard certificate, the candidate also will be required to be employed for one year while holding a charter school provisional certificate under the guidance of a New Jersey certified school business administrator. Obtaining an MBA or a CPA license involves comprehensive study of finance and accounting and will ensure the candidate is prepared to navigate the rules of school finance. Furthermore, the Department will continue to monitor charter schools to ensure fiscal health and compliance by reviewing annual budgets and audits and, as needed, quarterly financial reports.

94. **COMMENT:** The commenters said the proposal at N.J.A.C. 6A:9C-5.5 requiring charter schools to submit to the Department a comprehensive professional development plan (PDP) does not list criteria for the plans. The commenter also said PDP requirements for traditional public schools are provided in much greater detail and charter schools should have the same rigorous requirements. **(11, 27)**

RESPONSE: The Department proposals at Second Discussion to delete N.J.A.C. 6A:9C-5.5 (see Agency-initiated Change 3).

95. **COMMENT:** The commenter said it is unclear whether the PDP process for charter schools proposed at N.J.A.C. 6A:9C-5.5 is equally as robust as the requirements for traditional public schools. **(27)**

RESPONSE: The Department proposals at Second Discussion to delete N.J.A.C. 6A:9C-5.5 (see Agency-initiated Change 3).

96. **COMMENT:** The commenter questioned whether the proposal at N.J.A.C. 6A:9C-5.5 to require charter schools to submit PDPs to the Office of Charter Schools rather than the

executive county superintendent will adversely impact the Department and charter schools. The commenter said the county offices of education have staff with the expertise to review PDPs and make recommendations to school districts and asked whether the Department has the capacity to provide charter schools with robust support regarding PDPs. (27)

RESPONSE: The Department proposals at Second Discussion to delete N.J.A.C. 6A:9C-5.5 (see Agency-initiated Change 3).

97. **COMMENT:** The commenter expressed support for the proposal at N.J.A.C. 6A:11-2.2 to require the Department to publicly report on each charter school’s academic performance based on the Performance Framework. The commenter said public reporting will increase transparency, help parents make informed school decisions, and allow the public to get a clearer picture of individual school performance. The commenter also said public reporting provides a consolidated look at the authorizer’s portfolio of schools, which can help identify patterns of performance that might indicate deficient or exceptional authorizing practices. The commenter further stated annual public reporting of school performance can help charter schools by providing them with an annual check-in against the performance goals in their charter agreements. (36)

RESPONSE: The Department thanks the commenter for the support.

98. **COMMENT:** The commenter suggested not adopting proposed amendments at N.J.A.C. 6A:11-2.3(b)2, which currently requires the Commissioner’s review of a charter school’s renewal application to include whether the charter school has failed to meet any standard set forth in its charter agreement or the Performance Framework in a school’s charter, that would change the requirement to a review of the charter school based on its charter agreement and the Performance Framework. The commenter stated the current rule is a strong renewal standard that places the burden on charter schools to demonstrate success under their contracts as a condition of renewal.

The commenter also said the proposed amendment could create confusion as to what level of performance in relation to performance expectations is sufficient for charter renewal (e.g., meeting, approaching, or some progress toward meeting expectations). The commenter further stated vague renewal criteria have created problems in other states where courts and appellate bodies have kept demonstrably failing schools open because the charter school argued that state law required renewal if they could provide any evidence of progress. (36)

RESPONSE: The proposal at N.J.A.C. 6A:11-2.3(b)2 will continue to place the burden on charter schools to demonstrate success as a condition of renewal. The Department has proposed to move away from the standards-based evaluator language because the academic component of the Performance Framework no longer relies on standards but, rather, on a percentage of points earned to evaluate academic performance. The review of a charter school, which is required prior to the Commissioner granting or denying renewal of a charter, continues to be comprehensive and involves multiple components as outlined in N.J.A.C. 6A:11-2.3. As part of this process, the Department reviews the charter school based on its charter agreement and the Performance Framework. The newly proposed definitions of “Performance Framework” and “high-performing charter school” clearly spell out the components of the State’s accountability system, as well as the criteria the Department uses to determine Tier Rank for charter schools.

- 99. COMMENT:** The commenter opposed the expansion of the satellite campus provision in N.J.A.C. 6A:11 to include charter schools located in any school district in the State. The commenter said the proposal related to satellite campuses will disenfranchise school districts and could result in increased student segregation and place additional stress on school district budgets. **(28)**

RESPONSE: The proposed amendment to the definition of satellite campus is meant to clarify an existing practice whereby charter schools in any school district—not just school districts with a priority school or a former Abbott district—may operate in multiple facilities. Proposed N.J.A.C. 6A:11-4.17 further clarifies a charter school may operate more than one satellite campus in its district or region of residence, subject to charter amendment approval, pursuant to N.J.A.C. 6A:11-2.6.

Prior to granting a charter, the Department conducts an analysis of the student composition of a charter school and the segregative effect that the loss of students may have on the district of residence, pursuant to N.J.A.C. 6A:11-2.1. The Department also conducts a segregative effect analysis on an annual basis, pursuant to N.J.A.C. 6A:11-2.2(c).

In terms of impacting school district budgets, N.J.A.C. 6A:11-2.6 requires charter schools to submit amendment requests, including those for satellite campuses, to the Commissioner and the district board(s) of education or State district superintendent(s) of the charter school's district of residence. The district board(s) of education or State district superintendent(s) of the district of residence then has 60 days to respond to the amendment request. Therefore, resident school districts receive advance notice and can prepare their budgets and/or submit comments regarding the amendment.

- 100. COMMENT:** The commenter said satellite campuses for charter schools violate the State's charter school law, which ties the granting of a charter to a specific school. The commenter also stated the Department's lack of transparency in the amendment process makes it unclear how many charter schools actually operate in New Jersey and estimated there are 130 charter schools in the State rather than the Department-approved 89. **(28)**

RESPONSE: There are currently 88 charter schools operating in the 2016-2017 school year. Charter schools are permitted to operate in more than one facility within their district or region of residence, provided they receive amendment approval. The charter amendment process is outlined in N.J.A.C. 6A:11-2.6, specifying the types of amendments charter schools may seek, the components and recipients of the request, the 60-day comment period for the district of residence, and the requirement for the Commissioner to review and either approve or deny the requests.

- 101. COMMENT:** The commenter stated the proposed amendments regarding satellite campuses would have a direct impact on the ability of all school districts to forecast for potential funding changes based upon the proposed opening of a charter school in a school district. The commenter also stated the expansion of a satellite campus to any school district will adversely impact additional school districts' ability to predict budgeting since charter school applicants will be able to employ a "hop-scotch" approach in accepting applicants. **(27)**

RESPONSE: Pursuant to proposed N.J.A.C. 6A:11-4.17, a charter school may operate in more than one satellite campus in its approved district or region of residence, subject to charter amendment approval. Upon receiving an amendment request, school districts

have the ability to submit comments to the Commissioner for review regarding proposed charter expansions. School district comments and fiscal impacts are considered when making all decisions regarding charter expansion.

The definition of “satellite campus” at N.J.A.C. 6A:11-1.2 is not intended to allow charter schools to operate in facilities outside of their district or region of residence. Rather, the definition has been amended to clarify that charter schools can operate facilities within their district or region of residence, regardless of whether the district or region of residence has a priority school or was a former Abbott District as of July 1, 2012.

- 102. COMMENT:** The commenters asked how the proposal at N.J.A.C. 6A:11-2.1(m) to allow the Commissioner to grant a charter school an additional planning year for good cause will impact a host school district’s budget. **(11, 27)**

RESPONSE: The host school district would not lose funding if the Commissioner were to grant a potential charter school an additional planning year. If granted prior to the host school district’s budget approval, there would be no impact on the host school district’s budget. If the additional planning year granted after the host school district’s budget approval, the school district would have already budgeted funds to remit to the charter school. However, the funds would remain in the school district’s budget and the school district, with executive county superintendent approval, would be able to repurpose the funds for that school year.

- 103. COMMENT:** The commenter asked when would a school district become obligated to transmit funds, pursuant to N.J.A.C. 6A:23A-22.4(c), for students attending a charter school if the charter school takes one or two planning years. **(11)**

RESPONSE: No payments are made by the school district to the charter school during planning years. Charter school funding follows the child and therefore is only remitted once the school is operational. A school district is required, pursuant to N.J.A.C. 6A:23A-22.4(c), to make payments to the charter school once the charter school applicant is granted a charter. The Commissioner annually grants new charters by July 15, pursuant to N.J.A.C. 6A:11-2.1(k). School districts then are required to follow the payment process pursuant to N.J.A.C. 6A:23A-15.3(g).

- 104. COMMENT:** The commenter said the definition of “high-performing charter school” proposed at N.J.A.C. 6A:11-1.2 does not include what constitutes a high-performing charter school and states only that it will meet the criteria of the Performance Framework, which is not codified in regulation. The commenter stated the framework should be codified in the regulations to ensure a consistent level of accountability. **(27)**

RESPONSE: The Department proposes amendments to the definition of “high-performing charter school” to more clearly explain how the Department ranks charter schools based upon academic performance and to state a high-performing charter school is one that receives a Tier Rank 1.

“High-performing charter school” means a charter school that [[meets the academic criteria]] earns a Tier Rank 1, which is the highest possible rank, based on the metrics set forth in the Academic Performance Framework.

The Department also has proposed additional amendments to the definition of “Performance Framework” (see Agency-initiated Change 4).

- 105. COMMENT:** The commenter expressed support for the proposed provisions that will make publicly available the performance of each charter school through the Performance Framework and will require a charter school board of trustees to post on the charter school’s website all meeting notices and minutes. The commenter stated the proposed provisions are important tools in increasing accountability to ensure charter schools are fostering student progress and success. **(23)**

RESPONSE: The Department thanks the commenter for the support.

- 106. COMMENT:** The commenter expressed support for the proposed provisions that will make publicly available the performance of each charter school through the Performance Framework and will require a charter school board of trustees to post on the charter school’s website all meeting notices and minutes. The commenter stated the proposed provisions are important tools in increasing accountability to ensure charter schools are fostering student progress and success. **(17)**

RESPONSE: The Department thanks the commenter for the support.

- 107. COMMENT:** The commenter asked how will the Department publicly report on each charter school’s academic performance based on the Performance Framework, as required under proposed N.J.A.C. 6A:11-2.2(d). **(27)**

RESPONSE: On an annual basis, the Department will publicly report on each charter school’s academic performance by posting all Academic Performance Framework reports on its website.

- 108. COMMENT:** The commenter stated proposed N.J.A.C. 6A:11-2.2(d) requires the Department to publicly report on each charter school’s academic performance based on the Performance Framework and asked to whom the Department will report on charter school performance regarding other areas such as finance or governance. **(11)**

RESPONSE: Currently, the Department prepares reports on charter school financial and organizational performance for internal purposes only. Comprehensive Annual Financial Reports and Auditor’s Management Reports are publically available for charter schools on the Department’s website at <http://www.nj.gov/education/finance/fp/cafr/search/16/>. (Note: Charter schools are listed after Warren County.)

- 109. COMMENT:** The commenter said the criteria describing the Performance Framework appear to be proposed for deletion, which will leave it completely to the Commissioner’s discretion and create less accountability for charter schools. **(11)**

RESPONSE: The Department proposes at Second Discussion additional amendments to the definition of “Performance Framework” (see Agency-initiated Change 4). The intent of the amendments to the definition of “Performance Framework” proposed at First Discussion was to make the definition more concise and accurate, not to create less accountability for charter schools. The current definition, for example, cites NJASK measures of proficiency and Federal No Child Left Behind (NCLB) requirements, which have been or will be replaced by PARCC assessment measures of grade-level

expectations and Every Student Succeeds Act (ESSA) accountability requirements, respectively.

- 110. COMMENT:** The commenters stated the particulars of the expedited renewal process for high-performing charter schools proposed at N.J.A.C. 6A:11-2.3(c) should be set out in the regulations consistent with how the regular renewal process is outlined. The commenters further stated the renewal timeline should be specified and the host school district should be notified regarding the granting of a charter renewal. **(11, 27)**

RESPONSE: Pursuant to N.J.A.C. 6A:11-2.3(c)1, the expedited renewal process will include the elements set forth in N.J.A.C. 6A:11-2.3(b) but may be conducted in an abbreviated format established by the Commissioner. By referencing N.J.A.C. 6A:11-2.3(b), which specifies the components of a comprehensive review for renewal, the Department will require the expedited renewal process to include the same components.

N.J.A.C. 6A:11-2.3(c) specifies the renewal timeline. The Department will notify charter schools prior to October 1 whether they qualify for an expedited review process. Within 75 days of the renewal application submission, or pursuant to a Commissioner-established timeline, the Commissioner will notify a charter school of whether it has been granted renewal of its charter.

The respective district board of education and executive county for the charter school's district of residence are included in the renewal process, pursuant to N.J.A.C. 6A:11-2.3(b), and copied on the renewal decision letters sent to charter schools.

- 111. COMMENT:** The commenter expressed support for the expedited renewal process for high-performing charter schools at proposed N.J.A.C. 6A:11-2.3(c) because an expedited review based largely on academic performance aligns with how charter schools are evaluated and streamlines the process for charter schools that have demonstrated strong academic performance. **(21)**

RESPONSE: The Department thanks the commenter for the support.

- 112. COMMENT:** The commenter expressed support for the expedited renewal process for high-performing charter schools at proposed N.J.A.C. 6A:11-2.3(c) because it further emphasizes outcomes-based renewals without changing the high standards to which charter schools in New Jersey are held. The commenter also said the expedited renewal process will reduce the required paperwork that emanates from a full review, which consumes staff time that could be spend with students and parents. **(23)**

RESPONSE: The Department thanks the commenter for the support.

- 113. COMMENT:** The commenter expressed support for the expedited renewal process for high-performing charter schools at proposed N.J.A.C. 6A:11-2.3(c) because it would protect students and families in high-performing charter schools by ensuring the focus is on outcomes and what is best for students. **(22)**

RESPONSE: The Department thanks the commenter for the support.

- 114. COMMENT:** The commenter expressed support for the expedited renewal process for high-performing charter schools at proposed N.J.A.C. 6A:11-2.3(c) because it will serve

as an incentive for all charter schools to reach the strong fiscal and operational results needed to qualify for the expedited review. (43)

RESPONSE: The Department thanks the commenter for the support.

115. **COMMENT:** The commenters stated allowing high-performing charter schools to renew their charters earlier will assist charter schools in obtaining suitable buildings. (22, 43)

RESPONSE: The Department thanks the commenter for the support.

116. **COMMENT:** The commenter stated an expedited renewal process for high-performing charter schools is the wrong approach and would move charter schools further away from the notion of a public school. (12)

RESPONSE: State statute designates charter schools as public schools and calls for a renewal process. The proposed expedited renewal process still will require a comprehensive review involving all of the necessary requirements within the current regulations, including a review of the charter school's instructional, financial, and organizational practices. The expedited renewal process simply will allow high-performing charter schools to experience an abbreviated process and learn of the renewal decision at an earlier date than other charter schools.

High-performing school districts are provided similar accommodations if they apply via N.J.A.C. 6A:5, Regulatory Equivalency and Waiver, for a waiver of the Quality Single Accountability Continuum (QSAC) process. The proposed rulemaking for charter schools aligns with the flexibility provided to school districts via a QSAC waiver based on their performance and compliance.

117. **COMMENT:** The commenter stated an expedited renewal process for high-performing charter schools will further push charter schools to focus on test preparation, not accept students with learning or other disabilities, and send students who do not perform well on standardized tests back to their home school districts. (26)

RESPONSE: Though abbreviated, the proposed expedited renewal process still will involve a comprehensive and rigorous review of five years' worth of documents pertaining to the charter school's instructional, financial and organizational practices. The renewal application, which will be reviewed as part of the expedited process, requires charter schools to describe their overall educational program, as well as their practices for identifying and serving students with disabilities and ELLs. The renewal process includes interviews with school administrators, teachers, and special education and English as a second language coordinators, among others. The Department will continue to take appropriate action when concerns arise regarding access and equity.

118. **COMMENT:** The commenter expressed support for the proposal at N.J.A.C. 6A:11-2.3(b)12 to require a charter school to post a surety bond of \$75,000 to pay for legal and audit expenses. (27)

RESPONSE: The Department thanks the commenter for the support.

119. **COMMENT:** The commenter expressed support for the proposal at N.J.A.C. 6A:11-2.4(c)2iv to permit the Commissioner to remove an independent charter trustee if he or she is not adequately performing required duties. (27)

RESPONSE: The Department thanks the commenter for the support.

- 120. COMMENT:** The commenters stated the clarification of the role of the independent trustee required, pursuant to N.J.A.C. 6A:11-2.4, if a charter school closes needs to be clarified and possibly assigned a new name. The commenters said if the independent trustee truly is a trustee, he or she would be subject to the Code of Ethics under N.J.S.A. 18A:12-24.1 and the role might be violative of the Code of Ethics' provisions. **(11, 27)**

RESPONSE: Without any specific articulation as to what conduct by the independent trustee could be violative of the Code of Ethics, it is difficult to respond to the comment.

By definition, the "board of trustees" of a charter school is the "public agent authorized by the State Board to supervise and control a charter school" (see N.J.A.C. 6A:28-1.2). Because an independent trustee is appointed only after the Commissioner revokes or does not renew a charter, the independent trustee is not, arguably, supervising or controlling a charter school. Instead, the independent trustee is only completing the task necessary to close a school. Therefore, the independent trustee would not fall under the jurisdiction of the School Ethics Commission or the School Ethics Act.

- 121. COMMENT:** The commenter expressed support for proposed N.J.A.C. 6A:11-2.12 because it will provide charter schools with the same authority to operate single-purpose schools that currently is afforded to school districts. The commenter also stated the proposal will allow charter schools to serve over-aged and under-credited students, which is an under-served, at-risk population in the State's urban areas. **(19)**

RESPONSE: The Department thanks the commenter for the support.

- 122. COMMENT:** The commenter expressed support for proposed N.J.A.C. 6A:11-2.12 because single-purpose charter schools serving all male students have demonstrated success for young minority men. The commenter also stated an all-male charter school would do the following: help transform the education experience of young men; provide students and their families hope for a better future; and offer a pathway to success for statistically disadvantaged and historically neglected students. **(4)**

RESPONSE: The Department thanks the commenter for the support.

- 123. COMMENT:** The commenter said the provision in N.J.A.C. 6A:11-2.4 that requires charter school personnel to make reasonable efforts to ensure students have taken action to enroll in another school should include a provision similar to the one in N.J.A.C. 6A:22-4.1(d) that requires designated staff to report to the appropriate entity when no action has been taken to enroll a student in another school. **(11)**

RESPONSE: When the Commissioner decides to close a charter school, the Department works in concert with the charter school and the resident school district to ensure students have a school to attend. The charter school and the resident school district set up communications and registration sessions for parents and guardians. The Department also advises parents about nearby charter schools with open seats.

- 124. COMMENT:** The commenters said the provision proposed at N.J.A.C. 6A:11-2.12 to allow a charter school to limit enrollment to a single purpose needs to include the process the charter school must undertake to prove the compelling need or educational reason for

the single-purpose charter school. The commenter suggested incorporating the process in the regulations to allow for true notification of the public and all charter school applicants. (11, 27)

RESPONSE: To be more explicit about the process for opening a single-purpose charter school, the Department propose at Second Discussion to move the provisions regarding single-purpose charter schools to N.J.A.C. 6A:11-2.1(b)5 and 6, which is the section on the application and approval process. The Department proposed at First Discussion to include the rules in a separate section at N.J.A.C. 6A:11-2.12, Single-purpose charter school. The relocation of the rules will clarify the process that charter schools must follow to gain approval to open a single-purpose charter school. The onus will fall on the charter school in its application to provide a compelling need or educational reason for opening a single-purpose charter school. Pursuant to N.J.A.C. 6A:11-2.1(d), charter school applicants must provide copies of applications to the school districts in the district of residence or if applicable, copies of applications to school districts in the case of a region of residence.

6A:11-2.1 Application and approval process

5. If seeking to open a single-purpose charter school that will limit enrollment to a specific population of educationally disadvantaged or traditionally underserved students, the charter school's application shall demonstrate a compelling need and shall ensure compliance with State and Federal laws.

6. If seeking to operate a single-purpose charter school that will limit admission on the basis of gender, the charter school's application shall demonstrate a compelling educational reason for limiting enrollment on the basis of gender and shall ensure compliance with State and Federal laws.

[[6A:11-2.12 Single-purpose charter school]]

[[a) The Commissioner may approve a charter school that seeks to limit enrollment to a specific population of educationally disadvantaged or traditionally underserved students, provided the charter school's application demonstrates a compelling need and ensures compliance with State and Federal laws.

(b) The Commissioner may also approve a charter school that seeks to limit admission on the basis of gender, provided the charter school’s application demonstrates a compelling educational reason for limiting enrollment on the basis of gender and ensures compliance with State and Federal laws.]]

125. COMMENT: The commenter expressed support for proposed N.J.A.C. 6A:11-4.4(f) to allow charter schools to seek Commissioner approval to establish weighted lotteries because weighted lotteries will allow a charter school to prioritize admission to low-income residents from the local community. The commenter also stated the proposed rule will not exclude students from attending a charter school but will allow a charter school to serve a higher percentage of economically disadvantaged resident students. **(52)**

RESPONSE: The Department thanks the commenter for the support.

126. COMMENT: The commenter expressed support for proposed N.J.A.C. 6A:11-4.4(f) to allow charter schools to seek Commissioner approval to establish weighted lotteries because current public outreach practices of many charter schools are not enough to result in a student population that more accurately reflects that of their host school districts. **(18)**

RESPONSE: The Department thanks the commenter for the support.

127. COMMENT: The commenter asked whether single-purpose charter schools would be authorized to use the student enrollment lottery proposed at N.J.A.C. 6A:11-4.5. **(11)**

RESPONSE: A single-purpose charter school may seek approval from the Commissioner to implement a weighted lottery that favors educationally disadvantaged students to better represent a cross-section of the community’s school-age population to the maximum extent practicable within the confines of the single purpose for which it has been approved.

128. COMMENT: The commenter supported the proposal at N.J.A.C. 6A:11-4.5 to allow single-purpose charter schools because single-gender schools will give parents more options and greater flexibility on how children can learn. **(11)**

RESPONSE: The Department thanks the commenter for the support.

129. COMMENT: The commenter expressed appreciation for the efforts to allow for a weighted lottery that would foster better representation of the community’s school-age population as proposed at N.J.A.C. 6A:11-4.5. The commenter also urged the Department to articulate how a school district would facilitate this process more concretely within regulation. **(27)**

RESPONSE: The Department thanks the commenter for the support. To establish a weighted lottery, N.J.A.C. 6A:11-4.5 will require a charter school to submit to the Department and to the district board(s) of education a request for an amendment to its charter. Among other components, the amendment request process for a weighted lottery will include a formal letter summarizing the amendment request, a rationale for seeking

the amendment, a description of the lottery mechanics that will be used and the additional chances that educational disadvantaged students will receive in the lottery, and an approved charter school board of trustee resolution. Per N.J.A.C. 6A:11-2.6, the district board(s) of education may submit comments regarding the amendment request to the Commissioner within 60 days of receipt of the resolution of the charter school board of trustees. The Commissioner may grant or deny an amendment request based upon the information submitted. The weighted lottery system's design will be under the charter school's discretion.

- 130. COMMENT:** The commenter stated the weighted lottery has not changed the demographic makeup of charter schools in New Jersey in the past. **(35)**

RESPONSE: Weighted lotteries are relatively new for New Jersey charter schools. The Newark Public Schools is the first school district to implement a weighted lottery in which many charter schools participate. That weighted lottery, known as universal enrollment, took effect in the 2014-2015 school year.

Weighted lotteries are not designed to dramatically alter the demographics of a charter school's student population in one year. Rather, by increasing the odds that applicants from traditionally underserved subgroups access seats in charter schools, weighted lotteries are designed to bring about subtle change.

- 131. COMMENT:** The commenter stated the proposed rulemaking violates the letter, if not the spirit, of New Jersey's anti-discrimination laws by allowing charter schools to have weighted lotteries or to be single-purpose. **(48)**

RESPONSE: All weighted lotteries and single-purpose charter schools must act in accordance with the New Jersey Law Against Discrimination and Department policies and regulations regarding discrimination.

- 132. COMMENT:** The commenter asked if a non-resident student permitted to attend a charter school, pursuant to proposed N.J.A.C. 6A:11-4.5(d), will be able to take the seat of a resident student or if the process will be subject to available space once all interested resident students enroll. **(11)**

RESPONSE: Pursuant to N.J.S.A. 18A:36A-8.a, preference for enrollment in a charter school must be given to students who reside in the school district in which the charter school is located. Pursuant to N.J.S.A. 18A:36A-8.d, a charter school may enroll non-resident students only if available space permits. N.J.S.A. 18A:36A-8.d also requires enrollment terms and conditions to be outlined in the school's charter and approved by the Commissioner.

Since charter schools are required by law to give enrollment preference for resident students, many hold two lotteries -- one for resident students and one for non-resident students. The resident student lottery must be held first and, if seats remain, the charter school will hold a lottery for non-resident students. Pursuant to N.J.A.C. 6A:11-4.5, a charter school is required to maintain a waiting list for admission of grade-eligible students that is divided into two groups: students from the school district of residence or region of residence and students from non-resident school districts. Any subsequent openings in the charter school must be offered first to residents from the district of residence.

- 133. COMMENT:** The commenter asked whether a school district would be obligated to provide transportation for a non-resident student allowed to attend a charter school if space permits, pursuant to proposed N.J.A.C. 6A:11-4.5(d). The commenter also asked who would be obligated to pay for a public school student who enrolls in a charter school as a non-resident student. **(11)**

RESPONSE: Pursuant to N.J.A.C. 6A:27-3.4(a), eligible charter or renaissance school students who reside outside of the charter or renaissance school's school district or region of residence must be provided transportation services within the annual nonpublic school maximum statutorily established expenditure per student in accordance with N.J.S.A. 18A:39-1. If the cost of transportation exceeds the maximum allowable expenditure, the student's parent or guardian may qualify for aid in lieu of transportation.

- 134. COMMENT:** The commenters stated proposed N.J.A.C. 6A:11-4.5(d) does not provide clarity around what obligation, if any, a home school district might have to provide a non-resident student attending a charter school with transportation to extracurricular activities. **(11, 27)**

RESPONSE: The Department thanks the commenters for the suggestions and in response is making agency initiated changes based upon the recommendations from First Discussion (see Agency-initiated Change 8). The intent of the original amendments was not to deviate from current practice, which is working well across the State between charter schools and school districts. The Department at Second Discussion proposes amendments that adopts the language found in the New Jersey State Interscholastic Sports Association (NJSIAA) constitution that governs charter school athlete participation in district-level sports. This arrangement is dependent on the agreement of principals at both the charter school and the district school. The proposed amendments at N.J.A.C. 6A:11-4.16 will clarify the rule will be applicable to high school student athletes seeking participation in a sport that is not offered in the charter school. Without an agreement between principals, the charter school student may not be eligible to participate in the sport at the district level.

- 135. COMMENT:** The commenter stated the proposal at N.J.A.C. 6A:11-4.5(e) and (f) to replace "resident school district's" with "community's" does not align the rules with statute and needs to be removed because "community" is not the same as "school district" under the law. **(35)**

RESPONSE: The proposed regulations mirror statutory language. Pursuant to N.J.S.A. 18A:36-8.e, the admission policy of the charter school shall, to the maximum extent practicable, seek the enrollment of a cross section of the community's school-age population including racial and academic factors (see Agency-initiated Change 6).

- 136. COMMENT:** The commenter expressed support for proposed N.J.A.C. 6A:11-4.7(b) regarding the enrollment of preschool students because it is essential to providing and maintaining equity of access to high-performing charter schools without creating a new program. The commenter also said the proposed rule will keep families from having to enter another lottery for their child and will ensure preschool students have continuity as they transition to kindergarten. **(40)**

RESPONSE: The Department thanks the commenter for the support.

- 137. COMMENT:** The commenter expressed support for proposed N.J.A.C. 6A:11-4.7(b) regarding the enrollment of preschool students because requiring students in an affiliated preschool to re-enter a lottery presents an unnecessary and artificial hardship to preschoolers and their families. **(52)**

RESPONSE: The Department thanks the commenter for the support.

- 138. COMMENT:** The commenters requested that proposed N.J.A.C. 6A:11-4.7(b) be amended to address whether the per pupil aid that flows from a school district to a charter school with an established kindergarten will be based on the fact that kindergarten aid is based on a half-day of attendance. **(11, 27)**

RESPONSE: The Department proposes at Second Discussion to amend N.J.A.C. 6A:11-4.7(b) to clarify a charter school may enroll students in preschool if the district of residence has a State-funded preschool program (see Agency-initiated Change 7).

The charter school enrollment system feeds into a school district's ASSA enrollment count. If a charter school has a full-day kindergarten but the school district has only half-day kindergarten, the charter school students will be indicated as full-day kindergarten students. Both the charter school and school district will receive credit for full-day kindergarten for the appropriate students. Therefore, there is no additional expense incurred by the school district.

- 139. COMMENT:** The commenter opposed the proposed amendment that would allow charter schools to create preschool programs, whereas some school districts that have 40 percent or more students considered at-risk do not get funding for preschool programs. The commenter also said the additional of preschool programs should not be limited to charter schools **(6)**

RESPONSE: Proposed N.J.A.C. 6A:11-4.7(b) is not meant to give charter schools permission to operate preschool programs (many charter schools already operate preschools) but instead is meant to clarify that a student enrolled in a charter school preschool program may matriculate into the charter school's kindergarten. This proposal is intended to promote continuity of education for students already enrolled in a charter school. Moreover, the Department has proposed amendments at N.J.A.C. 6A:11-4.7(b) to clarify a charter school may receive approval to become a preschool provider only if its district of residence has a State-funded preschool program (see Agency-initiated Change 7).

- 140. COMMENT:** The commenter expressed support for proposed N.J.A.C. 6A:11-4.16 allowing a charter student to participate in an extracurricular or interscholastic program at his or her school of residence because it will expand upon language in the NJSIAA constitution to include students from all grade levels and all extracurricular programs, which will provide consistency across the State. **(18)**

RESPONSE: The Department thanks the commenter for the support. However, the Department proposes at Second Discussion to limit the rule's scope to secondary schools and to sports programs (see Agency-initiated Change 8).

- 141. COMMENT:** The commenter expressed support for proposed N.J.A.C. 6A:11-4.16 allowing a charter school student to participate in an extracurricular or interscholastic program at his or her school of residence because many charter schools cannot provide

the variety of extracurricular activities offered by larger, traditional school districts. The commenter also stated a student should not be denied the opportunity to participate in athletics or extracurricular programs just because he or she attends a charter school. (52)

RESPONSE: The Department thanks the commenter for the support. However, the Department proposes at Second Discussion to limit the rule's scope to sports programs (see Agency-initiated Change 8).

142. **COMMENT:** The commenter expressed support for the proposed requirements for school districts to allow charter school students to participate in an extracurricular or interscholastic program at the school of residence because it makes sense for school districts and charter schools to collaborate to provide students with the best educational experience. (44)

RESPONSE: The Department thanks the commenter for the support. However, the regulation as proposed at Second Discussion (see Agency-initiated Change 8) will not require school districts to allow charter school students to participate in extracurricular activities. As stated above, the Department is proposing changes to adopt the language found in the NJSIAA constitution, which governs charter school athlete participation in district-level sports. Without an agreement between principals, the charter school student may not be eligible to participate in the sport at the school district.

143. **COMMENT:** The commenter expressed support for proposed N.J.A.C. 6A:11-4.16 allowing a charter school student to participate in an extracurricular or interscholastic program at his or her school of residence because it will serve the best interests of students. The commenter also said resident school districts often actively recruit charter school students to play on athletic teams not offered by the charter school and work with charter schools to exchange athletic eligibility information and updates on disciplinary action that might cause a student to be ineligible for a game or extracurricular activity. (34)

RESPONSE: The Department thanks the commenter for the support. However, the Department proposes at Second Discussion to limit the rule's scope to sports programs (see Agency-initiated Change 8).

144. **COMMENT:** The commenter expressed support for proposed N.J.A.C. 6A:11-4.16 allowing a charter school student to participate in an extracurricular or interscholastic program at his or her school of residence because it will solidify current practice. (19)

RESPONSE: The Department thanks the commenter for the support.

145. **COMMENT:** The commenters asked whether proposed N.J.A.C. 6A:11-4.16 applies to both extracurricular activities and athletics in terms of the programs in which a charter school student would be able to participate in his or her district of residence. The commenters also asked whether participation would be based upon the agreement between the two principals at the charter and district schools or whether it would be at the sole discretion of the student as suggested by the proposed rule. (11, 27)

RESPONSE: The Department proposes at Second Discussion to amend N.J.A.C. 6A:11-4.16 to specify the rule applies to sports and is dependent upon the agreement of both principals (see Agency-initiated Change 8). The proposed language mirrors the NJSIAA constitution, which governs charter school athlete participation in district-level sports.

The relationship has been adopted Statewide by charter schools and school districts and appears to be working.

- 146. COMMENT:** The commenters asked if proposed N.J.A.C. 6A:11-4.16 is a mandate that charter school students participate in school district programs if the charter school does not offer the activity and whether the associated costs for charter school student participation would be a funded or unfunded State mandate. **(11, 27)**

RESPONSE: The Department proposes at Second Discussion to amend N.J.A.C. 6A:11-4.16 to clarify student participation is contingent upon the agreement of both principals (see Agency-initiated Change 8). Therefore, the provision is not a State mandate.

- 147. COMMENT:** The commenter stated State aid provided to school districts under the School Funding Reform Act includes extracurricular activities and, presumably, 90 percent of the equalization aid provided to charter schools includes money for extracurricular activities. The commenter asked if charter schools are responsible for providing needed extracurricular activities and whether charter schools will remit payment back to school districts if students participate in school district activities pursuant to proposed N.J.A.C. 6A:11-4.16. The commenter also stated charter schools will have access to additional funds not authorized by the Legislature to flow to charter schools if charter school students participate in school district activities without reimbursement because local taxpayers will have to pay for charter school student participation. **(11)**

RESPONSE: Estimated costs for student activities at each grade level (elementary, middle, and high school) are included in the calculations for State equalization aid. However, there are no requirements for school districts or charter schools to use those funds on activities. Rather, school districts and charter schools may use the funding at their discretion to provide for a thorough and efficient education.

As stated previously, charter school student participation in sports programs at his or her resident district school is contingent upon the agreement of both principals (see Agency-initiated Change 8).

- 148. COMMENT:** The commenter asked if, under proposed N.J.A.C. 6A:11-4.16, charter school students can be charged to participate in school district programs if students in host school districts are charged fees to participate in the same activities. The commenter also asked how this scenario would be handled for at-risk students. **(27)**

RESPONSE: If both a charter school principal and school district principal agree to allow students to participate in school district sports, the charter school student would be treated in the same manner as a school district student. Therefore, if a school district charges fees to students based on participation in sports, the charter school student would be responsible for the same fees. Each school district is required to have a policy regarding the participation fees and the potential deferment of costs for student athletes who are classified at-risk. Therefore, the school district would rely on its policy to make those decisions.

- 149. COMMENT:** The commenter asked if, under proposed N.J.A.C. 6A:11-4.16, charter school students participating in school district programs would be subject to the same GPA and degree-bearing coursework requirements established by the NJSIAA. **(27)**

RESPONSE: Charter school students' eligibility to participate in sports is already addressed in the NJISSA constitution. The proposed amendments will not alter NJSIAA rules.

- 150. COMMENT:** The commenters asked if charter school students participating in school district programs would be subject to the code of student conduct of the charter school or the school district. **(11, 27)**

RESPONSE: The proposed amendments require both principals to agree before a student athlete can participate in sports in the school district. Therefore, the specifics regarding participation in sports and any subsequent violation of a code of conduct should be addressed before the principals agree to the arrangement.

- 151. COMMENT:** The commenter opposed the requirement that school districts be forced to accept charter school students on the school districts' sports teams and in extracurricular activities. The commenter also stated charter schools should be required to provide the activities since they receive funding for a comprehensive education, which includes extracurricular activities and athletics. The commenter also said the decision at least should rest with the school district. **(12)**

RESPONSE: The Department proposes at Second Discussion to amend N.J.A.C. 6A:11-4.16 to clarify charter school student participation in sports at his or her school of residence requires the agreement of both principals (see Agency-initiated Change 8).

- 152. COMMENT:** The commenter stated under proposed N.J.A.C. 6A:11-4.16, charter school students will be allowed to attend extracurricular and sports programs at the expense of host school districts and at no cost to charter schools. **(48)**

RESPONSE: The proposed amendments to the section require both principals to agree to the arrangement. The charter school cannot supersede a school district principal's discretion and allow a charter school student to participate in sports without approval by both parties. Therefore, if a traditional public school principal determines the costs would be too great to include charter school students on athletic teams, he or she can decide to not allow charter students to participate.

- 153. COMMENT:** The commenter expressed opposition to the proposed rulemaking as it calls for school districts to accept charter school students into their athletic programs. The commenter also asked who will cover the cost for the athletic and extracurricular activities, including insurance, for charter school students in school district programs. **(49)**

RESPONSE: The Department proposes at Second Discussion to amend N.J.A.C. 6A:11-4.16 to clarify charter school student participation in sports at his or her school of residence requires the agreement of both principals (see Agency-initiated Change 8). The agreement between the two principals should clearly outline any possible injuries and liability.

- 154. COMMENT:** The commenter expressed support for proposed N.J.A.C. 6A:11-4.17(a) because it will provide clarity in terms of allowing public funds to be utilized for facility rehabilitation and expansion and it will accommodate the Department's current School Facility Checklist for required renovations for a charter school to operate in a facility. **(21)**

RESPONSE: The Department thanks the commenter for the support.

- 155. COMMENT:** The commenter expressed support for proposed N.J.A.C. 6A:11-4.17(a) because allowing State and local funds to be utilized for facility rehabilitation and expansion will help charter schools secure additional financing for the procurement of facilities, which is the most difficult challenge for charter schools. **(43)**

RESPONSE: The Department thanks the commenter for the support.

- 156. COMMENT:** The commenter expressed support for proposed N.J.A.C. 6A:11-4.17(a) because allowing State and local funds to be utilized for facility rehabilitation and expansion will help charter schools improve facilities, which would strengthen academic programs, and lower operating costs. **(52)**

RESPONSE: The Department thanks the commenter for the support.

- 157. COMMENT:** The commenter expressed support for proposed N.J.A.C. 6A:11-4.17(b), which would codify existing practice whereby charter schools in any school district can have multiple facilities as long as the charter school gains approval through the amendment process. The commenter said 450 students attending the Vineland Public Charter School would have been displaced without the granting of an amendment to the school's charter to operate in three locations within the City of Vineland while waiting for a new facility to be built. **(21)**

RESPONSE: The Department thanks the commenter for the support.

- 158. COMMENT:** The commenters asked if the State and local funds charter schools will be able to access under proposed N.J.A.C. 6A:11-4.17 for the rehabilitation or expansion of a facility is a separate pocket of funds or the same funds to which traditional public schools have access. If it is the same funds, the commenters questioned whether charter schools should be responsible for developing long-range facilities plans and for obtaining other approvals similar to those required of school districts. **(11, 27)**

RESPONSE: Charter schools do not receive State funding for facilities. Proposed N.J.A.C. 6A:11-4.17 will not grant charter schools access to funding in excess of that the funding authorized by N.J.S.A. 18A:36A-12.

- 159. COMMENT:** The commenters questioned why the Department has proposed to remove executive county superintendents from the review of charter school budgets, as proposed at N.J.A.C. 6A:23A-16.10. **(11, 27)**

RESPONSE: Budget review and accountability functions already are performed by the Office of Charter and Renaissance Schools, which follows the rules in N.J.A.C. 6A:23A-16.10.

- 160. COMMENT:** The commenter urged caution regarding the implementation of the amendments proposed at N.J.A.C. 6A:23A-16.10(b) related to review of charter school budgets because charter school funding emanates from public tax dollars and must be subject to the same budgetary scrutiny as traditional public schools. **(27)**

RESPONSE: The provisions at N.J.A.C. 6A:23A-16.10(b) already are performed by the Office of Charter and Renaissance Schools. Anticipated budget deficits are addressed by the remedies (i.e., the issuance of a corrective action plan, Commissioner notification, and charter probation) set forth in the regulation.

- 161. COMMENT:** The commenter thanked the Department for the flexibility concerning petty cash funds proposed at N.J.A.C. 6A:23A-16.8. **(11)**

RESPONSE: The Department thanks the commenter for the support.

- 162. COMMENT:** The commenter expressed support for proposed N.J.A.C. 6A:23A-22.4(b)1 because allowing a charter school's lease to exceed the length of its charter will enable charter schools to enter into more flexible lease arrangement, which likely will provide financial savings. **(43)**

RESPONSE: The Department thanks the commenter for the support.

- 163. COMMENT:** The commenter expressed support for proposed N.J.A.C. 6A:26-7.5(e), which would require the Division of Executive Services to maintain a list of closed, unused, or unoccupied school facilities and to make the list available on the Department's website. The commenter stated the effort of school districts and charter schools working together to provide suitable facilities for charter school students is a welcomed step forward. **(22)**

RESPONSE: The Department thanks the commenter for the support.

- 164. COMMENT:** The commenter asked what authority a charter school will have to obtain a school district's unoccupied space considering proposed N.J.A.C. 6A:26-7.5(e) will require the Department to maintain a list of closed unused, or unoccupied school facilities. **(27)**

RESPONSE: Proposed N.J.A.C. 6A:26-7.5(e) will provide transparency and assist charter schools in locating viable facilities. The proposed rule will create an opportunity for conversations about available facility space between charter schools and traditional public schools.

- 165. COMMENT:** The commenter opposed co-locating charter schools and traditional public schools. The commenter also opposed turning over publicly financed facilities at "bargain basement prices" to private entities like charter school management companies. **(12)**

RESPONSE: Proposed N.J.A.C. 6A:26-7.5(e) will require the Department to maintain a list of closed, unused, or unoccupied facilities, consistent with N.J.A.C. 6A:26-2.2, and make it available on the Department's website. The proposed regulation will not address co-location or the sale or lease of facilities, but rather, will serve to foster conversations about available facility space between charter schools and traditional public schools.

- 166. COMMENT:** The commenter opposed the proposed amendment that would allow for charter schools to analyze a school district's assets, including properties, and renovate or expand a vacant school at the host school district's expense. **(6)**

RESPONSE: None of the proposed rules or amendments will provide charter schools unfettered access to school district assets or provide charter schools with funding in excess of that authorized by N.J.S.A. 18A:36A-12.

- 167. COMMENT:** The commenter opposed access to funding for charter school facilities. The commenter also opposed a requirement for school districts to publicly maintain a list of closed, used, and underused facilities, saying it will provide charter schools first priority and continue to phase out traditional public schools. **(26)**

RESPONSE: With respect to facility funding, the proposed regulations will permit charter schools to use general fund money to rehabilitate or expand a facility. Charter schools do not receive facility aid. The Department is not proposing to create an additional funding stream for charter schools.

In terms of closed, unused, and unoccupied facilities, the Department -- not individual school districts -- is responsible for maintaining the list. The list will be based on long-range facility plans, which school districts are already required to update on a regular basis. The proposed regulations do not require school districts to provide space to charter schools, but rather, the proposal will open the door to conversations and possible partnerships between school districts and charter schools.

- 168. COMMENT:** The commenter stated the proposed rulemaking will remove limitations on homeschooling by lifting the requirement that students can be homeschooled only for reasons of illness or injury, thereby allowing students to be homeschooled for any reason. **(48)**

RESPONSE: Charter schools are included within the scope of N.J.A.C. 6A:16. Charter schools and school districts alike are required to adhere to N.J.A.C. 6A:16-10.1 and 10.2, which speak to home or out-of-school instruction due to a temporary or chronic health condition and home or out-of-school instruction for a general education student for reasons other than a temporary or chronic health condition, respectively. The proposed amendment to N.J.A.C. 6A:11-4.10 will align N.J.A.C. 6A:11 with N.J.A.C. 6A:16.

- 169. COMMENT:** The commenter provided various comments about the location of charter school board of trustee meetings, posting of documents on charter schools' websites, annual calendars of charter school board of trustee meetings, requiring charter school boards of trustees to include community residents, and the ability of host communities to have a role in charter school approvals. **(12)**

RESPONSE: The comments are outside the proposed rulemaking's scope.

- 170. COMMENT:** The commenter provided various comments about charter schools in relation to the school report card, how information and data are shared between charter schools and school districts, district board of education or voter approval of potential charter school applications, and the ability of a district board of education to have the authority to establish and operate a charter school. **(11)**

RESPONSE: The comments are outside the proposed rulemaking's scope.

- 171. COMMENT:** The commenters provided various comments about previous or potential charter school applications in specific communities or about specific charter schools currently operating. **(9, 4, 8, 20, 24, 25, 29, 30, 33, 35, 42, 47, 50, 56)**

RESPONSE: The comments are outside the scope of the proposed rulemaking.

172. **COMMENT:** The commenter provided various comments about New Jersey in relation to the national charter school movement, the effectiveness of New Jersey’s charter schools, multiple charter school authorizers, private schools choice. (7)

RESPONSE: The comments are outside the proposed rulemaking’s scope.

173. **COMMENT:** The commenters requested a moratorium on charter school growth. (26, 45)

RESPONSE: The comment is outside the proposed rulemaking’s scope.

174. **COMMENT:** The commenter stated there is no evidence that any charter school operator has shared best practices with the public, which makes it impossible to know whether granting charter schools additional certification flexibility is warranted. (37)

RESPONSE: The Department encourages the sharing of charter school best practices. [The Department’s website](#) includes best practices and resources from several high-performing charter schools.

Additionally, charter schools and school districts have partnered to provide share best practices. For example, Newark Public Schools has partnered with Uncommon Schools, a charter management organization, to provide professional development on instructional coaching.

Agency-initiated Changes:

1. The Department proposes at N.J.A.C. 6A:9B-12.4, School administrator, to delete the rules initially proposed at First Discussion to establish a five-year pilot program for school administrators and principals. The Department proposes at Second Discussion to move the pilot program rules to N.J.A.C. 6A:9B-12.5, Principal, and to specify the program is for principal certifications. In N.J.A.C. 6A:11-1.2, the definition of “administrator” encompasses a position that does not require a certificate, rendering the pilot program for administrators unnecessary.

The following is the rule text proposed at N.J.A.C. 6A:9B-12.4(o) at First Discussion. The new rule text proposed at N.J.A.C. 6A:9B-12.5(n) is included in Agency-initiated Change 2.

N.J.A.C. 6A:9B-12.4 School administrator

[(o) Other provisions of this chapter notwithstanding, the Department may establish a five-year pilot program under which the Department may issue a charter school certificate of eligibility (CSCE), a charter school provisional certificate, and a charter school standard certificate to a successful candidate

for appointment as a school administrator or principal, pursuant to the following criteria:

- 1. Such certifications may be issued and appointments may be made for individuals seeking employment only in a charter school.**
- 2. Charter schools may request permission from the Commissioner to recruit candidates to fill administrator positions according to the criteria in (o)3 below.**
- 3. The Commissioner shall direct the State Board of Examiners to issue a school administrator or principal CSCE to a candidate, at the charter school's request, if he or she:**
 - i. Possesses a bachelor's or higher degree from a regionally accredited four-year college or university; and**
 - ii. Has sufficient management and leadership experience in a public or private organization, as determined by the Commissioner, to allow the candidate to successfully serve in an administrative role in a charter school.**
- 4. The State Board of Examiners shall issue a charter school provisional certificate to a candidate meeting the criteria in (o)3 above upon his or her hiring as a school administrator or principal in a charter school.**
- 5. The State Board of Examiners shall issue a charter school standard certificate to a candidate if he or she:**
 - i. Has successfully completed two years of employment at the charter school based upon the charter school board of trustees' evaluation. The charter school shall provide written recommendation for the issuance of a charter school standard certificate; and**

ii. **Has passed a State-approved assessment for principals or school administrators.**

6. **The Department will develop and conduct an evaluation for the pilot program. In its conclusions, the Department will recommend whether to continue the pilot program and, if so, whether to continue the pilot program as a permanent alternate route to certification.]]**

Note: The rule text provided above reflects the progression of the rule proposal. The rule text included in the Administrative Code portion of this document reflects the rule as it is being put forth at Second Discussion Level.

2. Based on comments from State Board members and the public and further deliberation, the Department proposes at Second Discussion to change the pilot program for the certification of employees at high-performing charter schools. The Department proposes to replace the rules proposed at N.J.A.C. 6A:9B-11.12(e) and 12.7(l) at First Discussion with new rules. The Department also proposes new rules at N.J.A.C. 6A:9B-12.5(n) to establish the certification pilot program for principals and to reflect the relocation of the pilot from N.J.A.C. 6A:9B-12.4 (see Agency-initiated Change 1).

The proposed new rules will specify the criteria necessary for charter school participation in the pilot program and limiting pilot participation to charter schools that have demonstrated a track record of success. Additionally, the proposed new rules will specify the components of the application a charter school must submit to the Department to participate in the pilot program. The proposed new rules also will include a timeframe for the Department to review applications and to notify charter schools of whether they have been approved to participate, which will then signal approved charter schools to recruit candidates to fill positions. Under the proposed new rules, candidates will be required to submit applications to the Department demonstrating they meet the requisite criteria. Similar to the process proposed at First Discussion, the Department's review and approval will signal the issuance of a charter school certificate of eligibility (CSCE), charter school provisional certificate, and charter school standard certificate to candidates pending their adherence to the stated requirements.

The Department also proposes at N.J.A.C. 6A:9B-11.12(e)8ii and 12.5(n)8ii to include professional development, for example, as part of the criteria necessary to receive a charter school standard certificate in the teacher and principal certification pilot programs.

The Department also proposes to update the language at N.J.A.C. 6A:9B-11.12(e)9 and (n)9 regarding the pilot program evaluation to include examples of the information the Department will collect and review prior to making a recommendation to the State Board whether to continue the pilot program as a permanent alternate route to certification.

N.J.A.C. 6A:9B-11.12 Requirements for the charter school certificate of eligibility (CSCE)

[(e) Other provisions of this chapter notwithstanding, the Department may establish a five-year pilot program under which the Department may issue, except as indicated in N.J.A.C. 6A:9B-11.2 through 11.6, 11.8, 11.10, and 11.11, a CSCE, a charter school provisional certificate, and a charter school standard certificate to a successful candidate for appointment as a teacher. The candidate shall meet the requirements set forth below.

- 1. Such certifications may be issued and appointments may be made only for individuals seeking employment in a charter school.**
- 2. Charter schools may request permission from the Commissioner to recruit candidates to fill teacher positions according to the criteria in (e)3 below.**
- 3. The Commissioner shall direct the State Board of Examiners to issue a CSCE to a candidate, at the charter school's request, if he or she:**
 - i. Satisfies the criteria in (b) 1 above; and**
 - ii. Satisfies two or more of the following criteria:**
 - (A) Meets the GPA requirements, pursuant to N.J.A.C. 6A:9B-8.3(a)3 and 3i;**
 - (B) Passes the basic skills assessment, pursuant to N.J.A.C. 6A:9B-8.3(a)5;**
 - (C) Passes the appropriate State test(s) of subject-matter knowledge;**
 - (D) Has prior successful teaching experience in a public or private school setting; or**
 - (E) Has relevant educational or work experience that he or she can demonstrate will translate into successful teaching.**

4. The State Board of Examiners shall issue a charter school provisional certificate to a candidate meeting the criteria in (e)3 above pursuant to the process in (c) above.
5. The State Board of Examiners shall issue a charter school standard certificate to a candidate pursuant to the process in (d).
6. The Department will develop and conduct an evaluation for the pilot program. In its conclusions, the Department will recommend whether to continue the pilot program and, if so, whether to continue the pilot program as a permanent alternate route to certification.]]

(e) Other provisions of this chapter notwithstanding, the Department may establish a five-year pilot program under which the Department may issue, except as indicated in N.J.A.C. 6A:9B-11.2 through 11.6, 11.8, 11.10, and 11.11, a CSCE, a charter school provisional certificate and a charter school standard certificate to a candidate for appointment as a teacher.

Certifications may be issued and appointments may be made only for individuals seeking employment in a charter school.

1. Eligible charter schools shall submit an application to the Department to participate in the pilot program. The Department will accept applications only from charter schools meeting the following criteria:

i. Charter schools shall have received a Tier Rank 1, the highest rating in the Academic Performance Framework, for the last two years; and

ii. If the charter school has yet to receive a Tier Rank from the Department, the charter school operator shall demonstrate the following:

(A) Its school(s) outperformed resident district schools in both mathematics and English language arts on State assessments for the last two years; and

(B) It has a clear and well-functioning organizational structure that leads to continuous improvement.

2. The application submitted by an eligible charter school shall include, but not be limited to, the following:

i. The charter school's name;

ii. Evidence of meeting the criteria in (e)1 above;

iii. Rationale for participation in the pilot program;

iv. Description of teaching position(s) to be filled; and

v. Description of the professional development that pilot program teachers will receive.

3. Within 60 days of receipt, the Department shall review the application and notify the charter school of whether it has been approved to participate in the pilot program.

4. If approved, a participating charter school may recruit candidates to fill the designated teacher positions.

5. A teacher candidate recruited pursuant to (e)4 above shall submit an application to the Department demonstrating that he or she meets the following criteria:

i. Possesses a letter of recommendation from a charter school approved to participate in the pilot program;

ii. Holds a bachelor's or an advanced degree from a regionally accredited college or university; and

iii. Satisfies two or more of the following criteria:

- (A) Meets GPA requirements, pursuant to N.J.A.C. 6A:9B-8.3(a)3 and 3i;
- (B) Passed the basic skills assessment, pursuant to N.J.A.C. 6A:9B-8.3(a)5;
- (C) Passed the appropriate State test(s) of subject-matter knowledge; or
- (D) Has relevant educational or work experience that he or she can demonstrate will translate into successful teaching.

6. If the Department finds a candidate satisfies the criteria at (e)5 above upon the review of his or her application, the Commissioner shall direct the State Board of Examiners to issue a CSCE to the candidate. The CSCE shall be transferable only to other charter schools that have been approved to participate in the pilot program.

7. The State Board of Examiners shall issue a charter school provisional certificate to a candidate who satisfies the following criteria:

- i. Possess a CSCE in the endorsement area required for the teaching assignment; and
- ii. Obtains and accepts an offer of employment in a position that requires instructional certification. The charter school provisional certificate shall be transferable only to other charter schools that have been approved to participate in the pilot program.

8. The State Board of Examiners shall issue a charter school standard certificate to a candidate who satisfies the following criteria:

- i. Possesses a provisional charter school certificate;

ii. Completes at least two school years at the charter school and at least 50 hours of professional development annually while employed provisionally in a position requiring the appropriate instructional certificate; and

iii. Receives written recommendation from the charter school leader for the issuance of a standard charter school certificate. The standard charter school certificate shall be transferable to any charter school.

9. The Department will develop and conduct an evaluation of the pilot program based on annual submissions from participants in the program, which shall include, but not be limited to, charter school evaluations of teachers in the pilot program and student assessment results for teachers in tested subjects and grade levels. As part of its conclusions, the Department will recommend to the State Board of Education whether to continue the pilot program and, if so, whether to continue the pilot program as a permanent alternate route to certification.

N.J.A.C. 6A:9B-12.5 Principal

(n) Other provisions of this chapter notwithstanding, the Department may establish a five-year pilot program under which the Department may issue a charter school certificate of eligibility (CSCE), a charter school provisional certificate, and a charter school standard certificate to a candidate for appointment as a principal. Certifications may be issued and appointments may be made only for individuals seeking employment in a charter school.

1. Eligible charter schools shall submit an application to the Department to participate in the pilot program. The Department will accept applications only from charter schools meeting the following criteria:

- i. Charter schools shall have received a Tier Rank 1, the highest rating in the Academic Performance Framework, for the last two years;
 - ii. If the charter school has yet to receive a Tier Rank from the Department, the charter school operator shall demonstrate the following:
 - (A) Its school(s) outperformed resident district schools in both mathematics and English language arts on State assessments for the last two years; and
 - (B) It has a clear and well-functioning organizational structure that leads to continuous improvement.
2. The application submitted by an eligible charter school shall include, but not be limited to, the following:
 - i. The charter school's name;
 - ii. Evidence of meeting the criteria in (n)1 above;
 - iii. Rationale for participation in the pilot program; and
 - iv. Description of the professional development that the pilot program principal(s) will receive.
3. Within 60 days of receipt, the Department shall review the application and notify the charter school of whether it has been approved to participate in the pilot program.
4. If approved, a participating charter school may recruit candidates to fill the principal position(s).
5. A principal candidate recruited pursuant to (n)4 above shall submit an application to the Department demonstrating that he or she meets the following criteria:

- i. Possesses a letter of recommendation from a charter school approved to participate in the pilot program;
 - ii. Holds a bachelor's or higher degree from a regionally accredited college or university;
 - iii. Has at least two years of teaching experience;
 - iv. Passed a State-approved assessment for principals; and
 - v. Has relevant management and leadership experience that he or she can demonstrate will translate into success in a principal role.
6. If the Department finds a candidate satisfies the criteria at (n)5 above upon review of his or her application, the Commissioner shall direct the State Board of Examiners to issue a CSCE to the candidate. The CSCE shall be transferable only to other charter schools that have been approved to participate in the pilot program.
7. The State Board of Examiners shall issue a charter school provisional certificate to a candidate who satisfies the following criteria:
 - i. Possesses a CSCE with a principal endorsement; and
 - ii. Obtains and accepts an offer of employment in a position that requires principal certification. The charter school provisional certificate shall be transferable only to other charter schools that have been approved to participate in the pilot program.
8. The State Board of Examiners shall issue a charter school standard certificate to a candidate who satisfies the following criteria:
 - i. Possesses a provisional charter school certificate;

- ii. Possesses a statement of assurance from the charter school board of trustees that he or she completed the professional development outlined in the pilot program application; and
- iii. Receives written recommendation from the charter school board of trustees for the issuance of a charter school standard certificate. The standard charter school certificate shall be transferable to any charter school.

9. The Department will develop and conduct an evaluation of the pilot program based upon annual submissions from participants in the program, which shall include, but not be limited to, charter school evaluations of pilot program participants, State assessment results, and other indicators of student outcomes. As part of its conclusions, the Department will recommend to the State Board of Education whether to continue the pilot program and, if so, whether to continue the pilot program as a permanent alternate route to certification.

N.J.A.C. 6A:9B-12.7 School business administrator

[(l) Other provisions of this chapter notwithstanding, the Department may establish a five-year pilot program under which the Department may issue a charter school certificate of eligibility (CSCE), a charter school provisional certificate, and a charter school standard certificate to a successful candidate for appointment as a school business administrator.

1. Such certifications may be issued and appointments may be made for individuals seeking employment in a charter school.
2. To be eligible for a CSCE with a school business administrator endorsement, the candidate shall possess a Master's in Business Administration from a regionally accredited college or university,

hold a Certified Public Accountant license, or meet the criteria in (a) above.

3. To be eligible for a charter school provisional certificate with a school business administrator endorsement, the candidate shall:

- i. Hold a CSCE with a school business administrator endorsement; and
- ii. Obtain and accept an offer of employment in a position that requires the school business administrator endorsement in a charter school.

4. To be eligible for the charter school standard certificate with a school business administrator endorsement, the candidate shall:

- i. Possess a charter school provisional certificate with a school business administrator endorsement;
- ii. Complete one year of employment in the charter school;
- iii. Complete a one-year charter school-approved mentorship program by a New Jersey certified school business administrator while employed under provisional certification; and
- iv. Receive written recommendation from the mentor for the issuance of charter school standard certificate with a school business administrator endorsement.]]

(l) Other provisions of this chapter notwithstanding, the Department may establish a five-year pilot program under which the Department may issue a CSCE, a charter school provisional certificate, and a charter school standard certificate to a candidate for appointment as a school business administrator.

Certifications may be issued and appointments may be made only for individuals seeking employment in a charter school.

1. Eligible charter schools shall submit an application to the Department to participate in the pilot program. The Department will accept applications only from charter schools that have met fiscal management standards for the last two years, as evidenced by the following:

- i. An annual independent audit with an unqualified audit opinion for the last two years;**
- ii. An annual independent audit devoid of significant conditions or internal control weaknesses for the last two years; and**
- iii. An independent auditor’s management report with no significant or “repeat” findings for the last two years.**

2. The application submitted by an eligible charter school shall include, but not be limited to, the following:

- i. The charter school’s name;**
- ii. Evidence of meeting the criteria in (1)1 above;**
- iii. A viable annual budget;**
- iv. A Service Organization Controls Report® of the charter management organization, if available;**
- v. Evidence of stable enrollment;**
- vi. Evidence of fiscal internal controls consistent with Generally Accepted Accounting Principles (GAAP) and Generally Accepted Government Auditing Standards (GAGAS); and**
- vii. Rationale for participation in the pilot program.**

3. Within 60 days of receipt, the Department shall review the application and notify the charter school of whether it has been approved to participate in the pilot program.
4. If approved, a participating charter school may recruit candidates to fill a school business administrator position(s).
5. A school business administrator candidate recruited pursuant to (1)4 above shall submit an application to the Department demonstrating that he or she meets the following criteria:
 - i. Possesses a letter of recommendation from a charter school approved to participate in the pilot program; and
 - ii. Satisfies one of the following criteria:
 - (A) Holds a Master in Business Administration from a regionally accredited college or university;
 - (B) Holds a certified public accountant license; or
 - (C) Meets the criteria in (a) above.
6. If the Department finds a candidate satisfies the criteria at (1)5 above upon review of his or her application, the Commissioner shall direct the State Board of Examiners to issue a CSCE to the candidate. The CSCE shall be transferable only to other charter schools that have been approved to participate in the pilot program.
7. The State Board of Examiners shall issue a charter school provisional certificate with a school business administrator endorsement to a candidate who satisfies the following criteria:
 - i. Possesses a CSCE with a school business administrator endorsement; and

ii. Obtains and accepts an offer of employment in a position that requires the school business administrator endorsement in a charter school. The charter school provisional certificate shall be transferable only to other charter schools that have been approved to participate in the pilot program.

8. The State Board of Examiners shall issue a charter school standard certificate with a school business administrator endorsement to a candidate who satisfies the following criteria:

i. Possess a charter school provisional certificate with a school business administrator endorsement;

ii. Completes one year of employment in the charter school;

iii. Is employed for one year under the guidance of a New Jersey certified school business administrator while holding a charter school provisional certificate; and

iv. Receives written recommendation from the New Jersey certified school business administrator for the issuance of a standard charter school certificate with a school business administrator endorsement. The standard charter school certificate shall be transferable to any charter school.

9. The Department will develop and conduct an evaluation for the pilot program based primarily on the charter school's annual independent audit. As part of its conclusions, the Department will recommend to the State Board of Education whether to continue the pilot program and, if so, whether to continue the pilot program as a permanent alternate route to certification.

Note: The rule text provided above reflects the progression of the rule proposal. The rule text included in the Administrative Code portion of this document reflects the rule as it is being put forth at Second Discussion Level.

3. The Department proposes at Second Discussion amendments to N.J.A.C. 6A:9C-1.1 and 5.5, which address professional development.

N.J.A.C. 6A:9C-1.1 establishes the chapter's scope, which is to set forth the rules governing professional development for active teachers and school leaders. The Department proposed at First Discussion to add a sentence at the end stating charter schools are not subject to the TEACHNJ Act requirements and, therefore, are not subject to the chapter's rules, with the exception of N.J.A.C. 6A:9C-5.5, which is a proposed section devoted to charter schools. However, there are requirements within N.J.A.C. 6A:9C that apply to charter schools. Therefore, the Department proposes at Second Discussion to remove the added language.

In addition, the Department initially proposed at N.J.A.C. 6A:9C-5.5 to require charter schools to submit in the annual report, pursuant to N.J.A.C. 6A:11-2.2, a comprehensive professional development plan in a Commissioner-prescribed format. The Department has deleted this proposal to continue with the existing processes for district- and school-level professional development plan submission and implementation to maintain consistency with the requirements for traditional public schools.

6A:9C-1.1 Scope

This chapter sets forth the rules governing professional development for active teachers and district and school leaders. It also contains the rules governing teacher mentoring required for certification and under the TEACHNJ Act (N.J.S.A. 18A:6-127). **[[Charter schools are not subject to the TEACHNJ Act requirements and, therefore, are not subject to the regulations herein except for N.J.A.C. 6A:9C-5.5.]]**

[[6A:9C-5.5 Professional development in charter schools]]

[[In the annual report, pursuant to N.J.A.C. 6A:11-2.2, charter schools shall submit to the Department a comprehensive professional development plan in a Commissioner-prescribed format.]]

Note: The rule text provided above reflects the progression of the rule proposal. The rule text included in the Administrative Code portion of this document reflects the rule as it is being put forth at Second Discussion Level.

4. The Department proposes at Second Discussion to amend at N.J.A.C. 6A:11-1.2 the definition of "Performance Framework" to update and more clearly outline the criteria

the Department uses to evaluate the academic, financial, and organizational performance of each charter school.

“Performance Framework” means the [standards] **accountability system** that shall be used by the Department to evaluate the **academic, financial, and organizational** performance of each charter school. [that has signed a charter agreement. The Performance Framework shall be included in every charter agreement and posted on the Department’s website. The academic performance section of the Performance Framework is aligned with the New Jersey Department of Education accountability measures as defined in the February, 2012 No Child Left Behind waiver of Adequate Yearly Progress measures granted by the United States Department of Education. Academic performance assessments include, but are not limited to, measurement of student achievement data, student growth percentiles, and leading indicators of future performance in absolute terms based on Proficiency and Advanced Proficiency scoring in both Language Arts Literacy (LAL) and Math, in comparative terms against the LAL and Math scores of the district of residence, and demographically similar (peer) schools in terms of student achievement progress over time (individual student achievement over time as compared to similar scoring students), in terms of school-wide growth percentiles and subgroup growth percentiles based on standardized test scores over time, post-secondary readiness, including performance on and participation in national standardized tests and post-secondary enrollment, and other appropriate comparative groups, and all State and Federal accountability requirements. Additionally, each charter school will be responsible for unique mission-specific goals included in their charter agreement. Criteria for the operations component consist of, but are not limited to, compliance with statutory requirements set forth in N.J.S.A. 18A:36C-1 18A:36A-1 et seq. and all applicable statutes in Title 18A, and regulatory requirements that ensure equitable access, pursuant to N.J.A.C. 6A:7, Managing for Equality and Equity in Education, and 6A:11-4.12, Equity in education; safe and secure learning environments pursuant to N.J.A.C. 6A:16,

Programs to Support Student Services. The standards for the fiscal management section of the Performance Framework include, but are not limited to, the generally accepted accounting principles set forth in N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency and Budgeting, and contain near-term indicators that include debt to asset ratio, total margin and cash flow measures, and sustainability indicators that include current ratio, unrestricted days cash on hand, enrollment variance and default on loans measures.] **The Performance Framework shall be shared with all charter schools and posted on the Department’s website. The academic component includes, but is not limited to, measures of: student growth; student achievement; high school graduation rate; leading indicators of school success, such as attendance; and all State and Federal accountability requirements. Measures of student growth, student achievement, graduation rate, and leading indicators are evaluated relative to: Statewide results, primary sending district results, and results of similar schools. Additionally, each charter school will be responsible for unique mission-specific goals included in their charter agreement. Criteria for the organizational component consist of, but are not limited to: compliance with statutory requirements set forth in N.J.S.A. 18A:36A-1 et seq.; all applicable statutes in Title 18A; regulatory requirements that ensure equitable access, pursuant to N.J.A.C. 6A:7, Managing for Equality and Equity in Education, and 6A:11-4.12, Equity in education; and safe and secure learning environments, pursuant to N.J.A.C. 6A:16, Programs to Support Student Development. Criteria for the financial component include, but are not limited to: the generally accepted accounting principles set forth in N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency and Budgeting Procedures, and indicators of near- and long-term viability.**

Note: The rule text provided above reflects the progression of the rule proposal. The rule text included in the Administrative Code portion of this document reflects the rule as it is being put forth at Second Discussion Level.

5. The Department proposes at Second Discussion an amendment at N.J.A.C. 6A:11-2.3(c) to insert “consecutive” to specify that charter schools have to be deemed high performing three consecutive years during the most recent charter term, not simply three years, to be eligible for an expedited renewal review process.

(c) Charter schools that have been deemed high performing, based upon the Performance Framework, for three consecutive years during the most recent charter term may be eligible for an expedited renewal review process. The Department will notify charter schools prior to October 1 whether they qualify for an expedited review process.

Note: The rule text provided above reflects the progression of the rule proposal. The rule text included in the Administrative Code portion of this document reflects the rule as it is being put forth at Second Discussion Level.

6. The Department proposes amendments to N.J.A.C. 6A:11-4.5(e) and (f) to replace “resident school district’s” with “community’s” to align the rules with statute. Proposed N.J.A.C. 6A:11-4.5(e) will require charter schools to seek to enroll a cross-section of the community’s school-age population, including racial and academic factors. Proposed N.J.A.C. 6A:11-4.5(f) will permit charter schools to seek Commissioner approval to establish weighted lotteries that favor educationally disadvantaged students, including, but not limited to, students who are economically disadvantaged, students with disabilities, migrant students, limited English proficient students, neglected or delinquent students, or homeless students, in an effort to better represent a cross-section of the community’s school-age population.

Pursuant to N.J.S.A. 18A:36A-8.e, a charter school’s admission policy must seek, to the maximum extent practicable, the enrollment of a cross section of the community’s school-age population, including racial and academic factors.

6A:11-4.5 Lottery

- (e) The charter school’s admission policy shall seek, to the maximum extent practicable, the enrollment of a cross section of the [[resident school district’s]] community’s school-age population, including racial and academic factors.**
- (f) A charter school may seek approval from the Commissioner to establish a weighted lottery that favors educationally disadvantaged students, including, but not limited to, students who are economically disadvantaged, students with disabilities, migrant students, limited English proficient students,**

neglected or delinquent students, or homeless students, in an effort to better represent a cross section of the [[resident school district's]] **community's** school-age population.

Note: The rule text provided above reflects the progression of the rule proposal. The rule text included in the Administrative Code portion of this document reflects the rule as it is being put forth at Second Discussion Level.

7. The Department proposes to amend N.J.A.C. 6A:11-4.7(b) to clarify a charter school may enroll students in preschool if the district of residence has a State-funded preschool program. The proposed change is designed to provide clarity and remain consistent with existing practice.

6A:11-[4.6]4.7 Age eligibility for kindergarten

- (b) A charter school may enroll students in preschool **if the district of residence has a State-funded preschool program.** Preschool students shall enroll in kindergarten at the school as returning students and shall not re-enter the lottery.

Note: The rule text provided above reflects the progression of the rule proposal. The rule text included in the Administrative Code portion of this document reflects the rule as it is being put forth at Second Discussion Level.

8. The Department proposes at Second Discussion to amend N.J.A.C. 6A:11-4.16, which will allow a full-time charter school students to participate in a particular interscholastic or extracurricular program at his or her school of residence if the charter school does not offer the program. The Department proposes to include “secondary” before “charter school” and to replace “a particular interscholastic or extracurricular program” and “program” with “the particular sport” and “sport,” respectively. The Department further proposes to add the following at the end of the rule: “upon agreement of both principals, regardless of the number of sports programs offered at the charter school.” The proposed amendments will mirror current language in the NJSIAA Constitution and align the rule with current practice. The Department also proposes to replace the heading of “Extracurricular activities” with “Sports programs.”

6A:11-4.16 [[Extracurricular activities]] **Sports programs**

If a **secondary** charter school does not offer [[a]] **the** particular [[interscholastic or extracurricular program]] **sport** in which a full-time student wishes to participate, the student may participate in the [[program]] **sport** at his or her school of residence **upon agreement of both principals, regardless of the number of sports programs**

offered at the charter school.

Note: The rule text provided above reflects the progression of the rule proposal. The rule text included in the Administrative Code portion of this document reflects the rule as it is being put forth at Second Discussion Level.

9. The Department proposes at Second Discussion to amend N.J.A.C. 6A:11-4.17 to replace “facility” with “satellite campus” to clarify a charter school may operate more than one satellite campus in its district or region of residence, subject to charter amendment approval.

6A:11-4.17 Facilities

- (b) A charter school may operate more than one [[facility]] **satellite campus** in its district or region of residence, subject to charter amendment approval, pursuant to N.J.A.C. 6A:11-2.6.

Note: The rule text provided above reflects the progression of the rule proposal. The rule text included in the Administrative Code portion of this document reflects the rule as it is being put forth at Second Discussion Level.

10. In light of the proposed relocation of the principal certification pilot program from N.J.A.C. 6A:9B-12.4 to N.J.A.C. 6A:9B-12.5, the Department also proposes to amend N.J.A.C. 6A:11-5.1(a) to update the citation referencing the pilot program.

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:9B-5.1, **11.12, or [[12.4]]12.5.**

Note: The rule text provided above reflects the progression of the rule proposal. The rule text included in the Administrative Code portion of this document reflects the rule as it is being put forth at Second Discussion Level.



State of New Jersey
DEPARTMENT OF EDUCATION
PO Box 500
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CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

**Second
Discussion
n
January
4, 2017** HARRINGTON
Commissioner

TO: Members, State Board of Education

FROM: Kimberley Harrington
Acting Commissioner

SUBJECT: N.J.A.C. 6A:9B, State Board of Examiners and Certification
N.J.A.C. 6A:11, Charter Schools
N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency and Budgeting Procedures
N.J.A.C. 6A:26, Educational Facilities

REASON
FOR ACTION: Amendments, Repeals and New Rules

AUTHORIZATION: N.J.S.A. 18A:1-1, 18A:4-15, 18A:6-38, 18A:7G-26, 18A:23-1 et seq.,
18A:26-2.10, and 18A:36A-1 et seq.

SUNSET DATE: N.J.A.C. 6A:9B– November 12, 2022
N.J.A.C. 6A:11 – November 5, 2021
N.J.A.C. 6A:23A – May 24, 2017
N.J.A.C. 6A:26 – November 20, 2020

Summary

In November 2015, Governor Christie met with State and national charter operators to discuss the state of public charter schools in New Jersey. During this discussion, many charter operators explained that New Jersey’s regulatory environment is a major impediment to growth of the charter sector in the State.

During the last several months, the Department of Education (Department) has worked with charter leaders in New Jersey and national charter experts to develop recommendations to offer school operators increased autonomy and opportunities for innovation in exchange for accountability for student outcomes.

The proposed regulatory changes will ensure charter schools have increased flexibility, autonomy, and time to innovate and produce strong educational outcomes for all students. In addition, the proposed changes will incentivize operators both in-State and out-of-State to invest in New Jersey.

The Department proposes to add, amend, repeal, and recodify rules in four chapters in Title 6A of the New Jersey Administrative Code to achieve the following:

- Permit a weighted lottery for charter school enrollment;
- Establish an expedited renewal process for high-performing charters;
- Permit single-purpose charter schools;
- Ease the way for charter schools to secure facilities and capital funding;
- Establish a pilot program for charter-specific teacher, principal, and school business administrator certifications;
- Streamline procedures around budgetary controls and fund monitoring; and
- Enact other regulatory changes.

The following summarizes, by subchapter, the proposed amendments, repeals, and recodifications, and new rules.

Chapter 9B. State Board of Examiners and Certification

Subchapter 11. Additional Requirements or Exceptions to Requirements for Instructional Certification with Special Endorsements

N.J.A.C. 6A:9B-11.12 Requirements for the charter school certificate of eligibility (CSCE)

This section sets forth the requirements for the charter school CE.

The Department proposes N.J.A.C. 6A:9B-11.12(e) to establish a charter-specific certification pilot program in which the Department may issue certificates for instruction to candidates who meet certain criteria to work in an approved charter school with a track record of success.

Proposed N.J.A.C. 6A:9B-11.12(e) will allow the Department to establish a five-year pilot program under which the Department may issue a charter school certificate of eligibility (CSCE), a charter school provisional certificate, and a charter school standard certificate to a successful candidate for appointment as a teacher in a charter school. Proposed N.J.A.C. 6A:9B-11.12(e)1 will require charter schools to submit an application to the Department to participate in the pilot program and will limit access to charter schools meeting certain academic criteria. Proposed N.J.A.C. 6A:9B-11.12(e)1i states the Department will accept applications from charter schools that have received a Tier Rank 1 for the last two years. N.J.A.C. 6A:9B-11.12(e)1ii states that if the charter school has yet to receive a Tier Rank from the Department, the charter school operator must demonstrate its school(s) outperformed resident district schools in both mathematics and English language arts on State assessments for the last two years and it has a clear and well-functioning organizational structure that leads to continuous improvement.

Proposed N.J.A.C. 6A:9B-11.12(e)2 specifies a list of information that will be required in charter school pilot program application, including, but not limited to, the charter school's name, evidence of meeting the criteria in (e)1, rationale for participation in the pilot program, description of teaching positions to be filled, and description of the professional development program that pilot program teachers will receive. Proposed N.J.A.C. 6A:9B-11.12(e)3 will require the Department, within 60 days of receipt, to review the application and notify the charter school of whether it has been approved to participate in the pilot program. Proposed N.J.A.C. 6A:9B-11.12(e)4 will permit approved charter schools to recruit candidates to fill teacher positions.

Proposed N.J.A.C. 6A:9B-11.12(e)5 will require a candidate to submit an application demonstrating that he or she possesses a letter of recommendation from an approved charter school, holds a bachelor's or an advanced degree from a regionally accredited college or university, and meets two or more of the following criteria: meets the GPA requirements, pursuant to N.J.A.C. 6A:9B-8.3(a)3 and 3i; passed the basic skills assessment, pursuant to N.J.A.C. 6A:9B-8.3(a)5; passed the appropriate State tests(s) of subject matter knowledge; or has relevant educational or work experience that he or she can demonstrate will translate into successful teaching.

Proposed N.J.A.C. 6A:9B-11.12(e)6 will require the Commissioner, upon review and determination the candidate satisfies the criteria in N.J.A.C. 6A:9B-11.12(e)5, to direct the State Board of Examiners to issue to the candidate a CSCE that will be transferable only to other charter schools approved to participate in the pilot program. Proposed N.J.A.C. 6A:9B-11.12(e)7 identifies the criteria necessary for a candidate to obtain a charter school provisional certificate that will be transferable only to other charter schools approved to participate in the pilot program. The candidate will be required to possess a CSCE in the appropriate endorsement area and obtain and accept an offer of employment in a position requiring instructional certification. Proposed N.J.A.C. 6A:9B-11.12(e)8 identifies the criteria for a candidate to obtain a charter school standard certificate, which will be transferable to any charter school. Pursuant to N.J.A.C. 6A:9B-11.12(e)8i, ii, and iii, the candidate will be required to possess a charter school provisional certificate, complete at least two years at the charter school and at least 50 hours of professional development annually while employed under the provisional certificate, and receive written recommendation to from the charter school leader.

Proposed N.J.A.C. 6A:9B-11.12(e)9 will require the Department to conduct an evaluation of the pilot program based on annual submissions from teachers in the pilot program, which will be used to make a recommendation to the State Board of Education regarding whether to continue the pilot program, and if so, whether to continue the pilot program as a permanent alternate route to certification. The proposed rule also will require the annual submissions to include, but not be limited to, the charter school's evaluations of program participants and student assessment results for teachers in tested subjects and grade levels.

The Department proposes to establish a charter-specific pilot program for teachers because charter schools are currently subject to many of the same certification requirements as traditional public schools, which limits the number of effective teachers in charter schools' applicant pool. The proposed pilot program would offer charter schools more flexibility and potentially encourage high-quality charter school operators to expand into New Jersey.

Subchapter 12. Requirements for Administrative Certification

N.J.A.C. 6A:9B-12.5 Principal

This section sets forth the requirements for principal certification.

The Department proposes N.J.A.C. 6A:9B-12.5(n) to establish a charter-specific certification pilot program in which the Department may issue certificates for principal to candidates, who possess sufficient management and leadership experience and meet other criteria, to serve as a principal in an approved charter school with a track record of success.

Proposed N.J.A.C. 6A:9B-12.5(n) will allow the Department to establish a five-year pilot program under which the Department will issue a charter school certificate of eligibility (CSCE), a charter school provisional certificate, and a charter school standard certificate to a successful

candidate for appointment as a principal in a charter school. Proposed N.J.A.C. 6A:9B-12.5(n)1 will require charter schools to submit an application to the Department to participate in the pilot program and will limit access to charter schools meeting certain academic criteria. Proposed N.J.A.C. 6A:9B-12.5(n)1i states the Department will accept applications from charter schools that have received a Tier Rank 1 for the last two years. Proposed N.J.A.C. 6A:9B-12.5(n)ii states that if the charter school has yet to receive a Tier Rank from the Department, the charter school operator must demonstrate its school(s) outperformed resident district schools in both mathematics and English language arts on State assessments for the last two years and it has a clear and well-functioning organizational structure that leads to continuous improvement.

Proposed N.J.A.C. 6A:9B-12.5(n)2 specifies a list of information that will be required in charter school pilot program application, including but not limited to, the charter school's name, evidence of meeting the criteria in N.J.A.C. 6A:9B-12.5(n)1, rationale for participation in the pilot program, and description of the professional development the pilot program principal(s) will receive. Proposed N.J.A.C. 6A:9B-12.5(n)3 will require the Department, within 60 days, to review the application and notify the charter school of whether it has been approved to participate in the pilot program. Proposed N.J.A.C. 6A:9B-12.5(n)4 will allow approved charter schools to recruit candidates to fill principal positions.

Proposed N.J.A.C. 6A:9B-12.5(n)5 will require a candidate to submit an application demonstrating that he or she possesses a letter of recommendation from an approved charter school, holds a bachelor's or higher degree from a regionally accredited college or university, has at least two years of teaching experience, passed a State-approved assessment for principals, and has relevant management and leadership experience that he or she can demonstrate will translate into success in a principal role.

Proposed N.J.A.C. 6A:9B-12.5(n)6 will require the Commissioner, upon review and determination that a candidate satisfies the criteria in N.J.A.C. 6A:9B-12.5(n)5, to direct the State Board of Examiners to issue to a candidate a CSCE that is transferable only to other charter schools approved to participate in the pilot program. Proposed N.J.A.C. 6A:9B-12.5(n)7 identifies the criteria necessary for a candidate to obtain a charter school provisional certificate that will be transferable only to other charter schools approved to participate in the pilot program. The candidate will be required to possess a CSCE with principal endorsement and obtain and accept an offer of employment in a position requiring principal certification. Proposed N.J.A.C. 6A:12.5(n)8 identifies the criteria necessary for a candidate to obtain a charter school standard certificate, which will be transferable to any charter school. The candidate will be required to possess a charter school provisional certificate, possess a statement of assurance form the charter school board of trustees that he or she completed the professional development outlined in the application, and receive written recommendation from the charter school board of trustees.

Proposed N.J.A.C. 6A:9B-12.5(n)9 will require Department will develop and conduct an evaluation for the pilot program based on annual submissions from program participants. The proposed rule also will require the annual submissions to include, but not be limited to, charter school evaluations of pilot program participants, State assessment results, and other indicators of student outcomes. In its conclusions, the Department will recommend whether to continue the pilot program and, if so, whether to continue the pilot program as a permanent alternate route to certification.

The Department proposes to establish a charter-specific pilot program for principals because charter schools are currently subject to many of the same certification requirements as traditional public schools. The proposed pilot program would offer charter schools more hiring

flexibility and potentially encourage high-quality charter school operators to expand into New Jersey.

N.J.A.C. 6A:9B-12.7 School business administrator

This section sets forth the requirements for the school business administrator certification.

The Department proposes N.J.A.C. 6A:9B-12.7(l) to establish a charter-specific certification pilot program in which the Department may issue certificates for school business administration to candidates who possess a Master's in Business Administration or a certified public accountant license to serve as a school business administrator in an approved charter school with a track record of success.

Proposed N.J.A.C. 6A:9B-12.7(l) will allow the Department to establish a five-year pilot program under which the Department may issue a CSCE, a charter school provisional certificate, and a charter school standard certificate to a successful candidate for appointment as a school business administrator in a charter school.

Proposed N.J.A.C. 6A:9B-12.7(l)1 will require charter schools to submit an application to the Department to participate in the pilot program and will limit access to charter schools meeting certain academic criteria. Proposed N.J.A.C. 6A:9B-12.7(l)1i, ii, and iii state the Department will accept applications from charter schools that have an annual independent audit with an unqualified audit opinion for the last two years, an annual independent audit devoid of significant conditions or internal control weaknesses for the last two years, and an independent auditor's management report with no significant or "repeat" findings for the last two years.

Proposed N.J.A.C. 6A:9B-12.7(l)2 specifies a list of information that will be required in the school business administrator pilot program application, including, but not limited to, the charter school's name, evidence of meeting the criteria in N.J.A.C. 6A:9B-12.7(l)1, a viable annual budget, a Service Organization Controls Report of the charter management organization, if available, evidence of stable enrollment, evidence of fiscal internal controls consistent with Generally Accepted Accounting Principles (GAAP) and Generally Accepted Government Auditing Standards (GAGAS), and rationale for participation in the pilot program. Proposed N.J.A.C. 6A:9B-12.7(l)3 will require the Department, within 60 days of receipt, to review the application and notify the charter school of whether it has been approved to participate in the pilot program. Proposed N.J.A.C. 6A:9B-12.5(l)4 will allow approved charter schools to recruit candidates to fill school business administrator position(s).

Proposed N.J.A.C. 6A:9B-12.7(l)5 will require a recruited candidate to submit an application demonstrating he or she possesses a letter of recommendation from an approved charter school, and satisfies one of the following: holds a Master in Business Administration from a regionally accredited college or university, holds a certified public accountant license, or meets the criteria in N.J.A.C. 6A:9B-12.7(a) to be eligible for a CSCE with a school business administrator endorsement. Proposed N.J.A.C. 6A:9B-12.7(l)6 will require the Commissioner, upon review and determination the candidate satisfies the criteria in N.J.A.C. 6A:9B-12.7(l)5, to direct the State Board of Examiners to issue to a candidate a CSCE that is transferable only to other charter schools approved to participate in the pilot program.

Proposed N.J.A.C. 6A:9B-12.7(l)7 will require a candidate for a charter school provisional certificate with a school business administrator endorsement to hold a CSCE with a school business administrator endorsement and to obtain and accept an offer of employment in a

position that requires the school business administrator endorsement in a charter school. The charter school provisional certificate will be transferable only to other charter schools approved to participate in the pilot program.

Proposed N.J.A.C. 6A:9B-12.7(l)8 will require a candidate for a charter school standard certificate with a school business administrator endorsement to do the following:

- Possess a charter school provisional certificate with a school business administrator endorsement;
- Complete one year of employment in the charter school;
- Be employed for one year under the guidance of a New Jersey certified school business administrator while holding a charter school provisional certificate; and
- Receive written recommendation from the New Jersey certified school business administrator for the issuance of charter school standard certificate with a school business administrator endorsement. The standard charter school certificate will be transferable to any charter school.

Proposed N.J.A.C. 6A:9B-12.7(n)9 will require Department will develop and conduct an evaluation for the pilot program based primarily on the charter schools' annual independent audits. In its conclusions, the Department will recommend to the State Board whether to continue the pilot program and, if so, whether to continue the pilot program as a permanent alternate route to certification.

The Department proposes to establish a charter-specific pilot program for school business administrators because charter schools are currently subject to many of the same certification requirements as traditional public schools, which limits the number of effective school business administrators in charter schools' applicant pool. The proposed pilot program would offer charter schools more flexibility and potentially encourage high-quality charter school operators to expand into New Jersey.

Chapter 11. Charter Schools

Subchapter 1. General Provisions

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

This section defines the terms used in the chapter.

The Department proposes a definition for "construction" to mean the building of a wholly new school facility.

The Department proposes a definition for "expansion" to mean an addition to an existing school facility characterized by an increase in the school facility's square footage.

The Department proposes a definition for "expedited renewal" to mean the granting on an accelerated basis of a charter's continuation for a five-year period by the Commissioner, which will be reserved for high-performing charter schools with no major fiscal or compliance issues.

The Department proposes a definition for "high-performing charter school" to mean a charter school that earns a Tier Rank 1, which is the highest possible rank, based on the metrics set forth in the Academic Performance Framework.

The Department proposes amendments to the definition of “norm-referenced achievement test,” which means the California Achievement Test (CAT); Metropolitan Achievement Test (MAT); Stanford Achievement Test (SAT); or the Comprehensive Test of Basic Skills (CTBS) or one of the tests within the CTBS. The Department proposes to add “any assessment that compares test takers’ results to an average in order to distinguish between high and low performances. Examples include:” to provide a more broad explanation of the term, rather than a list of examples.

The Department proposes amendments to the definition of “Performance Framework,” to update and more clearly outline the criteria the Department uses to evaluate the academic, financial, and organizational performance of each charter school. The current definition, for example, cites New Jersey Assessment of Skills and Knowledge (NJASK) measures of proficiency and Federal No Child Left Behind (NCLB) requirements, which have been or will be replaced by Partnership for Assessment of Readiness for College and Careers (PARCC) assessment measures of grade-level expectations and Every Student Succeeds Act (ESSA) accountability requirements, respectively. The Department proposes the definition of “Performance Framework” to mean the accountability system the Department must use to evaluate the academic, financial, and organizational performance of each charter school. The Performance Framework shall be shared with all charter schools and posted on the Department’s website. The academic component includes, but is not limited to, measures of: student growth; student achievement; high school graduation rate; leading indicators of school success, such as attendance; and State and Federal accountability requirements. Measures of student growth, student achievement, graduation rate, and leading indicators are evaluated relative to: statewide results, primary sending district results, and results of similar schools. Additionally, each charter school will be responsible for unique mission-specific goals included in their charter agreement. Criteria for the organizational component consist of, but are not limited to, compliance with statutory requirements in N.J.S.A. 18A:36A-1 et seq. and all applicable statutes in Title 18A, and regulatory requirements that ensure equitable access, pursuant to N.J.A.C. 6A:7, Managing for Equality and Equity in Education, and 6A:11-4.12, Equity in education; and safe and secure learning environments, pursuant to N.J.A.C. 6A:16, Programs to Support Student Services. Criteria for the financial component include, but are not limited to: the generally accepted accounting principles set forth in N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency and Budgeting Procedures, and indicators of near- and long-term viability.

The Department proposes a definition for “planning year” to mean a one-year period between a charter school’s application approval and the final granting of its charter to prepare for the charter school’s opening.

The Department proposes a definition for “rehabilitation” to mean as defined in N.J.A.C. 6A:26-1.2.

The Department proposes amendments to the definition of “satellite campus,” which means a school facility, located within a school 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. The Department proposes to delete “located within a district with a priority school or a former Abbott District as of July 1, 2012,” and “under the school’s charter” to clarify charter schools in any school district can operate in multiple facilities as long as the charter schools gain approval through the amendment process.

The Department proposes to amend the definition of “school year,” which means July 1 to June 30 of any given academic year. If operating with an extended school year, this term

means an alternate fiscal school year beginning no later than September 1 and ending no later than August 31 of any given academic year. The Department proposes to delete the second sentence in the definition because the fiscal year for a charter school does not change, regardless of whether it operates with an extended school year.

The Department proposes a definition for “weighted lottery” to mean a random selection process that provides additional weight or increased chances to individual students who are identified as part of a specified set of educationally disadvantaged students but does not reserve or set aside seats for individual students or sets of students.

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

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

This section outlines the processes for applications submission and evaluation and notification of approval or denial of a charter by the Commissioner.

The Department proposes N.J.A.C. 6A:11-2.1(b)5 and (b)6 to explicitly allow single-purpose charter schools that serve educationally disadvantaged or traditionally underserved students and students of a single gender. N.J.A.C. 6A:11-2.1(b)5 will require an application for a charter school seeking to limit enrollment to a specific population of educationally disadvantaged or traditionally underserved students to demonstrate a compelling need and to ensure compliance with State and Federal laws. N.J.A.C. 6A:11-2.1(b)6 will require an application for a charter school seeking to limit admission on the basis of gender to demonstrate a compelling educational reason for limiting enrollment on the basis of gender and to ensure compliance with State and Federal laws.

The Department proposes to recodify current N.J.A.C. 6A:11-2.1(b)5 as N.J.A.C. 6A:11-2.1(b)7.

The Department proposes N.J.A.C. 6A:11-2.1(m) to permit a charter school applicant that receives application approval but is not prepared to open in the subsequent school year to request a planning year. The proposed rule also will allow the Commissioner to grant or deny a planning year based upon information submitted by the applicant.

The Department proposes N.J.A.C. 6A:11-2.1(m)1 to allow the Commissioner to grant a planning year to an applicant that demonstrates a legitimate need for more time to meet the preparedness requirements pursuant to N.J.A.C. 6A:11-2.1(i). The Department proposes N.J.A.C. 6A:11-2.1(m)2 to allow the Commissioner to grant a second planning year based upon an applicant’s showing of good cause and to allow a charter school to receive no more than two planning years after application approval to prepare for opening. The proposed rule will codify an existing practice reserved for approved charter schools the Commissioner determines would benefit from additional time to prepare for the school’s opening.

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

This section outlines the format for submission of the annual report and other reporting requirements.

The Department proposes an amendment at N.J.A.C. 6A:11-2.2(b), which requires a charter school board of trustees to submit specific 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, to delete “for approval” after “Commissioner” to clarify the documentation submitted annually by the charter school board of trustees does not require formal approval.

The Department proposes N.J.A.C. 6A:11-2.2(d) to require the Department to publicly report on each charter school’s academic performance based on the Performance Framework. The proposed rule will increase transparency and provide charter schools and the general public with information about how charter schools are performing.

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

This section outlines conditions for granting or denying the renewal of a school’s charter by the Commissioner.

The Department proposes to amend N.J.A.C. 6A:11-2.3(b)2, which requires the Commissioner to grant or deny a charter’s renewal based upon the comprehensive review based, in part, on if the charter school failed to meet any standards set forth in its charter agreement or the Performance Framework in its charter. The Department proposes to replace the rule with “[a] review of the charter school based on its charter agreement and the Performance Framework” for better alignment with the stem in N.J.A.C. 6A:11-2.3(b).

The Department proposes N.J.A.C. 6A:11-2.3(b)12 to include as part of the Commissioner’s comprehensive review of a charter school a review of whether the charter school established an escrow account or posted a surety bond of no less than \$75,000 to pay for legal and audit expenses and any outstanding pension benefit(s) that would be associated with dissolution, if it occurs. Proposed N.J.A.C. 6A:11-2.3(b)12 will codify language that is included in the charter agreement between the charter school and the Department and aligned to national best practices for charter school closure.

The Department proposes N.J.A.C. 6A:11-2.3(c) to allow charter schools that have been deemed high performing, based on the Performance Framework, for three consecutive years during the most recent charter term to be eligible for an expedited renewal review process and to notify charter schools prior to October 1 whether they qualify for the expedited review process. Within the Performance Framework, the academic section carries the most weight in high-stakes decision making, including renewal. Therefore, creating an expedited review for charter schools based largely on academic performance aligns with how charter schools are evaluated and streamlines the process for charter schools that have demonstrated strong academic performance.

Proposed N.J.A.C. 6A:11-2.3(c)1 will require the expedited review process to include the elements set forth in N.J.A.C. 6A:11-2.3(b) and will allow the process to be conducted in an abbreviated format established by the Commissioner. Proposed N.J.A.C. 6A:11-2.3(c)2 will require the Commissioner to notify, within 75 days of the renewal application submission, or pursuant to a Commissioner-established timeline, the charter school of whether it has been granted renewal of its charter. The proposed amendments will ensure high-performing charter schools are given a comprehensive review but in a more streamlined fashion. For example, the Department may conduct an abbreviated visit to a charter school or perform a desk audit, rather than spending a full day at the charter school. Additionally, high-performing charter schools will be notified of the renewal decision before other charter schools.

The Department proposes to recodify existing N.J.A.C. 6A:11-2.3(c) as new N.J.A.C. 6A:11-2.3(d).

The Department proposes an amendment at recodified N.J.A.C. 6A:11-2.3(d), which requires Commissioner to 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, to change the renewal decision date to February 1 to better align with school district budgetary timelines.

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

This section delineates the process whereby the Commissioner may place a charter school on probation. If it is determined a charter school is not operating in compliance with its charter or if findings from a review of a renewal application so warrant, the Commissioner can place a charter school on probation to allow the school to implement a remedial program to correct the deficiencies that caused the probation status. Following probation, the Commissioner can remove a charter school from probation or revoke its charter. The Commissioner can also summarily revoke a school's charter.

The Department proposes N.J.A.C. 6A:11-2.4(c)2iv to allow the Commissioner to rescind approval of the appointed independent trustee if he or she is not adequately performing the required duties. The proposed rule also will allow the Commissioner to appoint an independent trustee if the charter school board of trustees fails to appoint one pursuant to the comprehensive closure plan. The proposed rule will codify the Commissioner's ultimate decision-making authority in instances of charter school dissolution.

The Department proposes N.J.A.C. 6A:11-2.4(c)2v to require a charter school board of trustees to pass a resolution officially dissolving within 30 days of school closure. The proposed rule will ensure an existing charter school board of trustees cannot block necessary closure activities.

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

This section provides instructions on how a charter school can apply to the Commissioner to amend its approved charter, examples of amendments that can be sought, applicable timelines, and criteria by which requested amendments will be evaluated.

The Department proposes N.J.A.C. 6A:11-2.6(a)1v to add establishing weighted lotteries to the list of examples of possible charter amendment requests. The proposed rule will establish a process for gaining Commissioner approval and implementing the weighted lottery, which is proposed in new N.J.A.C. 6A:11-4.5.

Subchapter 4. Program Implementation

Proposed N.J.A.C. 6A:11-4.5 Lottery

The Department proposes N.J.A.C. 6A:11-4.5(a) through (e) to state the necessity for a random selection process for enrollment and the enrollment preferences guaranteed for students who reside in the charter school's district of residence and students who were enrolled in the charter school in the preceding school year. The proposed rules also permit charter schools to give enrollment priority to siblings and require charter schools to seek to enroll a cross section of the community's school age population, including racial and academic factors. N.J.A.C. 6A:11-4.5(a) through (e) provide the necessary context for proposed N.J.A.C. 6A:11-4.4(f).

The Department proposes N.J.A.C. 6A:11-4.4(f) to permit charter schools to seek Commissioner approval to establish weighted lotteries that favor educationally disadvantaged students, including, but not limited to, students who are economically disadvantaged, students with disabilities, migrant students, limited English proficient students, neglected or delinquent students, or homeless students, in an effort to better represent a cross-section of the community's school-age population.

The Department proposes to recodify N.J.A.C. 6A:11-4.5 through 4.15 as new N.J.A.C. 6A:11-4.6 through 4.16 to reflect the proposed new section,

N.J.A.C. 6A: 11-4.6 Age eligibility for kindergarten

This section requires a charter school to accept kindergarten students under the same eligible minimum age of five years as the school district(s) in which the students reside.

The Department proposes to recodify the section as new N.J.A.C. 6A:11-4.7.

The Department proposes N.J.A.C. 6A:11-4.7(b) to allow charter schools to enroll preschool students if the district has a State-funded preschool program and to guarantee the preschool students a seat in the charter school's kindergarten as returning students without re-entering the admission lottery.

N.J.A.C. 6A:11-4.9 Home instruction for students

This section outlines the requirements of a charter school to provide home instruction for students.

The Department proposes to recodify the section as new N.J.A.C. 6A:11-4.10.

The Department proposes amendments to recodified N.J.A.C. 6A:11-4.10, which requires a charter school to provide home instruction due to temporary illness or injury for an enrolled student in accordance with N.J.A.C. 6A:16-10.1. The Department proposes to delete "due to temporary illness or injury for an enrolled student" and add a reference to N.J.A.C. 6A:16-10.2 to clarify home instruction is required for temporary illness or injury and also for other reasons, which are outlined in N.J.A.C. 6A:16-10.2.

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

This section delineates the requirements for the establishment of a charter school board of trustees and for its operation under the Open Public Meetings Act.

The Department proposes to recodify the section as new N.J.A.C. 6A:11-4.12.

The Department proposes amendments N.J.A.C. 6A:11-4.12(c), which requires the board of trustees to send a copy of all meeting notices and meeting minutes to the respective executive county superintendent, to instead require the charter school board of trustees to post a copy of all meeting notices and minutes on the school's website rather than sending them to the executive county superintendent, who does not review the documents.

Proposed N.J.A.C. 6A:11-4.16 Sports programs

The Department proposes N.J.A.C.6A:11-4.16 to allow a secondary charter school student to participate in a sport at his or her school of residence, upon the agreement of both principals, if the charter school he or she attends does not offer the particular sport in which the full-time student wishes to participate, regardless of the number of sports programs offered at the charter school.

Charter school statute and regulations are currently silent about charter eligibility and access to extracurricular and interscholastic activities. However, the New Jersey State Interscholastic Athletic Association (NJSIAA) constitution states: “If a secondary Charter School does not offer the particular sport in which one of its full time students wishes to participate, that student may participate in that sport at his/her school of residence upon agreement of both principals, regardless of the number of sports programs offered at the Charter School.” Proposed N.J.A.C. 6A:11-4.16 will codify the language in the NJSIAA constitution. .

Proposed N.J.A.C. 6A:11-4.17 Facilities

The Department proposes N.J.A.C. 6A:11-4.17(a) to prohibit a charter school from constructing a facility with public funds other than Federal funds and to allow a charter school to use State and local funds for the rehabilitation or expansion of a facility, provided the charter school submits to the Department a statement assuring adequate funds are allocated to the classroom pursuant to N.J.A.C. 6A:23A-22.4(d). Pursuant to N.J.S.A. 18A:36C-10, a charter school cannot construct a facility with public funds other than Federal funds. The definition of “construct” has not been clearly defined in statute, so proposed N.J.A.C. 6A:11-4.17(a) will provide clarity in terms of allowing public funds to be utilized for facility rehabilitation and expansion.

The Department proposes N.J.A.C. 6A:11-4.17(b) to allow a charter school to operate in more than one satellite campus in its district or region of residence, subject to charter amendment approval, pursuant to N.J.A.C. 6A:11-2.6. Proposed N.J.A.C. 6A:11-4.17(b) is meant to codify existing practice whereby charter schools in any school district can have multiple facilities as long as the charter school gains approval through the amendment process.

Subchapter 5. Certification Requirements for Staff

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

This section sets forth the certification requirements for all classroom teachers, principals, and professional support staff employed by charter school boards of trustees, and the employment requirements for a charter school lead person and school business administrator.

The Department proposes an amendment at N.J.A.C. 6A:11-5.1(a), which requires all classroom teachers, principals, and professional support staff employed by charter school boards of trustees to hold appropriate New Jersey certification in accordance with N.J.A.C. 6A:9B-5.1, to include references to N.J.A.C. 6A:9B-11.12 and 12.5. The additional citations capture the proposed charter-specific teacher and principal certification programs.

The Department proposes amendments N.J.A.C. 6A:11-5.1(b)2, which requires a charter school board of trustees to employ or contract with a person who holds a New Jersey standard or provisional school business administrator certificate in accordance with N.J.A.C. 6A:9B-11.7 and 6A:23A to oversee fiscal operations of the charter school. The Department proposes to replace the reference to “N.J.A.C. 6A:9B-11.7,” which establishes certification requirements for

driver education, with “N.J.A.C. 6A:9B-12.7,” which contains school business administrator certification requirements.

Chapter 23A. Fiscal Accountability, Efficiency and Budgeting Procedures

Subchapter 16. Double Entry Bookkeeping and GAAP Accounting

N.J.A.C. 6A:23A-16.8 Petty cash fund

This section sets forth the rules for a district board of education or charter school to establish and maintain a petty cash fund and for the final disposition of the funds, pursuant to N.J.S.A. 18A:19-13.

The Department proposes an amendment N.J.A.C. 6A:23A-16.8(a), which allows a district board of education or charter school to establish on July 1 of each year, or as needed, a petty cash fund or funds for the purpose of making immediate payments of comparatively small amounts, to replace “on July 1 of each year, or as needed,” with “policies for the annual allocation of.” The proposed amendment will remove the necessity for a district board of education or charter school board of trustees to approve a petty cash fund on July 1 of each year. Instead, the district board of education or charter school board of trustees will be able to create petty cash fund policies and implement them on an annual basis. The proposed amendments will impact both district boards of education and charter school boards of trustees.

N.J.A.C. 6A: 23A-16.10 Budgetary controls and overexpenditure of funds

This section requires a district board of education or charter school board of trustees to implement controls over budgeted appropriations. The section also sets forth guidelines, reporting requirements, and sanctions to be imposed when there are projected overexpenditures, pursuant to N.J.S.A. 18A:7F-1 et seq.

The Department proposes amendments at N.J.A.C. 6A:23A-16.10(b)1, 3, 4, and 5, which dictate how a district board of education or charter school board of trustees must proceed when incurring or projecting a year-end deficit. The Department proposes to add “, or the Department in the case of charter schools,” after “executive county superintendent” in five locations to clarify a charter school board of trustees must direct the lead person to notify the Department, and not the executive county superintendent, of a budget deficit since oversight duties rest with the Office of Charter and Renaissance Schools.

The Department proposes amendments at N.J.A.C. 6A:23A-16.10(c)4iii, which requires certain district boards of education or charter school boards of trustees at the Commissioner's discretion to provide within 60 days of month-end a copy of the school business administrator/board secretary's and treasurer's monthly financial reports submitted to the district board of education or charter school board of trustees and as required pursuant to N.J.S.A. 18A:17-9 and 18A:17-36 to the executive county superintendent, to delete “or charter school boards of trustees at the Commissioner's discretion” and “or charter school boards of trustees.” The proposed amendments will provide clarity, as N.J.A.C. 6A:23A-16.10(c)4v specifically states the requirements for charter schools.

The Department proposes an amendment at N.J.A.C. 6A:23A-16.10(c)4v, which requires every charter school board of trustees to provide to the executive county superintendent, within 60 days of the September, December, and March month end, a copy of the monthly financial reports submitted to the charter school board of trustees, to replace “executive county

superintendent” with “Department.” The proposed amendment will clarify the Office of Charter and Renaissance Schools collects quarterly financial reports, and not the executive county superintendent.

The Department proposes an amendment at N.J.A.C. 6A:23A-16.10(c)4vi, which requires a school business administrator/board secretary that is more than two months behind in submitting the financial report to a district board of education or charter school board of trustees to immediately report the noncompliance to the executive county superintendent, to delete “or charter school board of trustees.” The proposed amendment will clarify the executive county superintendent does not need to be notified, as the Office of Charter and Renaissance Schools already monitors for compliance.

The Department proposes amendments at N.J.A.C. 6A:23A-16.10(d), which requires the executive county superintendent to report to the Commissioner by August 15, or for charter schools, 45 days after end of year, all fund overexpenditures as shown on the school business administrator/board secretary’s June report and establishes related requirements, to remove references to charter schools and charter school boards of trustees. The requirement to notify the executive county superintendent of a deficit that is not being remediated is an unnecessary step since oversight duties rest with the Office of Charter and Renaissance Schools.

Subchapter 22. Financial Operations of Charter Schools

N.J.A.C. 6A:23A-22.4 Financial requirements

This section sets forth financial requirements for charter schools in the areas of debt, property acquisition, charter school aid, and monitoring.

The Department proposes to delete N.J.A.C.6A:23A-22.4(b)1, which requires the term of a charter school facility’s lease to not exceed the length of the charter. The proposed deletion will provide charter schools more flexibility to negotiate favorable terms without term restrictions.

The Department proposes to recodify N.J.A.C. 6A:23A-22.4(b)2 and (b)3 as N.J.A.C. 6A:23A-22.4(b)1 and (b)2, respectively, to reflect the deletion of N.J.A.C. 6A:23A-22.4(b)1.

The Department proposes amendments at N.J.A.C. 6A:23A-22.4(d), which requires a charter school to be subject to monitoring by the Commissioner to ensure the percentage of school funds spent in the classroom is at least comparable to the average percentage of school funds spent in the classroom in all other public schools in the State, to instead to require the Commissioner to monitor whether adequate funds are allocated to the classroom. The Department also proposes to delete the statement that the calculation for this percentage in both the annual budget and the Comprehensive Annual Financial Report is based on National Center for Educational Statistics as published by the U.S. Department of Education. The proposed amendment will offer charter schools more budgetary latitude, with the understanding the Department monitors their budgets and performance.

N.J.A.C. 6A:23A-22.6 Public relations and professional services; board policies; efficiency

This section requires charter school boards of trustees to develop policies and strategies to minimize the expenditures for public relations and professional services.

The Department proposes amendments at N.J.A.C. 6A:23A-22.6(a)3, which requires charter schools with legal costs that exceed 130 percent of the Statewide average charter school per pupil amount to establish stipulated procedures and, if not established, to provide evidence the procedures would not result in a reduction of costs. The current threshold of 130 percent of the Statewide average of charter school per pupil amount is unclear and unnecessary since charter schools have no incentive to overspend on legal fees. Moreover, the threshold language has the potential to hamper a charter school's ability to obtain quality legal advice. Therefore, the Department proposes to replace the current rule with "[c]harter schools shall establish procedures to effectively manage legal costs. Procedures may include:."

N.J.A.C. 6A:23A-22.15 Approval of amounts paid in excess of approved purchase orders; board policy

The section requires charter schools to adopt a policy establishing the approval process for any remittance of payment for invoice amounts greater than the approved purchase order and establishes the program requirements for financial systems.

The Department proposes amendments at N.J.A.C. 6A:23A-22.15(a), which requires, in part, a charter school board of trustees to adopt a policy establishing the approval process for any remittance of payment for invoice amounts greater than the approved purchase order, to add "or assistant school business administrator" after the two mentions of "school business administrator" to allow the SBA to designate another qualified individual to manage the review and approval process of change orders.

Chapter 26. Educational Facilities

Subchapter 7. Land Acquisition, School Closing, and Land Disposal

N.J.A.C. 6A:26-7.5 Approval for the closing of a school facility

The section establishes procedures for approval of closing school facilities, including a statement the closing is consistent with the school district's LRFP and the re-assignment of students will not produce, sustain, or contribute to unlawful segregation of students.

The Department proposes N.J.A.C. 6A:26-7.5(e) to require the Division of Executive Services (Division), starting in August 2017, to maintain a list of closed, unused, or unoccupied school facilities, consistent with N.J.A.C. 6A:26-2.2, and to make it available on the Department's website. The proposed rule will provide transparency and assist charter schools in locating viable facilities.

As the Department has provided a 60-day comment period on this notice of proposal, the notice is exempt from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments, repeals, and new rules will positively impact charter schools and their constituents, including students, teachers, staff, board of trustee members, and families. With increased operational autonomy and streamlined procedures in place, charter schools will have the opportunity to innovate and make school-level decisions that improve student achievement.

Economic Impact

The proposed amendments, repeals, and new rules will have a positive economic impact on charter schools by allowing them to access public funds for the expansion and rehabilitation of facilities. Rather than diverting substantial portions of their operating revenue into facilities, charter schools will be able to direct spending toward educating students. In addition, the proposal to ease certification requirements will create more job opportunities for aspiring, teachers, principals, and school business administrators. This will also alleviate some of the burden on charter schools, which allocate significant time and resources to find candidates who meet the current certification requirements.

Jobs Impact

The proposed amendments, repeals, and new rules may encourage more charter school operators to come to New Jersey, thus creating jobs, and may create additional opportunities for aspiring teachers and school business administrators at charter schools.

Agriculture Industry Impact

The proposed amendments, repeals, and new rules will have no impact on the agricultural industry.

Federal Standards Statement

There are no Federal standards or requirements applicable to the proposed amendments, repeals, and new rules; therefore, a Federal standards analysis is not required.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendments, repeals, and new rules do not impose reporting, recordkeeping, or other compliance requirements on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments, repeals, and new rules apply only to charter schools.

Housing Affordability Impact Analysis

The proposed amendments, repeals, and new rules will have an insignificant impact on the affordability of housing in New Jersey. There is an extreme unlikelihood the proposed amendments, repeals, and new rules would evoke a change in the average costs associated with housing because the proposed amendments, repeals, and new rules govern charter schools.

Smart Growth Development Impact Analysis

The proposed amendments, repeals, and new rules will have an insignificant impact on smart growth. There is an extreme unlikelihood the proposed amendments, repeals, and new rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments, repeals, and new rules govern charter schools.

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

N.J.A.C. 6A:9B, STATE BOARD OF EXAMINERS AND CERTIFICATION

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CHAPTER 9B. STATE BOARD OF EXAMINERS AND CERTIFICATION

SUBCHAPTER 11. ADDITIONAL REQUIREMENTS OR EXCEPTIONS TO REQUIREMENTS FOR INSTRUCTIONAL CERTIFICATION WITH SPECIAL ENDORSEMENTS

6A:9B-11.12 Requirements for the charter school certificate of eligibility (CSCE)

- (a) All endorsements authorized in the section may be used only for employment in charter schools and do not satisfy the requirements for employment in traditional public schools.
- (b) Except as indicated in N.J.A.C. 6A:9B-11.2 through 11.6, 11.10, and 11.11, the candidate shall do the following to be eligible for a CSCE with instructional endorsements:
 - 1. Hold a bachelor's or an advanced degree from a regionally accredited college or university;
 - 2. Meet the GPA requirements or its exceptions and pass the basic skills assessment pursuant to N.J.A.C. 6A:9B-8.1(a)2 and 3; and
 - 3. Pass the appropriate State test(s) of subject-matter knowledge.
- (c) Except as indicated in N.J.A.C. 6A:9B-11.2 through 11.6, 11.8, 11.10, and 11.11, a candidate shall do the following to be eligible for a charter school provisional certificate:
 - 1. Hold a CSCE in the endorsement area required for the teaching assignment; and
 - 2. Obtain and accept an offer of employment in a position that requires instructional certification.
- (d) Except as indicated in N.J.A.C. 6A:9B-11.2 through 11.6, 11.8, 11.10, and 11.11, the candidate shall do the following to be eligible for the charter school standard certificate in any instructional area:
 - 1. Possess a provisional charter school certificate pursuant to N.J.A.C. 6A:9-2; and

2. Successfully complete at least two school years at the charter school while employed provisionally in a position requiring the appropriate instructional certificate. The charter school shall provide written recommendation for the issuance of a standard charter school certificate.

(e) Other provisions of this chapter notwithstanding, the Department may establish a five-year pilot program under which the Department may issue, except as indicated in N.J.A.C. 6A:9B-11.2 through 11.6, 11.8, 11.10, and 11.11, a CSCE, a charter school provisional certificate and a charter school standard certificate to a candidate for appointment as a teacher. Certifications may be issued and appointments may be made only for individuals seeking employment in a charter school.

1. Eligible charter schools shall submit an application to the Department to participate in the pilot program. The Department will accept applications only from charter schools meeting the following criteria:

i. Charter schools shall have received a Tier Rank 1, the highest rating in the Academic Performance Framework, for the last two years; and

ii. If the charter school has yet to receive a Tier Rank from the Department, the charter school operator shall demonstrate the following:

(A) Its school(s) outperformed resident district schools in both mathematics and English language arts on State assessments for the last two years; and

(B) It has a clear and well-functioning organizational structure that leads to continuous improvement.

- 2. The application submitted by an eligible charter school shall include, but not be limited to, the following:**
 - i. The charter school's name;**
 - ii. Evidence of meeting the criteria in (e)1 above;**
 - iii. Rationale for participation in the pilot program;**
 - iv. Description of teaching position(s) to be filled; and**
 - v. Description of the professional development that pilot program teachers will receive.**
- 3. Within 60 days of receipt, the Department shall review the application and notify the charter school of whether it has been approved to participate in the pilot program.**
- 4. If approved, a participating charter school may recruit candidates to fill the designated teacher positions.**
- 5. A teacher candidate recruited pursuant to (e)4 above shall submit an application to the Department demonstrating that he or she meets the following criteria:**
 - i. Possesses a letter of recommendation from a charter school approved to participate in the pilot program;**
 - ii. Holds a bachelor's or an advanced degree from a regionally accredited college or university; and**
 - iii. Satisfies two or more of the following criteria:**
 - (A) Meets GPA requirements, pursuant to N.J.A.C. 6A:9B-8.3(a)3 and 3i;**
 - (B) Passed the basic skills assessment, pursuant to N.J.A.C. 6A:9B-8.3(a)5;**

- (C) **Passed the appropriate State test(s) of subject-matter knowledge; or**
- (D) **Has relevant educational or work experience that he or she can demonstrate will translate into successful teaching.**

6. **If the Department finds a candidate satisfies the criteria at (e)5 above upon the review of his or her application, then the Commissioner shall direct the State Board of Examiners to issue a CSCE to the candidate. The CSCE shall be transferable only to other charter schools that have been approved to participate in the pilot program.**
7. **The State Board of Examiners shall issue a charter school provisional certificate to a candidate who satisfies the following criteria:**
 - i. **Possess a CSCE in the endorsement area required for the teaching assignment; and**
 - ii. **Obtains and accepts an offer of employment in a position that requires instructional certification. The charter school provisional certificate shall be transferable only to other charter schools that have been approved to participate in the pilot program.**
8. **The State Board of Examiners shall issue a charter school standard certificate to a candidate who satisfies the following criteria:**
 - i. **Possesses a provisional charter school certificate;**
 - ii. **Completes at least two school years at the charter school and at least 50 hours of professional development annually while employed provisionally in a position requiring the appropriate instructional certificate; and**

study must be completed at one institution in fields outlined in (a)1i

above; or

- iv. Hold a master's degree from an appropriate nationally accredited program in educational leadership from an out-of-State college or university;
 2. Complete a minimum of 30 graduate credits, either within the master's program or in addition to it, aligned with the Professional Standards for School Leaders set forth in N.J.A.C. 6A:9-3.4(a)1 through 6;
 3. Complete a 300-hour internship in educational leadership aligned to the Professional Standards for School Leaders in N.J.A.C. 6A:9-3.4 and in accordance with the roles and responsibilities as a principal, independent of other course requirements. This internship either must appear on a transcript from a four-year regionally accredited college or university or be certified by a Commissioner-approved program for preparing school principals;
 4. Pass a State-approved examination of knowledge acquired through study of the topics listed in (a)2 above and most directly related to the functions of principals as defined in N.J.A.C. 6A:9B-12.3(b); and
 5. Complete five years of successful educational experience under a valid provisional or standard New Jersey or equivalent out-of-State certificate.
- (b) A candidate who matriculates and enrolls in a Commissioner-approved educational leadership preparation program on or after September 1, 2008, shall be required to complete all requirements of (a) above.
- (c) To be eligible for a provisional principal certificate, the candidate shall:
1. Hold a principal CE; and
 2. Obtain and accept an offer of employment in a position requiring the principal endorsement in a school or school district that has agreed formally to sponsor the residency.

- (d) The effective date of provisional certificate issuance shall be the date on which the CE holder begins employment with the district board of education in a certificated position in accordance with N.J.S.A. 18A:26-2 and 18A:27-4a.
- (e) The Commissioner-approved principal residency program provider shall notify the Office that a principal is eligible for the standard administrative certificate with a principal endorsement when the candidate:
1. Possesses a provisional certificate pursuant to (a) and (b) above;
 2. Completes a two-year Commissioner-approved residency program while employed under provisional principal certification in a school or school district. The residency may be extended for medical or family leave and upon agreement by the Department and the employing school or school district. However, the Commissioner is authorized to reduce or remove the residency requirement based on the candidate's prior experience. The Commissioner-approved program provider selected by the employing school or school district shall implement the residency program, which shall:
 - i. Take place in a school or school district;
 - ii. Provide professional experiences, training, mentoring, instruction, opportunities to network with other candidates and experienced principals, and specific training on the school's or school district's educator evaluation systems and develop the candidate's thorough understanding of the NJSLs; the Professional Standards for Teachers as defined in N.J.A.C. 6A:9-3.3; and the Professional Standards for School Leaders as defined in N.J.A.C. 6A:9-3.4;
 - iii. Ensure the employing school or school district, the candidate, the residency mentor and the provider enter into a standard Department-issued agreement prior to the candidate starting the residency program;

- iv. Provide a State-approved mentor who meets the requirements in (f) below and who shall:
- (1) Supervise and verify the candidate's completion of all required experiences and training;
 - (2) Meet with the principal candidate at least once a month during the residency. The mentor shall be available on a regular basis to provide assistance or advice upon the candidate's request;
 - (3) Provide confidential guidance and support;
 - (4) Guide the candidate through a self-assessment based on the employing school district's Commissioner-approved principal evaluation practice instrument;
 - (5) Consult with the principal candidate's direct supervisor in development of the principal candidate's individualized mentoring plan; and
 - (6) Not serve as the candidate's direct supervisor or conduct the candidate's evaluation;
- v. Provide support based on an individualized mentoring plan developed collaboratively by the mentor, the candidate, and the candidate's supervisor. The mentoring plan shall take the place of the individualized professional development plan, as set forth in N.J.A.C. 6A:9C-3, during the residency period and shall be individualized based on the candidate's preparation, past work experience, and the unique leadership demands of the employing school or school district. Support for the candidate in the following areas shall be considered in developing the individualized plan: curriculum leadership; supervision of instruction; pupil personnel services; personnel management; community relations; student relations; facilities

management; school finance; school law; technical administrative skills;
and professional development; and

3. Is reviewed by his or her mentor pursuant to (g) below and is recommended for the standard certificate pursuant to (i) below.
- (f) The mentor from the program provider shall:
1. Have a minimum of three years' experience as an effective principal. For principals practicing in New Jersey starting in academic year 2013-2014 and each year thereafter, "effective" means the principal receives a summative rating of effective or highly effective pursuant to N.J.A.C. 6A:10-5;
 2. Have been engaged in New Jersey public schools for at least three of the last five years; and
 3. Complete a State-approved mentor training program prior to mentoring a candidate.
- (g) The Commissioner-approved program provider shall base the candidate's recommendation for the standard administrative certificate with a principal endorsement on at least three reviews conducted by the mentor throughout each year during the two-year residency. The first five reviews shall be conducted mainly for diagnostic purposes. The final review shall be the basis for issuance of the candidate's standard certificate, aligned with the Professional Standards for School Leaders as defined in N.J.A.C. 6A:9-3.4, and informed by the candidate's performance on all prior reviews. The Commissioner-approved program provider shall ensure the principal candidate's direct supervisor is consulted regarding the candidate's performance prior to submitting the principal candidate's final review. The Commissioner-approved program provider shall submit the final review to the Department through a State-developed form.
- (h) The Department may require a candidate to pay fees to cover the cost of the training and mentoring services that will qualify him or her for certification and employment.

- (i) The Commissioner-approved program provider shall recommend for approval or disapproval principal candidates for certification pursuant to the following procedures:
1. The Commissioner-approved program provider shall submit to the Office a comprehensive final report on the candidate's performance pursuant to (g) above.
 2. This final report shall include one of the following certification recommendations:
 - i. Approved: Recommends issuance of a standard certificate;
 - ii. Insufficient: Recommends a standard certificate not be issued, but the candidate be allowed to continue the residency or seek admission to another residency for two additional years; or
 - iii. Disapproved: Recommends a standard certificate not be issued and the candidate who is disapproved shall be prevented from continuing or re-entering a residency.
 3. Candidates who receive a recommendation of "approved" shall be issued a standard certificate.
 4. The Commissioner-approved program provider shall provide the candidate with a copy of the candidate's written evaluation report and recommendation before submitting it to the Department.
 5. If the candidate disagrees with the Commissioner-approved program provider's recommendation, the candidate may appeal the recommendation pursuant to N.J.A.C. 6A:9B-4.13.
- (j) A candidate who receives a "disapproved" recommendation or two or more "insufficient" recommendations may appeal to the Board of Examiners pursuant to N.J.A.C. 6A:9B-4.13.
- (k) Each candidate who holds a valid New Jersey or out-of-State supervisor endorsement and a master's degree or higher in a field other than one required in (a)1 above will be eligible for a principal CE by presenting official documentation of the following:

1. Five years of successful full-time experience as a supervisor of an instructional area or department related to the NJSLS under a valid New Jersey or out-of-State supervisor certificate;
2. Completion of a Commissioner-approved certification program in educational leadership offered by a Commissioner-approved provider. The program shall include, but not be limited to:
 - i. Preparation for educational leadership through experiences related to the performance-based Professional Standards for School Leaders and the NJSLS;
 - ii. Two hundred twenty-five clock hours of formal instruction in quality components of preparation to promote student learning as set forth in N.J.A.C. 6A:9-3.4(a)1 through 6 and delineated in (a)2i through vi above; and
 - iii. A school district internship consisting of a minimum of 300 hours providing professional experiences in school administration; and
3. Passage of a State-approved examination of knowledge acquired through study aligned with the Professional Standards for School Leaders set forth in N.J.A.C. 6A:9-3.4(a)1 through 6 and directly related to the functions of principals as defined in N.J.A.C. 6A:9B-12.3(b).

(l) Each candidate who holds a valid New Jersey or out-of-State supervisor endorsement and a master's degree or higher in a field not required in (a)1 above, but has zero to five years' supervisory experience, will be eligible for a principal CE by presenting official documentation of the following:

1. Five years of successful full-time teaching experience under a valid New Jersey or out-of-State teaching certificate;

2. Completion of a Commissioner-approved certification program in educational leadership offered by a Commissioner-approved provider. The program is pursuant to (k)2 above with the following exceptions: the program shall be a minimum of 275 clock hours plus a 300-hour internship; and
 3. Passage of a State-approved examination of knowledge acquired through study aligned with the Professional Standards for School Leaders set forth in N.J.A.C. 6A:9-3.4(a)1 through 6 and directly related to the functions of principals as defined in N.J.A.C. 6A:9B-12.3(b).
- (m) Each candidate who can provide documentation of at least five years of successful full-time teaching experience under a valid New Jersey or out-of-State teaching certificate and a master's degree or higher in a field other than one required in (a)1 above will be eligible for a principal CE by presenting official documentation of the following:
1. Completion of a Commissioner-approved certification program in educational leadership offered by a Commissioner-approved provider. The program is pursuant to (k)2 above with the following exceptions: the program shall be a minimum of 350 clock hours plus a 300-hour internship; and
 2. Passage of a State-approved examination of knowledge acquired through study aligned with the Professional Standards for School Leaders set forth in N.J.A.C. 6A:9-3.4(a)1 through 6 and directly related to the functions of principals as defined in N.J.A.C. 6A:9B-12.3(b).
- (n) **Other provisions of this chapter notwithstanding, the Department may establish a five-year pilot program under which the Department may issue a charter school certificate of eligibility (CSCE), a charter school provisional certificate, and a charter school standard certificate to a candidate for appointment as a principal. Certifications may be issued and appointments may be made only for individuals seeking employment in a charter school.**

- 1. Eligible charter schools shall submit an application to the Department to participate in the pilot program. The Department will accept applications only from charter schools meeting the following criteria:**
 - i. Charter schools shall have received a Tier Rank 1, the highest rating in the Academic Performance Framework, for the last two years;**
 - ii. If the charter school has yet to receive a Tier Rank from the Department, the charter school operator shall demonstrate the following:**
 - (A) Its school(s) outperformed resident district schools in both mathematics and English language arts on State assessments for the last two years; and**
 - (B) It has a clear and well-functioning organizational structure that leads to continuous improvement.**
- 2. The application submitted by an eligible charter school shall include, but not be limited to, the following:**
 - i. The charter school's name;**
 - ii. Evidence of meeting the criteria in (n)1 above;**
 - iii. Rationale for participation in the pilot program; and**
 - iv. Description of the professional development that the pilot program principal(s) will receive.**
- 3. Within 60 days of receipt, the Department shall review the application and notify the charter school of whether it has been approved to participate in the pilot program.**
- 4. If approved, a participating charter school may recruit candidates to fill the principal position(s).**

5. **A principal candidate recruited pursuant to (n)4 above shall submit an application to the Department demonstrating that he or she meets the following criteria:**
 - i. **Possesses a letter of recommendation from a charter school approved to participate in the pilot program;**
 - ii. **Holds a bachelor's or higher degree from a regionally accredited college or university;**
 - iii. **Has at least two years of teaching experience;**
 - iv. **Passed a State-approved assessment for principals; and**
 - v. **Has relevant management and leadership experience that he or she can demonstrate will translate into success in a principal role.**
6. **If the Department finds a candidate satisfies the criteria at (n)5 above upon review of his or her application, then the Commissioner shall direct the State Board of Examiners to issue a CSCE to the candidate. The CSCE shall be transferable only to other charter schools that have been approved to participate in the pilot program.**
7. **The State Board of Examiners shall issue a charter school provisional certificate to a candidate who satisfies the following criteria:**
 - iii. **Possesses a CSCE with a principal endorsement; and**
 - iv. **Obtains and accepts an offer of employment in a position that requires principal certification. The charter school provisional certificate shall be transferable only to other charter schools that have been approved to participate in the pilot program.**
8. **The State Board of Examiners shall issue a charter school standard certificate to a candidate who satisfies the following criteria:**
 - i. **Possesses a provisional charter school certificate;**

- ii. Possesses a statement of assurance from the charter school board of trustees that he or she completed the professional development outlined in the pilot program application; and
 - iii. Receives written recommendation from the charter school board of trustees for the issuance of a charter school standard certificate. The standard charter school certificate shall be transferable to any charter school.
- 9. The Department will develop and conduct an evaluation of the pilot program based upon annual submissions from participants in the program, which shall include, but not be limited to, charter school evaluations of pilot program participants, State assessment results, and other indicators of student outcomes. As part of its conclusions, the Department will recommend to the State Board of Education whether to continue the pilot program and, if so, whether to continue the pilot program as a permanent alternate route to certification.

6A:9B-12.7 School business administrator

- (a) To be eligible for the school business administrator CE, the candidate shall:
 - 1. Hold a master's degree or higher degree from a regionally accredited college or university or be in possession of a certified public accountant license; and
 - 2. Complete at least 18 credits of graduate or undergraduate study in the following areas:
 - i. Economics;
 - ii. Law;
 - iii. Accounting;

- iv. Organizational theory;
- v. Management or administration; and
- vi. Finance.

(b) To be eligible for a provisional administrative certificate with a school business administrator endorsement, the candidate shall:

- 1. Hold a school business administrator CE; and
- 2. Obtain and accept an offer of employment in a position that requires the school business administrator endorsement in a school district or an approved private school for students with disabilities that has agreed formally to sponsor the residency.

(c) To be eligible for the standard administrative certificate with a school business administrator endorsement, the candidate shall:

- 1. Possess a provisional certificate pursuant to (a) and (b) above; and
- 2. Complete a one-year Commissioner-approved school or school district residency program while employed under provisional certification. The residency shall:
 - i. Take place in a functioning school or school district environment, and require the candidate to develop a thorough understanding of the CCCS; the Professional Standards for Teachers in N.J.A.C. 6A:9-3.3; and the Professional Standards for School Leaders in N.J.A.C. 6A:9-3.4. Candidates shall demonstrate that understanding by providing support for the educational goals of the school or school district;
 - ii. Be conducted in accordance with a standard Department-issued agreement and entered into by the Department, the employing school or school district, the candidate, and the residency mentor. No residency program may be undertaken without a valid agreement;

- iii. Be administered by a State-appointed mentor, who shall be an experienced school business administrator who has completed a State-approved orientation and who shall supervise and verify the candidate's completion of all required experiences and training. At the start of the residency, the mentor and the school administrator or chief school administrator shall submit to the Department on a State-developed form a written recommendation concerning any area(s) of professional experience that should be waived and additional teaching or other special experiences, if any, that the individual candidate should complete before achieving standard certification. Department review and subsequent approval shall consider the candidate's past work experience and recommended professional experiences during residency, which shall be specified in the standard written agreement; and
 - iv. Provide professional experiences, training, and 145 clock hours of formal instruction in the areas of standards listed in (c)2i above; school plant planning, construction, and maintenance; school financial and legal practices, including budget planning and administration and double entry accounting (GAAP); pupil transportation; labor relations and personnel; insurance/risk administration; and food service administration.
- (d) Each candidate for the standard administrative certificate with an endorsement for school business administrator shall be evaluated formally by the mentor on at least three occasions for purposes of certification. The first two evaluations shall be conducted mainly for diagnostic purposes. The final evaluation shall be the basis for issuance of the candidate's standard certificate. All evaluations shall be based on the candidate's performance in areas of authorization defined in N.J.A.C. 6A:9B-12.3(d) and reported on State-developed forms. The mentor shall discuss each evaluation with the candidate, and

both shall sign each report. The mentor shall send each completed evaluation to the Department; the final evaluation shall be accompanied by the recommendation for certification pursuant to (g) below.

- (e) Each mentor shall form an advisory panel of practicing educators and shall convene it on at least three occasions for purposes of reviewing the candidate's progress and soliciting advice concerning the candidate's certification. The mentor may seek the informal input of the employing district board of education concerning the candidate's standard certification.
- (f) The mentor shall meet with the candidate at least once a month during the residency. The mentor shall be available on a regular basis to provide assistance or advice upon the candidate's request. The Department may require a candidate to pay fees to the program provider to cover the cost of the training and mentoring services that will qualify him or her for certification and employment.
- (g) Standard certification of school business administrator certificate candidates shall be approved or disapproved pursuant to the following procedures:
 - 1. Before the end of the residency year, the mentor shall submit to the Department a comprehensive evaluation report on the candidate's performance pursuant to N.J.A.C. 6A:9B-12.5(c).
 - 2. This final report shall include one of the following certification recommendations:
 - i. Approved: Recommends issuance of a standard certificate;
 - ii. Insufficient: Recommends a standard certificate not be issued, but the candidate be allowed to continue the residency or seek admission to another residency for one additional year; or
 - iii. Disapproved: Recommends a standard certificate not be issued and the candidate who is disapproved shall be prevented from continuing or re-entering a residency.

3. Mentors act as agents of the Board of Examiners in formulating their certification recommendations, which shall not be subject to review or approval by district boards of education.
 4. Candidates who receive a recommendation of “approved” shall be issued a standard certificate.
 5. The mentor shall provide the candidate with a copy of the candidate’s written evaluation report and recommendation before submitting it to the Department.
 6. If the candidate disagrees with the mentor’s recommendation, the candidate may appeal the recommendation pursuant to N.J.A.C. 6A:9B-4.13.
- (h) A candidate who receives a “disapproved” recommendation or two or more “insufficient” recommendations may appeal to the Board of Examiners pursuant to N.J.A.C. 6A:9B-4.13.
- (i) The requirements listed in (a) through (h) above shall not apply to persons who hold standard administrative certificates with the following endorsements issued before September 1, 1991: school business administrator, assistant superintendent for business, or assistant executive superintendent with specialization in business administration. Holders of those endorsements shall be entitled prospectively to apply for all positions in the general category of business administration.
- (j) Board secretaries who lack certification but were assigned prior to September 1, 1991, to perform business administration functions as described in N.J.A.C. 6A:9B-12.3(d) shall be permitted to retain indefinitely their positions in the districts in which they were employed prior to September 1, 1991.
- (k) The requirements listed in (a)1 above shall not apply to persons who hold a standard administrative certificate or CE with a school business administrator endorsement.
- (l) Other provisions of this chapter notwithstanding, the Department may establish a five-year pilot program under which the Department may issue a CSCE, a charter**

school provisional certificate, and a charter school standard certificate to a candidate for appointment as a school business administrator. Certifications may be issued and appointments may be made only for individuals seeking employment in a charter school.

- 1. Eligible charter schools shall submit an application to the Department to participate in the pilot program. The Department will accept applications only from charter schools that have met fiscal management standards for the last two years, as evidenced by the following:**
 - i. An annual independent audit with an unqualified audit opinion for the last two years;**
 - ii. An annual independent audit devoid of significant conditions or internal control weaknesses for the last two years; and**
 - iii. An independent auditor’s management report with no significant or “repeat” findings for the last two years.**

- 2. The application submitted by an eligible charter school shall include, but not be limited to, the following:**
 - i. The charter school’s name;**
 - ii. Evidence of meeting the criteria in (1)1 above;**
 - iii. A viable annual budget;**
 - iv. A Service Organization Controls Report® of the charter management organization, if available;**
 - v. Evidence of stable enrollment;**
 - vi. Evidence of fiscal internal controls consistent with Generally Accepted Accounting Principles (GAAP) and Generally Accepted Government Auditing Standards (GAGAS); and**
 - vii. Rationale for participation in the pilot program.**

- 3. Within 60 days of receipt, the Department shall review the application and notify the charter school of whether it has been approved to participate in the pilot program.**
- 4. If approved, a participating charter school may recruit candidates to fill a school business administrator position(s).**
- 5. A school business administrator candidate recruited pursuant to (l)4 above shall submit an application to the Department demonstrating that he or she meets the following criteria:**
 - i. Possesses a letter of recommendation from a charter school approved to participate in the pilot program; and**
 - ii. Satisfies one of the following criteria:**
 - (D) Holds a Master in Business Administration from a regionally accredited college or university;**
 - (E) Holds a certified public accountant license; or**
 - (F) Meets the criteria in (a) above.**
- 6. If the Department finds a candidate satisfies the criteria at (l)5 above upon review of his or her application, then the Commissioner shall direct the State Board of Examiners to issue a CSCE to the candidate. The CSCE shall be transferable only to other charter schools that have been approved to participate in the pilot program.**
- 7. The State Board of Examiners shall issue a charter school provisional certificate with a school business administrator endorsement to a candidate who satisfies the following criteria:**
 - iii. Possesses a CSCE with a school business administrator endorsement;**
and

N.J.A.C. 6A:11, CHARTER SCHOOLS

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CHAPTER 11. CHARTER SCHOOLS

SUBCHAPTER 1. GENERAL PROVISIONS

6A:11-1.2 Definitions

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

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

1. Holds a position that requires a certificate authorizing the holder to serve as school administrator, principal, or school business administrator;
2. Holds a position that requires a certificate authorizing the holder to serve as supervisor who is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services of a charter school; or
3. Holds a position that does not require the person to hold any type of certificate but is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services by a charter school.

"Annual review" means the yearly assessment by the Commissioner as to whether the charter school is meeting the goals of its charter.

"Application" means the New Jersey Charter School Application, which includes, but is not limited to, a description of the areas listed in N.J.S.A. 18A:36A-5 and N.J.A.C. 6A:11-2.1(b).

"Approval" means an endorsement by the Commissioner following the review of an eligible

application by the Department and contingent upon the receipt of necessary documentation in accordance with N.J.A.C. 6A:11-2.1(f).

"Board of trustees" means the public agents authorized by the State Board of Education to supervise and control a charter school.

"Certification" means the endorsement of a person who is employed by a district board of education or a charter school board of trustees to perform duties that are regulated by N.J.A.C. 6A:9B and 6A:23A-22, and N.J.S.A. 18A:26-2.

“Charter agreement” means a written agreement between a charter school and the Commissioner that sets forth criteria the charter school shall be expected to satisfy, including, but not limited to, measureable performance goals and indicators in the charter school’s Performance Framework.

"Charter school" means a public school operated under a charter granted by the Commissioner that is independent of the district board of education and managed by a board of trustees.

“Contiguous district boards of education” means school districts that comprise a region of residence that all share a common border.

“Construction” means the building of a wholly new school facility.

“Demonstrable experience” means a record of success in engendering student growth and improving the academic performance of at-risk, English language learner, and special education students; and evidence of financial stability.

"District of residence" means the school district in which a charter school facility is physically located; if a charter school is approved with a region of residence comprised of contiguous school districts, that region is the charter school's district of residence.

“Educator evaluation system” means a system by which a charter school measures the effectiveness of an educator through a measurement of student learning growth and educator practice.”

"Eligible applicant" means teaching staff members from anywhere in the State, parents of children attending the schools of the district of residence, a combination of teaching staff members and parents, or an institution of higher education or a private entity located within the State in conjunction with teaching staff members and parents of children attending the schools of the district of residence.

“Expansion” means an addition to an existing school facility characterized by an increase in the school facility’s gross square footage.

“Expedited action” means to allow an applicant to apply early and receive an early decision regarding the status of the application for a charter. It also permits an approved applicant to open a charter school on an expedited timeline. The application must be submitted by October 15 to receive a decision in advance of the standard schedule and no later than February 15.

“Expedited renewal” means the granting on an accelerated basis of a charter’s continuation for a five-year period by the Commissioner, which is reserved for high-performing charter schools that meet the standards set forth in N.J.A.C. 6A:11-2.3.

"Failing school district" means a school district identified by the Department as a "district in need of improvement" in the 2010-2011 school year pursuant to the provisions of the No Child Left Behind Act of 2001, Pub. L. 107-110, as identified in the chapter Appendix, incorporated herein by reference, or that has been identified as a "Priority" or "Focus" school (see N.J.A.C. 6A:33-1.2).

"Final granting of a charter" means the written notification in which the Commissioner makes the charter effective as a result of all required documentation being submitted by the charter school and approved by the Department in accordance with N.J.A.C. 6A:11-2.1(f), (h), and (i).

"GAAP" means the generally accepted accounting principles established by the Governmental Accounting Standards Board as prescribed by the State Board of Education pursuant to N.J.S.A. 18A:4-14 and N.J.A.C. 6A:23A-16.1.

"High-performing charter school" means a charter school that earns a Tier Rank 1, which is the highest possible rank, based on the metrics set forth in the Academic Performance Framework.

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

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

"Initial recruitment period" means the period during which there are the first outreach efforts by

a charter school to a cross section of the community for the application, random selection process (if applicable) and enrollment of students for the next school year.

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

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

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

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

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

"Norm-referenced achievement test" means **any assessment that compares test takers' results to an average to distinguish between high and low performances. Examples include:** the California Achievement Test (CAT); Metropolitan Achievement Test (MAT); Stanford Achievement Test (SAT); or the Comprehensive Test of Basic Skills (CTBS) or one of the tests within the CTBS.

“Performance Framework” means the [standards] **accountability system** that shall be used by the Department to evaluate the **academic, financial, and organizational** performance of each charter school [that has signed a charter agreement]. The Performance Framework shall be [included in every] **shared with all** charter [agreement] **schools** and posted on the Department’s website. The academic [performance section of the Performance Framework is aligned with the New Jersey Department of Education accountability measures as defined in the February, 2012 No Child Left Behind waiver of Adequate Yearly Progress measures granted by the United States Department of Education. Academic performance assessments] **component** includes, but [are] **is** not limited to, [measurement] **measures of: student growth;** student achievement; [data, student growth percentiles, and] **high school graduation rate;** leading indicators of [future performance in absolute terms based on Proficiency and Advanced Proficiency scoring in both Language Arts Literacy (LAL) and Math, in comparative terms against the LAL and Math scores of the district of residence, and demographically similar (peer) schools, in terms of student achievement progress over time (individual student achievement over time as compared to similar scoring students), in terms of school-wide growth percentiles and subgroup growth percentiles based on standardized test scores over time, post-secondary readiness, including performance on and participation in national standardized tests and post-secondary enrollment, and other appropriate comparative groups,] **school success, such as attendance;** and all State and Federal accountability requirements. **Measures of student growth, student achievement, graduation rate, and leading indicators are evaluated relative to: statewide results, primary sending district results, and results of similar schools.** Additionally, each charter school will be responsible for unique mission-specific goals included in their charter agreement. Criteria for the [operations] **organizational** component consist of, but are not limited to, compliance with statutory requirements [set forth] in N.J.S.A. [18A:36C-1] **18A:36A-1** et seq. and all applicable statutes in Title 18A, and regulatory requirements that ensure equitable access, pursuant to N.J.A.C. 6A:7, Managing for Equality and Equity in Education, and 6A:11-4.12, Equity in

education; and safe and secure learning environments, pursuant to N.J.A.C. 6A:16, Programs to Support Student Services. [The standards for the fiscal management section of the Performance Framework] **Criteria for the financial component** include, but are not limited to[,]: the generally accepted accounting principles set forth in N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency and Budgeting **Procedures**, and [contain near-term] indicators [that include debt to asset ratio, total margin and cash flow measures, and sustainability indicators that include current ratio, unrestricted days cash on hand, enrollment variance and default on loans measures] **of near- and long-term viability.**

“Planning year” means a one-year period between a charter school’s application approval and the final granting of its charter to prepare for the charter school’s opening.

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

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

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

"Region of residence" means contiguous school districts in which a charter school operates and is the charter school's district of residence.

“Rehabilitation” means as defined in N.J.A.C. 6A:26-1.2.

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

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

"Revocation" means the withdrawal of a charter by the Commissioner from a charter school's board of trustees.

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

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

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

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

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

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

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

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

“Weighted lottery” means a random selection process that provides additional weight or increased chances to individual students who are identified as part of a specified set of educationally disadvantaged students but does not reserve or set aside seats for individual students or sets of students.

**SUBCHAPTER 2. APPLICATION AND APPROVAL; REPORTING; RENEWAL;
PROBATION AND REVOCATION; APPEAL; AMENDMENT AND CONVERSION
PROCESSES**

6A:11-2.1 Application and approval process

- (a) The Commissioner with the authority of N.J.S.A. 18A:36-1 et seq. may approve or deny an application for a charter after review of the application submitted by an eligible applicant and the recommendation(s) from the district board(s) of education or State district superintendent(s) of the district of residence of the proposed charter school.
- (b) An eligible applicant for a charter school shall:
 - 1. Complete the New Jersey Charter School Application, which shall be annually disseminated by the Department no later than August 31 of each year.
 - i. For application rounds in which the Department requires an online application submission, new charter school applicants shall establish an online account no later than five business days prior to the due date for the application.
 - 2. The application process shall be conducted in two phases: phase one and phase two. The phase one application shall include in an executive summary the following information:
 - i. The name of the proposed charter school;
 - ii. Mission;
 - iii. Educational program overview;
 - iv. Applicant and founder information;
 - v. Enrollment and admission information;
 - vi. Demonstration of need; and
 - vii. Community and parent involvement.
 - 3. The Commissioner shall notify an applicant whether they have been approved or denied for “qualified applicant” status upon completion of the phase one review.

- 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.
- ii. A qualified applicant is one that has submitted an application that has a clear, focused, and results-oriented mission statement that aligns with all parts of the application; demonstrates understanding of the population that the school is likely to serve; has an educational program that is likely to be effective for the student population; has strong and diverse leadership; and has strong financial planning and management.
- iii. The phase two application shall include the following information:
 - (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 as set forth in the phase two application. Such documentation shall include, but not be limited to: course and curriculum outlines, graduation requirements, school scheduling information, professional backgrounds of administrators and staff, professional development and evaluation plans, an organizational chart, and documentation of fiscal and legal compliance.

- iv. 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 or her designee. Such interviews will take place within eight to 10 weeks of receipt of phase two applications.
4. If seeking to operate a charter school with a region of residence, the charter school shall:
- i. Include as qualified founders 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.
5. **If seeking to open a single-purpose charter school that will limit enrollment to a specific population of educationally disadvantaged or traditionally underserved students, the charter school’s application shall demonstrate a compelling need and shall ensure compliance with State and Federal laws.**
6. **If seeking to operate a single-purpose charter school that will limit admission on the basis of gender, the charter school’s application shall demonstrate a compelling educational reason for limiting enrollment on the basis of gender and shall ensure compliance with State and Federal laws.**
- [5.] 7. 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. on March 31. If March 31 falls on a weekend, the phase one application is due no later than 4:15 P.M. on the first

subsequent work day. 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. on the designated due date.

- (c) The Department shall review the phase one application. Qualified applicants will be asked to complete the phase two application.
- (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, if submitted.
 - 1. The recommendations of the district boards of education or State district superintendents shall be forwarded to the Commissioner within 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 the district boards of education or State district superintendents shall be forwarded to the Commissioner within 60 days of receipt of the phase two applications.
- (e) Following review of phase two applications, the Commissioner or designee(s) shall conduct an in-depth interview with qualified applicants.
- (f) The Commissioner shall notify applicants regarding approval or denial of applications no later than February 15 for applicants seeking fast track approval through expedited action and no later than September 30 for all other applications. The notification to eligible applicants 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. 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) 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;
 4. The 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 list of the lead person, school business administrator, teachers, and professional support staff including required certifications and criminal background check status;

11. 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 GAAP;
 13. The resolution of the board of trustees naming the affirmative action officer, the Section 504 officer, and the Title IX coordinator;
 14. Evidence of enrollment of at least 90 percent of approved maximum enrollment, as verified by student registrations signed by parent/guardian(s); and
 15. Documentation that ensures compliance with all applicable Federal and State regulations and statutes.
- (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. on February 15, or March 15 for charter schools applicants seeking approval through expedited action.
- (k) All statutorily required documentation shall be submitted to the Department by June 30. The final granting of the charter by the Commissioner shall be effective when all required documentation as listed in (i) above is submitted and approved by the Department no later than July 15 and following satisfactory completion of the preparedness visit as determined by the Commissioner.
- (l) A charter school shall locate its facility in its district of residence or in one of the districts of its region of residence.
- (m) A charter school applicant that receives application approval but is not prepared to**

open in the subsequent school year may request a planning year. The Commissioner may grant or deny a planning year based upon the information submitted by the applicant.

- 1. The Commissioner may grant a planning year to an applicant that demonstrates a legitimate need for more time to meet the preparedness requirements pursuant to N.J.A.C. 6A:11-2.1(i).**
- 2. The Commissioner may grant a second planning year based upon an applicant's showing of good cause. A charter school may receive no more than two planning years after application approval.**

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. on August 1 following each full school year in which the charter school is in operation to the Commissioner, the respective executive county superintendent, 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, evidence of the following:
 - i. The school is achieving the mission, goals, and objectives of its charter as measured against the Performance Frameworks;
 - ii. 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. Curriculum that is compliant with the New Jersey Student Learning Standards;
 - iv. Statewide assessment program results and local assessment results of students;
 - v. Parental and community involvement in the school; and
 - vi. A calendar for the upcoming school year.
2. The report must include a copy of the following:
- i. A directory of the current members of the board of trustees; and
 - ii. Amendments to the bylaws of the board of trustees adopted during the previous year.
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 form or 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 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. on June 1.
- (d) **On an annual basis, the Department shall publicly report on each charter school's academic performance based on the Performance Framework.**

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.
- (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. 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] **A review of** the charter school [failed to meet any standards set forth in] **based on** its charter agreement [or] **and** the Performance Framework [in a school's charter];
3. The review of a charter school's annual reports pursuant to N.J.A.C. 6A:11-2.2(a);
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;
5. Student performance on the Statewide assessment program pursuant to N.J.A.C. 6A:8-4.1;
6. Monitoring of the charter school by the executive county superintendent;
7. Monitoring of the charter school by the Commissioner or designee(s);
8. The annual assessments of student composition of the charter school;
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;
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; and
11. The review of the charter school's educator evaluation system.
- 12. A review to ensure the charter school has established an escrow account or**

posted a surety bond of no less than \$75,000 to pay for legal and audit expenses and any outstanding pension benefit(s) that would be associated with dissolution if it occurs.

(c) Charter schools that have been deemed high performing, based upon the Performance Framework, for three consecutive years during the most recent charter term may be eligible for an expedited renewal review process. The Department will notify charter schools prior to October 1 whether they qualify for an expedited review process.

- 1. The expedited review process shall include the elements set forth in (b) above but may be conducted in an abbreviated format established by the Commissioner.**
- 2. Within 75 days of the renewal application submission, or pursuant to a Commissioner-established timeline, the Commissioner shall notify the charter school of whether it has been granted renewal of its charter.**

[(c)] (d) The Commissioner shall notify a charter school regarding the granting or denial of the renewal on or before February [28] 1 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 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 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 extensions to the probationary status where warranted and extend the probationary period if the charter school has implemented its remedial plan but needs additional time to complete the implementation of its corrections.
 6. The Commissioner may revoke the charter if the remedial plan is deemed to be insufficient or if probation terms have not been met.
- (b) The Commissioner may revoke a school's charter following review by the Department for one or more of the following reasons:
1. Any condition imposed by the Commissioner in connection with the granting of the charter that has not been fulfilled by the school;
 2. Violation of any provision of its charter by the school;
 3. Failure of the remedial plan to correct the conditions that caused the probationary status. The Commissioner may place a school on probation before charter revocation, but probationary 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) 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; and
 - ii. Notify in writing all administrators, staff, parents, guardians, students, and special education providers; and
2. The board of trustees shall implement a comprehensive closure plan:
 - i. Within 10 business days of receipt of notification, the board of trustees shall 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 the 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) The district(s) of residence of a charter school undergoing closure proceedings shall, 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 shall 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; and
- 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.
- iv. **The Commissioner may rescind approval of the appointed independent trustee if the Commissioner determines the trustee is not adequately performing the required duties set forth in (c)2 above. In addition, the Commissioner may appoint an independent trustee if the board of trustees fails to appoint one pursuant to the comprehensive closure plan.**
- v. **Within 30 days of school closure, the board of trustees shall pass a**

resolution officially dissolving the board.

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[.]; **or**
 - v. **Establishing a weighted lottery.**
 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 December 1 of the previous school year to increase enrollment in the subsequent school year.
- (b) The Department 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 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 4. PROGRAM IMPLEMENTATION

6A:11-4.5 Lottery

- (a) **Pursuant to N.J.S.A. 18A:36A-8, preference for enrollment in a charter school shall be given to students who reside in the school district in which the charter school is located. If there are more applications to enroll in the charter school than spaces available, the charter school shall select students to attend using a random selection process. A charter school shall not charge tuition to students who reside in the school district.**
- (b) **A charter school shall allow any student who was enrolled in the school in the immediately preceding school year to enroll in the charter school in the appropriate grade unless the appropriate grade is not offered at the charter school.**
- (c) **A charter school may give enrollment priority to a sibling of a student enrolled in the charter school.**
- (d) **If available space permits, a charter school may enroll non-resident students. The terms and condition of the enrollment shall be outlined in the school's charter and approved by the Commissioner.**

- (e) **The charter school’s admission policy shall seek, to the maximum extent practicable, the enrollment of a cross section of the community’s school-age population, including racial and academic factors.**
- (f) **A charter school may seek approval from the Commissioner to establish a weighted lottery that favors educationally disadvantaged students, including, but not limited to, students who are economically disadvantaged, students with disabilities, migrant students, limited English proficient students, neglected or delinquent students, or homeless students, in an effort to better represent a cross section of the community’s school-age population.**

6A:11-[4.5]4.6 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]4.7 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.

(b) A charter school may enroll students in preschool if the district has a State-funded preschool program. Preschool students shall enroll in kindergarten at the school as returning students and shall not re-enter the lottery.

6A:11-[4.7]4.8 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 Student Learning Standards 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]4.9 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]4.10 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 **and 10.2.**

6A:11-[4.10]4.11 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~~4.12 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] **post** a copy of all meeting notices and meeting minutes to the [respective executive county superintendent of schools] **school's website**.
- (d) The board of trustees shall include a report on changes in student enrollment in the monthly minutes.

6A:11-~~4.12~~4.13 Equity in education

A charter school shall comply with all applicable laws and regulations governing equity in education including, but not limited to: N.J.S.A. 18A:36-20; N.J.S.A. 10:5-1 et seq.; N.J.A.C. 6A:7, Managing for Equality and Equity in Education; Titles VI and VII of the Civil Rights Act of 1964 at 42 U.S.C. §§ 2000d et seq. and 2000e et seq., respectively; Title IX of the Education Amendments of 1972 at 20 U.S.C. §§ 1681 et seq.; Section 504 of the Rehabilitation Act of 1973 at 29 U.S.C. § 792; the Americans with Disabilities Act of 1990 at 42 U.S.C. §§ 12101 et seq.; and the Individuals with Disabilities Education Act of 2004 at 20 U.S.C. §§ 1400 et seq., and 34 C.F.R. 300 et seq.

6A:11-[4.13]4.14 Financial operations of a charter school

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

6A:11-[4.14]4.15 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.

6A:11-4.16 Sports programs

If a secondary charter school does not offer the particular sport in which one of its full-time students wishes to participate, the student may participate in the sport at his or her school of residence upon agreement of both principals, regardless of the number of sports programs offered at the charter school.

6A:11-4.17 Facilities

- (a) **Pursuant to N.J.S.A. 18A:36A-10, a charter school shall not use public funds other than Federal funds for the construction of a facility. However, a charter school may**

use State and local funds for the rehabilitation or expansion of a facility, provided the charter school submits to the Department a statement assuring adequate funds are allocated to the classroom, pursuant to N.J.A.C. 6A:23A-22.4(d).

- (b) A charter school may operate more than one satellite campus in its district or region of residence, subject to charter amendment approval, pursuant to N.J.A.C. 6A:11-2.6.**

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:9B-5.1, **11.12, or 12.5.**
- (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:9B-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:9B-[11.7]**12.7** and 6A:23A to oversee fiscal operations of the charter school.

**N.J.A.C. 6A:23A, FISCAL ACCOUNTABILITY, EFFICIENCY
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CHAPTER 23A, FISCAL ACCOUNTABILITY, EFFICIENCY

AND BUDGETING PROCEDURES

SUBCHAPTER 16. DOUBLE-ENTRY BOOKKEEPING AND GAAP ACCOUNTING

6A:23A-16.8 Petty cash fund

- (a) Pursuant to the provisions of N.J.S.A. 18A:19-13, a district board of education or charter school board of trustees may establish [on July 1 of each year, or as needed,] **policies for the annual allocation of** a petty cash fund or funds for the purpose of making immediate payments of comparatively small amounts.
- (b) A district board of education or charter school board of trustees establishing a petty cash fund shall:
1. Indicate the amount or amounts authorized for each fund;
 2. Set the maximum expenditure that may be made from each fund;
 3. Designate an employee who shall be responsible for the proper disposition of each fund;
 4. Establish the minimum time period in which the designated person shall report to the district board of education or charter school board of trustees on amounts disbursed from each fund; and
 5. Approve a voucher prepared by the school business administrator/board secretary to replenish each fund.
- (c) Each person designated per (b)3 above shall ensure that all unused petty cash funds are returned to the depository at the close of each fiscal year.

6A:23A-16.10 Budgetary controls and overexpenditure of funds

- (a) A district board of education or charter school board of trustees shall implement controls over budgeted revenues and appropriations as follows:
1. A district board of education or charter school board of trustees shall only approve an encumbrance or expenditure (liability or payment) that, when added to the total of existing encumbrances and expenditures, does not exceed the amount appropriated by the district board of education or charter school board of trustees in the applicable line item account established pursuant to the minimum chart of accounts referenced in N.J.A.C. 6A:23-2.2(g)1.
 2. A district board of education or charter school board of trustees shall only approve the recording of revenues when measurable and available, in accordance with GAAP, unless otherwise authorized pursuant to N.J.S.A. 18A:22-44.2(a). State aid and tax levy approved in the budget certified for taxes shall be recorded in full as of July 1. State restricted and unrestricted grants shall be recorded in full upon signing and execution of the grant agreement or as otherwise directed by the grantor.
 3. When a district board of education or charter school board of trustees adopts an expanded chart of accounts pursuant to N.J.A.C. 6A:23-2.2(g)2, such district board of education or charter school board of trustees shall adopt a policy concerning the controls over appropriations for line item accounts that exceed the minimum level of detail established pursuant to N.J.A.C. 6A:23-2.2(g)1. If a district board of education or charter school board of trustees fails to adopt such a policy, such school district shall apply the restrictions contained in (a)1 above to line item accounts that exceed the minimum level of detail.
 4. A district board of education or charter school board of trustees, unless otherwise restricted by law or Commissioner directive, may transfer amounts from line item

accounts with available appropriation balances to permit the approval of encumbrances or expenditures otherwise prohibited in (a)1 and 3 above. A district board of education or charter school board of trustees shall make these transfers prior to the approval of such encumbrances or expenditures. A district board of education or charter school board of trustees shall make all transfers in accordance with N.J.S.A. 18A:22-8.1, 18A:22-8.2, 18A:7F-6.c, and 18A:7G-31 and N.J.A.C. 6A:23-2.11, 2.13 and 2.14.

(b) A district board of education or charter school board of trustees incurring or projecting a year-end deficit on a budget basis in the general fund, capital projects fund or debt service fund or for a restricted project in the special revenue fund as designated in N.J.A.C. 6A:23A-16.2(c) shall proceed in the following manner:

1. The district board of education or charter school board of trustees shall direct the chief school administrator, or charter school lead person, to notify the executive county superintendent [of schools], **or the Department in the case of charter schools**, within two working days, of the following:
 - i. The projected amount of the overexpenditure/deficit; and
 - ii. The preliminary findings of the conditions that caused the projected or actual overexpenditure/deficit.
2. The district board of education or charter school board of trustees shall develop, and adopt at a public meeting, an acceptable corrective action plan to eliminate the projected/actual fund deficit within 30 days of the discovery of such fund deficit, but in no circumstance more than 30 days after completion of the CAFR for that year. The corrective action plan shall include:
 - i. The projected or actual amount of the fund deficit;
 - ii. A detailed list of the line items and the actual or projected deficit amount comprising the overall fund deficit;

- iii. The conditions producing the deficit; and
 - iv. The corrective actions taken or to be taken to correct or prevent the deficit and dates or projected dates of such actions.
3. The executive county superintendent, **or the Department in the case of charter schools**, shall immediately notify the Commissioner, in writing, of a school district or charter school with an actual or projected fund deficit and the amount of said deficit.
 4. The office of the executive county superintendent, **or the Department in the case of charter schools**, shall immediately investigate to determine if the corrective action being taken by the district board of education or charter school board of trustees is sufficient to avoid a fund deficit or correct an actual fund deficit. If necessary, the office of the executive county superintendent **or the Department**, shall assist the district board of education or charter school board of trustees in determining what further corrective action can be taken, or request assistance from the Division of Finance.
 5. The executive county superintendent, **or the Department in the case of charter schools**, shall immediately notify the Commissioner, in writing, should it appear that a fund deficit has occurred or may occur and the district board of education or charter school board of trustees is not taking adequate action to avoid the overexpenditure/deficit.
- (c) Each district board of education or charter school board of trustees shall ensure the following occurs at every regular district board of education or charter school board of trustees meeting:
1. The school business administrator/board secretary shall present to the district board of education or charter school board of trustees a report showing all transfers between line item accounts as well as appropriations, adjustments to

appropriations, encumbrances and expenditures for each line item account shown on the budget form prepared in accordance with N.J.S.A. 18A:22-8. This report is in addition to the report required by N.J.S.A. 18A:17-9.

2. The school business administrator/board secretary shall report to the district board of education or charter school board of trustees any changes in anticipated revenue amounts and revenue sources.
3. A district board of education or charter school board of trustees shall obtain a certification from the school business administrator/board secretary each month that the total of encumbrances and expenditures for each line item account do not exceed the line item appropriation in violation of (a) above.
 - i. If a violation has occurred, the district board of education or charter school board of trustees shall, by resolution, approve by a two-thirds affirmative vote of the authorized membership of the board, pursuant to N.J.S.A. 18A:22-8.1, to either transfer amounts among line items if no department approvals are required pursuant to N.J.A.C. 6A:23A-13, or direct the school business administrator/board secretary, or the chief school administrator or charter school lead person, as appropriate, to request approval pursuant to N.J.A.C. 6A:23A-13 to transfer amounts among line items and/or from undesignated fund balance or other unbudgeted or underbudgeted revenue to eliminate the line item account deficit(s). If the latter option is selected, the appropriate official shall provide a detailed report of approvals granted and the subsequent amounts transferred into and out of the affected line item account(s), undesignated fund balance, or other unbudgeted or underbudgeted revenue account for the board's ratification at the next regularly scheduled meeting.
 - ii. As applicable, the school business administrator/board secretary shall

reflect in the minutes of the board, the certification or a detailed account of all transfers and the board's ratification, when this option is selected. The district board of education or charter school board of trustees shall make such transfers in accordance with this subchapter and N.J.S.A. 18A:22-8.1, 18A:22-8.2, 18A:7F-6.c and 18A:7G-31.

4. A district board of education or charter school board of trustees, after review of the school business administrator/board secretary's and treasurer's monthly financial reports and upon consultation with the appropriate school district or charter school officials, shall certify in the minutes of the board each month that no fund has been overexpended in violation of (b) above, and that sufficient funds are available to meet the district board of education's or charter school board of trustee's financial obligations for the remainder of the fiscal year.
 - i. If the district board of education or charter school board of trustees is unable to make such a certification, the board shall direct the chief school administrator or charter school lead person to initiate the steps outlined in (b) above and shall reflect such directive in the minutes of the board.
 - ii. If the district board of education or charter school board of trustees is able to make such certification, but one or more members of the board votes no to the certification, the district board of education or charter school board of trustees shall provide to the executive county superintendent, the board vote, names of members that voted no, and the reason for the no vote.
 - iii. Within 60 days of month-end, or later upon approval of the executive county superintendent, district boards of education subject to N.J.S.A. 18A:7F-6.b, district boards of education that satisfy less than 80 percent of indicators in the fiscal management section of the district performance review located in the Appendix to N.J.A.C. 6A:30 and other district

boards of education [or charter school boards of trustees at the Commissioner's discretion] shall provide a copy of the school business administrator/board secretary's and treasurer's monthly financial reports submitted to the district board of education [or charter school board of trustees] under (c)1 above and as required pursuant to N.J.S.A. 18A:17-9 and 18A:17-36 to the executive county superintendent.

- iv. Within 60 days of the December month-end, or later upon approval of the executive county superintendent, every district board of education shall provide a copy of the school business administrator/board secretary's and treasurer's monthly financial reports submitted to the board of education under (c)1 above and as required pursuant to N.J.S.A. 18A:17-9 and 18A:17-36 to the executive county superintendent.
- v. Within 60 days of the September, December and March month end, every charter school board of trustees shall provide **to the Department** a copy of the monthly financial reports submitted to the board of trustees under (c)1 above and as required pursuant to N.J.S.A. 18A:17-9 and 18A:17-36 [to the executive county superintendent] .
- vi. Any school business administrator/board secretary that is more than two months behind in submitting the report pursuant to N.J.S.A. 18A:17-9 to a district board of education [or charter school board of trustees] shall immediately report this noncompliance to the executive county superintendent.

- (d) The executive county superintendent shall report to the Commissioner by August 15, [or for charter schools, 45 days after end of year,] all fund overexpenditures as shown on the June report of the school business administrator/board secretary filed pursuant to N.J.S.A. 18A:17-10.

1. A district board of education [or charter school board of trustees] shall immediately develop and adopt an acceptable remedial plan to address any fund(s) deficits consistent with the provisions of (b) above.
 2. If necessary, the executive county superintendent shall assist the district board of education [or charter school board of trustees] in determining what further action can be taken, or request assistance from the Division of Finance.
 3. The executive county superintendent shall immediately notify the Commissioner, in writing, should it appear that the district board of education [or charter school board of trustees] is not taking adequate action to remediate the fund(s) deficit.
- (e) A district board of education or charter school board of trustees that fails to develop a corrective action plan or fails to take adequate action in order to avoid or remediate an overexpenditure or fund deficit may be subject to the following:
1. Comprehensive review pursuant to N.J.A.C. 6A:30-3, improvement activities pursuant to N.J.A.C. 6A:30-5, or intervention activities pursuant to N.J.A.C. 6A:30-6, as deemed warranted by the Commissioner.
 2. Beginning in the second year following the year in which the projected overexpenditure or fund deficit occurred, a reduction in a district board of education or charter school board of trustees cash payment of State aid by the percentage of the sum of the deficits or projected deficit in any fund to its adequacy budget calculated pursuant to the provisions of N.J.S.A. 18A:7F-51, or, in the case of a charter school, a reduction in the charter school aid. Reductions shall be made in the following descending order:
 - i. Equalization aid;
 - ii. Adjustment aid;
 - iii. Transportation aid;
 - iv. Security categorical aid;

- v. Special education categorical aid;
 - vi. Extraordinary special education cost aid; and
 - vii. Preschool education aid.
3. A district board of education or charter school board of trustees shall apply deficits incurred for State and Federal grant projects, enterprise funds such as the school lunch fund, trust and agency funds and student activity funds, to the balance or deficit of the general fund when such overexpended projects and funds should have been balanced by expenditures from or transfers to that fund.
- (f) In those cases where the Commissioner determines that the failure to develop a corrective action plan or take adequate action in order to avoid or address an overexpenditure or fund deficit impacts upon the school district's ability to meet its goals and objectives, the Commissioner may recommend to the State Board of Education that action be taken pursuant to (b) above as deemed warranted by the Commissioner, or in the case of a charter school that its charter be revoked, pursuant to N.J.S.A. 18A:36A-17.

SUBCHAPTER 22. FINANCIAL OPERATIONS OF CHARTER SCHOOLS

6A:23A-22.4 Financial requirements

- (a) A charter school board of trustees may incur debt for a period no greater than 12 months except:
- 1. During the first year that the charter school is approved when the debt is incurred by the charter school board of trustees for a period no longer than January 15 of the preceding school year to June 30 of the first school year of the charter; and
 - 2. For all other years that the charter school is approved when the debt incurred by the charter school board of trustees for a period of 12 months or greater is:

- i. Fully secured by the value of the real property or other asset, so that the total value of all such debt does not exceed the total appraised value of the property or asset by which the debt is secured; and
 - ii. Non-recourse to the charter school.
- (b) A charter school board of trustees may acquire real property by a lease or a lease with an option to purchase for use as a school facility providing that the charter school board of trustees shall ensure:
 - [1. The term of the lease does not exceed the length of the charter;]
 - [2] 1. The lease contains a provision terminating the obligation to pay rent upon the denial, revocation, non-renewal or surrender of the charter; and
 - [3] 2. The lease does not contain a provision accelerating the obligation to pay rent in the event of default.
- (c) A district board of education shall only transmit State and local public funds to a charter school after the final granting of the charter by the Commissioner has occurred. If funds are withheld pending the final granting of the charter, the district board of education shall pay all withheld funds to the charter school with the first scheduled payment after the effective date of the charter.
- (d) A charter school shall be subject to monitoring by the Commissioner to ensure [that the percentage of school] **adequate** funds [spent in] **are allocated to** the classroom. [is at least comparable to the average percentage of school funds spent in the classroom in all other public schools in the State. The calculation for this percentage in both the annual budget and the Comprehensive Annual Financial Report is based on National Center for Educational Statistics as published by the U.S. Department of Education.]
- (e) If, at any time, the Commissioner denies, revokes or does not renew a school's charter, or a charter school board of trustees surrenders its charter or becomes insolvent, all assets of the charter school board of trustees, after satisfaction of all outstanding claims by

creditors, are subject to equitable distribution by the Commissioner among the participating district of residence and non-resident district(s). A charter school board of trustees shall include a provision in its bylaws concerning distribution of assets upon denial, revocation, non-renewal or surrender of its charter or insolvency of the charter school that is consistent with this rule.

6A:23A-22.6 Public relations and professional services; board policies; efficiency

- (a) Each charter school board shall establish by policy or policies a strategy or strategies in order to minimize the cost of public relations as defined in N.J.A.C. 6A:23A-9.3(c)14, and professional services. The policy or policies shall include, to the extent practicable and cost effective, but need not be limited to, the following provisions:
1. A maximum dollar limit, established annually prior to budget preparation, for public relations, as defined in N.J.A.C. 6A:23A-9.3(c)14, and each type of professional service, with appropriate notification to the board of trustees if it becomes necessary to exceed the maximum. Upon such notification, the board of trustees may adopt a dollar increase in the maximum amount through formal board action;
 2. Establishment of procedures to ensure the prudent use of legal services by employees and board of trustees' members and the tracking of the use of those services.
 3. Charter schools [with] **shall establish procedures to effectively manage** legal costs. [that exceed 130 percent of the Statewide average charter school per pupil amount should establish the following procedures and, if not established, provide evidence that such procedures would not result in a reduction of costs]

Procedures may include:

- i. A limitation on the number of contact persons with the authority to request services or advice from contracted legal counsel;
 - ii. Criteria or guidance to prevent the use of legal counsel unnecessarily for management decisions or readily available information contained in charter school materials such as policies, administrative regulations or guidance available through professional source materials;
 - iii. A provision that requests for legal advice shall be made in writing and shall be maintained on file in the business office and a process to determine whether the request warrants legal advice or if legal advice is necessary; and
 - iv. A provision to maintain a log of all legal counsel contact including name of legal counsel contacted, date of contact, issue discussed and length of contact. Legal bills shall be compared to the contact log and any variances shall be investigated and resolved;
4. A provision that requires that contracts for legal services comply with payment requirements and restrictions pursuant to N.J.S.A. 18A:19-1 et seq. and as follows:
 - i. Advance payments shall be prohibited;
 - ii. Services to be provided shall be described in detail in the contract;
 - iii. Invoices for payment shall itemize the services provided for the billing period; and
 - iv. Payment shall only be for services actually provided;
5. Professional services contracts are issued in a deliberative and efficient manner that ensures the charter school receives the highest quality services at a fair and competitive price or through a shared service arrangement. This may include, but is not limited to, issuance of such contracts through a request for proposals (RFP)

based on cost and other specified factors or other comparable process; and

6. Professional services contracts are limited to non-recurring or specialized work for which the charter school does not possess adequate in-house resources or in-house expertise to conduct.
 - i. Charter schools are prohibited from contracting with legal counsel or using in-house legal counsel to pursue any affirmative claim or cause of action on behalf of charter school administrators and/or any individual board members for any claim or cause of action in which the damages to be awarded would benefit an individual rather than the charter school as a whole.
 - ii. Charter school publications shall be produced and distributed in the most cost-efficient manner possible that will enable the charter school to inform and educate the target community. The use of expensive materials or production techniques where lower cost methods are available and appropriate, such as the use of multi-color glossy publications instead of suitable, less expensive alternatives, is prohibited.
 - iii. Public relations activities, such as booths at Statewide conferences, marketing activities and celebrations for opening schools and community events, and TV productions that are not part of the instructional program or do not provide, in a cost-effective way, information about charter school or board operations to the public, that are excessive in nature are prohibited. All activities involving promotional efforts to advance a particular position on elections or any referenda are prohibited.
 - iv. Nothing in this section shall preclude boards of trustees from accepting donations or volunteer services from community members, local private education foundations and local business owners to conduct or assist in

public relations services. Examples include, but are not limited to:

- (1) Providing charter school flyers, newsletters or other materials containing charter school related information of public concern to local businesses, public meeting places or other local organizations to display or make available for dissemination;
- (2) Making charter school related information of public concern available to local newspapers to publish related articles; and
- (3) Utilizing volunteered services of local community members, charter school employees, members of parent organizations or local businesses with expertise in related areas such as printing, advertising, publishing or journalism.

6A:23A-22.15 Approval of amounts paid in excess of approved purchase orders; board policy

- (a) A charter school board shall adopt a policy establishing the approval process for any remittance of payment for invoice amounts greater than the approved purchase order. The policy shall require the school business administrator, **or assistant school business administrator**, to identify, and investigate if necessary, the reason for any increase to a purchase order. If it is found that such an increase is warranted, the school business administrator, **or assistant school business administrator**, shall either approve a revision to the original purchase order with the reason noted, approve the issuance of a supplemental purchase order for the difference, or cancel the original purchase order and issue a new purchase order. If it is found that such an increase is not warranted, the purchase order shall be canceled and the goods returned. In no instance shall an adjustment be made to a purchase order that changes the purpose or vendor of the

original purchase order or a bid award.

(b) Financial systems shall be programmed to:

1. Limit system access so that only appropriate business office staff may make purchase order adjustments;
2. Reject adjustments in excess of any established approval thresholds;
3. Prevent unauthorized changes to be processed;
4. Reject payments where the sum of the invoice amount plus any previous invoices charged to the purchase order exceeds the sum of the original purchase order amount plus any authorized adjustments;
5. Reject duplicate purchase order numbers;
6. Reject duplicate invoice numbers; and
7. Prepare an edit/change report listing all payments made in excess of the originally approved purchase order amount.

(c) The school business administrator shall review on a monthly basis edit/change reports listing all payments made in excess of the originally approved purchase order amount to ensure that all payments made are properly authorized.

N.J.A.C. 6A:26, EDUCATIONAL FACILITIES

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CHAPTER 26. EDUCATIONAL FACILITIES

SUBCHAPTER 7. LAND ACQUISITION, SCHOOL CLOSING, AND LAND DISPOSAL

6A:26-7.5 Approval for the closing of a school facility

- (a) To receive approval for the closing of a school, the district board of education shall provide the Division and the executive county superintendent with the following assurances:
1. The proposed closing is consistent with the school district's approved LRFPP because:
 - i. The school district has demonstrated that sufficient school-building capacity exists to house students for the five years following the closing;
 - or
 - ii. The school district has demonstrated through a feasibility study that the benefits of undertaking new construction outweigh those of rehabilitating the school proposed for closure.
 2. The use of temporary facilities in the remaining schools does not result or increase from an overall facilities shortage caused by the school closing; and
 3. The re-assignment of students to other schools in the school district does not produce, sustain, or contribute to unlawful segregation, separation, or isolation of student populations on the basis of race or national origin.
- (b) A request for approval from the Division for the school closing shall include the recommendation of the executive county superintendent.
- (c) A letter of approval from the Division based on the information in (a) above shall be required before the school's closing.

- (d) The Division shall notify in writing the school district of its determination with respect to the requested school closing, with a copy provided to the executive county superintendent.
- (e) **Starting in August 2017, the Division shall maintain a list of closed, unused, or unoccupied school facilities, consistent with N.J.A.C. 6A:26-2.2, and make it available on the Department's website.**