

Education

Commissioner of Education

Fiscal Accountability, Efficiency, and Budgeting Procedures

Proposed Readoption with Amendments: N.J.A.C. 6A:23A-16 through 22

Authorized By: New Jersey State Board of Education, Kevin Dehmer, Acting Commissioner,
Department of Education.

Authority: N.J.S.A. 18A:4-15, 18A:36A-18, 18A:36C-7, 18A:36C-7, and 18A:46-15.

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

Proposal Number: PRN 2024-056.

Submit written comments by July 5, 2024, to:

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The agency proposal follows:

Summary

The Department of Education (Department) proposes to readopt Subchapters 16 through 22 at N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency, and Budgeting Procedures, with amendments. N.J.A.C. 6A:23A was scheduled to expire on April 6, 2024. As the Department

submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date was extended 180 days to October 3, 2024, pursuant to N.J.S.A. 52:14B-5.1.c(2).

Subchapters 16 through 22 provide for fiscal accountability, financial accounting, and recordkeeping, calculation of tuition for public schools and approved private schools for students with disabilities (APSSDs), residency determination, and the financial operations of charter schools.

The rules at existing Subchapters 16 through 22 previously were codified at N.J.A.C. 6A:23, Finance and Business Services, until the chapter was recodified as N.J.A.C. 6A:23A-16 through 22, effective December 21, 2009. Shortly before the recodification, the Commissioner of the Department (Commissioner) adopted the first two phases of the fiscal accountability rules as N.J.A.C. 6A:23A-1 through 15. The combination of the 22 subchapters resulted in the compilation of all rules concerning the fiscal operations of school districts, charter schools, and APSSDs in one chapter.

Subchapters 16 through 22 are proposed for re-adoption as State Board of Education rules consistent with the original authority that established the rules. The Commissioner also will be proposing a rulemaking for the re-adoption of Subchapters 1 through 15, published elsewhere in this issue of the New Jersey Register.

Proposed amendments throughout the chapter include: replacing references to the “Division of Finance” with “Division of Finance and Business Services,” to reflect the existing name; replacing “Comprehensive Annual Financial Report” with “Annual Comprehensive Financial Report” to reflect the change in the report’s title as required by the Governmental Accounting Standards Board (GASB); adding “renaissance school projects” or “board of trustees” to the applicable rules; and using gender-neutral pronouns in this chapter.

Unless otherwise specified in this Summary, all other amendments are for clarity, grammatical or stylistic improvement, or to update New Jersey Administrative Code cross-references and are not discussed further.

Subchapter 16. Double-Entry Bookkeeping and GAAP Accounting

This subchapter provides the requirements for school district accounting and financial reporting.

N.J.A.C. 6A:23A-16.1 Prescribed System of Double-Entry Bookkeeping and GAAP Accounting

This section requires district boards of education and charter school boards of trustees to maintain a uniform system of financial bookkeeping and reporting consistent with generally accepted accounting principles (GAAP), and the Federal financial accounting terminology and classifications for local and state school systems.

The Department proposes amendments at N.J.A.C. 6A:23A-16.1(b) to update the date reference for the Financial Accounting for Local and State School Systems, so the rule remains up to date. The same amendment is proposed throughout the chapter, where necessary. The Department also proposes to add a reference to the 2024-2025 Uniform Minimum Chart of Accounts for New Jersey Public Schools and Approved Private Schools for Students with Disabilities. The New Jersey Public Schools and Approved Private Schools for Students with Disabilities is a standard system of financial bookkeeping and reporting that is consistent with GAAP. The handbook establishes the minimum chart of accounts for use by school districts, charter schools, renaissance school projects, and APSSDs in the State and is incorporated by reference, as amended and supplemented, to ensure that the required uniform system is

consistent with the most recent editions of the chart, which is published on the Department’s website, at <https://www.nj.gov/education/finance/fp/af/coa/>, and updated annually.

N.J.A.C. 6A:23A-16.2 Principles and Directives for Accounting and Reporting

This section requires school districts and charter schools to follow accounting and reporting directives prepared, published, and distributed by the Commissioner. The section also establishes criteria for the required system of accounting and reporting objectives and for the annual budget and monthly financial statements and reports. The section further requires each school district and charter school to prepare and publish a Comprehensive Annual Financial Report (CAFR) and to maintain legal reserves.

The Department proposes an amendment at N.J.A.C. 6A:23A-16.2(f)2 to specify that the rule applies to a district board of education that formally adopts a resolution to expand upon the minimum requirements for the budget system. Proposed new N.J.A.C. 6A:23A-16.2(f)2i will require a district board of education or charter school or renaissance school project board of trustees adopting a resolution to expand upon the uniform minimum chart of accounts to follow the budgetary and over expenditure controls pursuant to N.J.A.C. 6A:23A-16.10(a)3. The proposed amendment will ensure that school districts follow the detailed additional policy at N.J.A.C. 6A:23A-16.10 when changing a chart of accounts.

The Department proposes an amendment at N.J.A.C. 6A:23A-16.2(j) to replace “legal reserves as defined at N.J.A.C. 6A:23A-1.2” with the meaning of legal reserves since the term is not defined at N.J.A.C. 6A:23A-1.2.

N.J.A.C. 6A:23A-16.3 Conflicts Between Legal Provisions and GAAP

This section requires a district board of education or charter school board of trustees to provide additional schedules and a narrative in the CAFR when financial statements prepared in accordance with GAAP do not demonstrate legal, State, or Federal compliance.

N.J.A.C. 6A:23A-16.4 Minimum Bond Requirements for Treasurer of School Moneys

This section concerns minimum surety bond requirements for the treasurer of school moneys. The section also requires a district board of education or charter school board of trustees to ensure that an independent school auditor verifies the adequacy of the treasurer's surety bond and includes appropriate comment and a recommendation, if needed, in the annual school audit report.

The Department proposes new N.J.A.C. 6A:23A-16.4(d) to clarify that if a district board of education or charter school or renaissance school project board of trustees eliminates the position of treasurer and delegates responsibilities to another individual, the board is required maintain the same level of insurance coverage related to the performance of the treasurer's functions.

N.J.A.C. 6A:23A-16.5 Supplies and Equipment

This section establishes criteria to distinguish between supplies and equipment for accounting purposes. The section also requires a district board of education or charter school board of trustees that elects to purchase food supplies pursuant to the section to adopt a policy that specifies which supplies can be purchased without advertising for bids. The section also requires the district board of education or charter school board of trustees to follow public bidding procedures for supplies that must be advertised.

The Department proposes an amendment at N.J.A.C. 6A:23A-16.5(d)3 to specify that the person designated to purchase food supplies must maintain – for at least seven years – the

records related to the purchase of food supplies for any school cafeteria or home economics class up to \$500.00 on a monthly basis. The addition of the timeframe will align the regulation with the State's record retention requirements for school districts.

N.J.A.C. 6A:23A-16.6 Mechanical Bookkeeping Systems

This section requires a district board of education or charter school board of trustees that contracts for electronic data processing bookkeeping services to have an annual audit prepared or to obtain and maintain a copy of an audit of the internal controls of the service company or agency as prescribed by Statement of Auditing Standards (SAS) No. 70, as amended by SAS No. 88 of the American Institute of Certified Public Accountants.

The Department proposes an amendment at N.J.A.C. 6A:23A-16.6 to state that the American Institute of Certified Public Accountants produces the Statement of Standards for Attestation Engagement (SSAE) No. 16, Reporting on Controls as Services Organizations.

N.J.A.C. 6A:23A-16.7 Employee Organizational Dues

This section authorizes deductions made from employee's compensation for the purpose of paying dues to a bona fide employee organization and requires the deductions to be submitted to the employee organization. The section also requires school district or charter school employees who select to have payroll deductions of organizational dues to indicate, in writing, their choice of employee organization, which can be withdrawn at any time.

The Department proposes an amendment to the second sentence at N.J.A.C. 6A:23A-16.7(b) to replace how written authorization may be withdrawn with "in accordance with the procedures set forth at N.J.S.A. 52:14-15.9.e." The proposed amendments will align the regulation with changes to the statute.

N.J.A.C. 6A:23A-16.8 Petty Cash Fund

This section permits the use of a petty cash fund(s) for the purpose of making immediate payments of comparatively small amounts. The section also establishes criteria for establishment of petty cash funds.

N.J.A.C. 6A:23A-16.9 Summer Payment Plans

This section authorizes a district board of education or charter school board of trustees to establish a summer payment plan to provide for withholding 10 percent of the salary of 10-month employees during the academic year. The section also requires the district board of education or charter school board of trustees to ensure the amount withheld earns interest and is available to the employee either at the end of the academic year or in installments prior to September 1.

N.J.A.C. 6A:23A-16.10 Budgetary Controls and Over-Expenditure of Funds

This section requires a district board of education or charter school board of trustees to implement controls over budgeted revenues and appropriations and requires any school district or charter school projecting a deficit to follow specific reporting procedures, including the creation of a corrective action plan. The section also requires all district boards of education and charter school boards of trustees to follow detailed financial reporting procedures at every meeting and establishes a timeline for the executive county superintendent to report to the Commissioner any overexpenditure by a school district or charter school. The section further authorizes the Commissioner to reduce State payments to any school district or charter school that fails to implement a corrective action plan.

The Department proposes an amendment at N.J.A.C. 6A:23A-16.10(c)3ii to add a cross-reference to the subchapters regarding transfers, N.J.A.C. 6A:23A-13 and 14.

The Department proposes an amendment at N.J.A.C. 6A:23A-16.10(c)4v to specify that a copy of the monthly financial reports must be provided to the executive county superintendents rather than the Department, in general.

The Department proposes new N.J.A.C. 6A:23A-16.10(g) to set forth rules if the procedures at N.J.A.C. 6A:23A-16.10(b) result in corrective action that is not sufficient to avoid a deficit on a budgetary basis or to correct an actual fund deficit on a budgetary basis. Proposed new N.J.A.C. 6A:23A-16.10(g)1 would allow a district board of education that has an appointed State monitor to apply for an advance of State aid pursuant to N.J.S.A. 18A:7A-56. Proposed new N.J.A.C. 6A:23A-16.10(g)2 would allow a district board of education that does not have an appointed State monitor to apply for Emergency Aid pursuant to the annual Appropriations Act.

N.J.A.C. 6A:23A-16.11 Internal Service Funds

This section describes internal service funds that are used to account for and report any activity that provides goods and services from one department or office to other departments or offices of the district board of education, or to other district boards of education and governmental units, on a cost-reimbursement basis. The section also permits a district board of education providing a shared service within the school district to allocate costs on a user charge or other basis.

The Department proposes an amendment at N.J.A.C. 6A:23A-16.11(a) to add that the section applies to charter school and renaissance school project boards of trustees. Existing N.J.A.C. 6A:23A-16.11(b) and (c) apply to charter school boards of trustees and are being amended to also apply to renaissance school project boards of trustees.

N.J.A.C. 6A:23A-16.12 Student Activity Funds

This section defines student activity funds derived from athletic events or other activities of pupil organizations and requires the funds to be maintained in separate interest-bearing accounts. The section also requires the district board of education or charter school board of trustees to establish activity funds by resolution and to adopt a policy that will ensure appropriate fiscal accountability.

The Department proposes an amendment at N.J.A.C. 6A:23A-16.12(a) to delete the first sentence because the language defines “student activity funds,” which already is defined at N.J.A.C. 6A:23A-1.2. The Department also proposes to replace the description of student activity funds with a reference to the definition in GAAP and to clarify that the funds are generated by student groups for specific uses, such as academic clubs and senior class trips.

The Department further proposes, at N.J.A.C. 6A:23A-16.12(a), to add a fourth sentence stating that the district board of education or charter school or renaissance school project board of trustees is required to establish a policy regarding the use of student activity funds. The Department also proposes new N.J.A.C. 6A:23A-16.12(a)1 and 2 to require the policies to include the student activity fund’s purpose and a timeline for the use of the funds generated, and to authorize the allocation of remaining unexpended funds. The proposed new regulations will ensure that funds will be properly expended in accordance with the policy and will not remain for years.

N.J.A.C. 6A:23A-16.13 School Store Business Practices

This section requires a district board of education or any organization under its auspices to comply with the sales tax rules established by the New Jersey Department of the Treasury’s Division of Taxation when operating a school store or offering goods for sale.

The Department proposes an amendment to add that the section also applies to charter

school and renaissance school project boards of trustees.

N.J.A.C. 6A:23A-16.14 Dismissal or Reassignment of a School Business Administrator

This section requires notice to the executive county superintendent regarding transfer or dismissal of the school business administrator or the elimination of the position.

The Department proposes amendments at N.J.A.C. 6A:23A-16.14(a) and (b) to add that the section also applies to charter school and renaissance school project boards of trustees.

N.J.A.C. 6A:23A-16.15 Appeals

This section provides that Commissioner decisions issued pursuant to this chapter can be appealed to the Appellate Division of the Superior Court. Decisions of the assistant commissioner and executive county superintendent issued pursuant to this chapter can be appealed pursuant to N.J.A.C. 6A:3, Controversies and Disputes.

Subchapter 17. Tuition Public Schools

N.J.A.C. 6A:23A-17.1 Method of Determining Tuition Rates for Regular Public Schools

This section defines the actual cost per student for the calculation of the maximum tuition rate a receiving school district is permitted to charge parents and sending school districts. The section requires the district board of education to apportion expenditures by program category and provides examples of the accounting for various expenditure items. The section also requires the receiving and sending district boards of education to establish, in their contractual agreement, a tentative tuition rate. The section further sets forth how the estimated cost per student must be determined and permits certain district boards of education to change the method of determining their tuition rates, with Commissioner approval.

The Department proposes amendments throughout to replace references to “actual cost per student” with “actual cost per pupil” to align the terminology with the authorizing statutes.

The Department proposes deleting N.J.A.C. 6A:23A-17.1(b)2 because “average daily enrollment” is defined at N.J.A.C. 6A:23A-1.2.

The Department proposes an amendment at N.J.A.C. 6A:23A-17.1(d) to require that a district board of education notify the executive county superintendent and the Office of School Finance prior to March 1 preceding the September of the school year for which the tentative tuition rate is being determined whenever a district board of education determines to change the calculation method. The proposed amendment will ensure the district board of education uses the same method for determining the tentative and certified rates.

The Department proposes an amendment at N.J.A.C. 6A:23A-17.1(e) to clarify that the regulation applies to a receiving district board of education that is approved to use the method at N.J.A.C. 6A:23A-17.1(c)1.

The Department proposes new N.J.A.C. 6A:23A-17.1(e)4xii, xiii, and xiv to add to the list of programs into which expenditures must be allocated for the purpose of calculating district tuition rates. The new rules include the following accounting lines, which were added to the chart of accounts after the passage of P.L. 2007, c. 260 (SFRA): programs for before/after school, summer school, alternative education, and other supplemental at-risk programs; energy, including natural gas, gasoline, and oil; and security, care, and upkeep of grounds, custodial services, and required maintenance of school facilities.

The Department proposes new N.J.A.C. 6A:23A-17.1(f)1i to require the method used to certify the final certified tuition rate to be consistent with the method used to establish the tentative tuition rate at N.J.A.C. 6A:23A-17.1(f). The proposed amendment will clarify that the calculation of the final rate must use the same method that was used to calculate the tentative tuition rate.

The Department proposes amendments at N.J.A.C. 6A:23A-17.1(f)8 to align the rule with N.J.A.C. 6A:23A-14.3, which allows a district board of education to supplement capital and emergency reserve accounts through a resolution between June 1 and June 30. The proposed amendment also will clarify that the resolution must include the dollar amount to be reserved, and that the estimated tuition cost is calculated as the estimated cost per pupil multiplied by the estimated average daily enrollment.

The Department proposes to delete N.J.A.C. 6A:23A-17.1(f)8ii, which requires exclusions from the next budget cap calculation, because the limits on budget increases at N.J.S.A. 18A:7F-5 were amended and the budget cap no longer applies.

N.J.A.C. 6A:23A-17.2 Method of Determining Tuition Rate in a New District Board of Education

This section applies to establishing tuition rates in school districts in their first year of operation. This section requires new district boards of education to submit, for Commissioner approval, tuition rates based on budgeted costs and requires sending district boards of education to pay the approved estimated tuition rates. The section further requires the sending or receiving district board of education to pay for any over- or under-estimate of the tuition rate once the actual certified rate is determined.

The Department proposes to delete the last sentences at N.J.A.C. 6A:23A-17.2(c) and (d) because they apply only to tuition for students in special education classes and are unnecessary and confusing. The payment required in the second sentence of each subsection applies to both regular and special education programs.

N.J.A.C. 6A:23A-17.3 County Vocational School Districts Funding; Public School District Tuition Payments, Post-Secondary Vocational Education Fund Sources

This section permits county vocational school districts (CVSD) to charge tuition to sending school districts within the county and to charge an additional fee to sending school districts from outside the county. The section also permits CVSDs to receive revenue for post-secondary vocational programs provided to post-secondary students who reside within or outside the county.

The Department proposes amendments throughout the section to remove “local public” from all references to “local public school districts” for clarity and accuracy because “school district” is a defined term. Further, all school districts are public, and the rules apply to both local and regional school districts.

The Department proposes to delete N.J.A.C. 6A:23A-17.3(a)3i(3) because it requires a separate calculation for all learning disability program categories for extended-year special education programs. CVSDs have only one tuition rate for special education programs and do not have extended school year programs. Therefore, the existing rule is unnecessary.

N.J.A.C. 6A:23A-17.4 Method of Determining Tuition Rates for County Vocational Schools

This section defines the method to determine the actual cost per student for the tuition rate for a CVSD. The section limits the CVSD tuition rate to the maximum (actual) cost for regular or special education programs, less other revenues received by the CVSD, such as State aid, pension and Social Security payments from the State, prior-year tuition adjustments, and county contributions. The section requires the CVSD to establish, with sending district boards of education, contractual agreements that include a tentative tuition rate. The section also requires a tuition adjustment to account for the difference between the estimated cost and the actual cost.

The Department proposes to delete N.J.A.C. 6A:23A-17.4(a)2 because “average daily enrollment” is defined at N.J.A.C. 6A:23A-1.2.

The Department proposes amendments at N.J.A.C. 6A:23A-17.4(e)3i and iv to reference tuition rates as “regular and special educational programs” rather than learning disability and extended school year programs. CVSDs have only one tuition rate for special education programs.

The Department proposes an amendment at N.J.A.C. 6A:23A-17.4(h) to correct the cross-reference to N.J.A.C. 6A:23A-17.1(f) because the current cross-reference to N.J.A.C. 6A:23A-17.1(e) inaccurately references only one type of calculation, while the tuition adjustments required at N.J.A.C. 6A:23A-17.4(h) apply to all send-receive districts, regardless of which tuition calculation method is used. N.J.A.C. 6A:23A-17.1(f) requires a written contract between the sending and receiving districts to establish a tentative tuition charge.

N.J.A.C. 6A:23A-17.5 County Special Services School Districts Funding; Budget Limitations; Tuition Payments

This section permits the boards of education of county special services school districts (CSSSDs) to receive tuition for students sent by other district boards of education and prevents the CSSSDs from receiving State aid. The section requires CSSSD boards of education to calculate tuition rates for individual special education programs and permits the CSSSD to charge a fee to sending school districts outside the county. The section also specifies tuition to the CSSSD will be transferred directly from the Department and the sending school district’s State aid will be reduced accordingly.

The Department proposes an amendment at N.J.A.C. 6A:23A-17.5(a)2ii(1) to delete the reference to one tuition rate for all programs for the regular school year because CSSSDs are required to determine different rates for each program and cannot charge a single rate for all programs.

N.J.A.C. 6A:23A-17.6 Calculation of the Maximum General Fund Budget Net of County Contribution and Maximum Average Tuition Rate

This section defines items the CSSSD must include in its general fund budget for the determination of the tuition rate. The section also limits the tuition charges to the maximum average tuition rate per pupil (maximum tuition revenues divided by average daily enrollment).

The Department proposes to amend the section's heading to "Calculation of estimated tuition rates for county special services school districts" to more accurately reflect the section's contents and to delete inappropriate uses of "maximum."

The Department proposes, throughout N.J.A.C. 6A:23A-17.6(b) and 17.7(c), to replace "maximum" with "estimated" when referring to the amounts calculated pursuant to this section.

N.J.A.C. 6A:23A-17.7 Method of Determining Tuition Rates for County Special Services Schools

This section defines the method of determining the actual cost per student for determining a CSSSD's tuition rate. The section requires the CSSSD to exclude, from the actual cost calculation, certain revenues, including costs for programs funded by other sources (county contributions, Medicaid reimbursements, etc.) and expenditures not associated with specific programs for the sending school districts. The section also requires the CSSSD to allocate funds by program category, according to Commissioner-provided workpapers. Similar to previous sections for other school districts, this section requires the CSSSD to establish tentative tuition rates by contractual agreements with sending district boards of education and to ultimately adjust payments according to the CSSSD's actual costs.

Subchapter 18. Tuition for Private Schools for Students with Disabilities

The rules in this subchapter provide the methodology for calculation of tuition charged by APSSDs. The rules also establish non-allowable costs and audit requirements.

N.J.A.C. 6A:23A-18.1 Scope and Purpose

This section states that the subchapter establishes requirements for accounting, financial reporting, and tuition rate setting by APSSDs. The rules also set forth processes and procedures, including, but not limited to, new school applications, non-allowable costs, and audit requirements.

N.J.A.C. 6A:23A-18.2 Definitions

The section defines terms used in the subchapter.

N.J.A.C. 6A:23A-18.3 Tuition Rate Procedures

This section provides the methodology for calculation of tuition rates charged by APSSDs. The Department sets a tentative payment rate for APSSDs based on audited costs of the preceding school fiscal year and then adjusts the rate based on a reconciliation of the allowable spending of each APSSD. Tuition is based on actual allowable costs plus a percentage profit (for-profit APSSDs) or percentage increase in working capital (nonprofit APSSDs). The Department notifies APSSDs and school districts of a maximum tentative tuition rate for the ensuing school year. Further, this section allows APSSDs to charge one tuition rate per school location or separate tuition rates by class type and by school location. An APSSD that charges a rate by class type is required to maintain bookkeeping and accounting records by class type and school location.

N.J.A.C. 6A:23A-18.4 New Approved Private Schools for Students with Disabilities

This section provides the framework for establishing a new APSSD. Prospective applicants must file with the Office of Special Education an application to establish an APSSD, complete and file appropriate documentation, and obtain Commissioner approval prior to

operating as an APSSD. This section also establishes requirements for the minimum number of public school placement students for new schools and previously approved APSSDs.

N.J.A.C. 6A:23A-18.5 Bookkeeping and Accounting

This section establishes requirements for accounting and financial reporting by APSSDs. The section also specifies recordkeeping and requires APSSDs to prepare quarterly financial reports in a format prescribed by the Commissioner and submit the reports to the APSSD governing body for acceptance. The section also establishes criteria for when APSSDs may provide merit- or contingent-pay increases. This section sets forth rules on how APSSDs account for the costs of retirement plans or the timing of compensation increases.

N.J.A.C. 6A:23A-18.6 Non-Allowable Costs

This section provides a lengthy, yet non-exhaustive, list of 73 types of non-allowable costs that APSSDs cannot include in the calculation of the certified actual cost per student that affects the final tuition rate the APSSD is permitted to charge New Jersey school districts and State agencies.

N.J.A.C. 6A:23A-18.7 Surcharge

This section allows for-profit APSSDs to charge a tuition rate that includes an annual surcharge up to 2.5 percent of the APSSD's allowable actual costs.

N.J.A.C. 6A:23A-18.8 Public School Placement Restricted Working Capital Fund

This section allows nonprofit APSSDs to establish a working capital fund and requires the balance to not exceed 2.5 percent of the school's actual allowable costs.

N.J.A.C. 6A:23A-18.9 Calculation of Student Attendance

This section prescribes student attendance recordkeeping.

N.J.A.C. 6A:23A-18.10 Audit Requirements

This section sets forth requirements for audits of annual financial statements by independent registered municipal accountants of New Jersey or an independent certified public accountant of New Jersey. The section also provides rules related to the audited tuition rate versus the tentative tuition rate.

N.J.A.C. 6A:23A-18.11 Appeals

This section provides that decisions of the assistant commissioner of the Division of Administration and Finance regarding the calculation or approval of tentative tuition rates and conditional approval status made pursuant to the subchapter can be appealed in accordance with N.J.A.C. 6A:3, Controversies and Disputes. This section also provides that Commissioner decisions regarding new APSSDs may be appealed in accordance with N.J.A.C. 6A:4, Appeals.

N.J.A.C. 6A:23A-18.12 Roundtable Work Group

This section authorizes the Commissioner, or the Commissioner's designee, to establish a work group for the primary purpose of discussing issues that impact APSSDs.

N.J.A.C. 6A:23A-18.13 Out-of-State Approved Private Schools for Students with Disabilities

This section sets forth procedures for agreement of tuition rates when a student is sent to an out-of-State APSSD or to a facility approved by the New Jersey Department of Human Services.

N.J.A.C. 6A:23A-18.14 Inspection of Records

This section requires financial and accounting records of an APSSD or records maintained by the APSSD, or by a related party for records that pertain to a transaction between the related party and the APSSD, to be available for review and audit by the Commissioner or the Commissioner's designee. The section also requires all auditor workpapers used in the preparation of the year-end audited financial statements to be available for review by the Commissioner or the Commissioner's designee.

N.J.A.C. 6A:23A-18.15 Fiscal Monitoring of Approved Private Schools for Students with Disabilities and Corrective Action Plans

This section provides for fiscal monitoring of APSSDs and corrective action plans when the Department has identified noncompliance.

N.J.A.C. 6A:23A-18.16 Fiscal and Budget Information

This section requires APSSDs to submit to the Department specified annual fiscal information. This section also requires an affidavit by the APSSD's owners/operators that they are aware of the non-allowable costs at N.J.A.C. 6A:23A-18.5 and the costs charged as allowable costs in the APSSD tuition rate are consistent with the individualized education program of a student with disabilities and are reasonable (that is, ordinary and necessary and not in excess of the cost that would be incurred by an ordinary prudent person in the administration of public funds). The section also requires the Department to publish, annually, an APSSD spending guide. The section further requires an APSSD to have available, upon the Department's request, a copy of the board of director's minutes or, for a partnership, the minutes of the partners meetings.

N.J.A.C. 6A:23A-18.17 Failure to Comply with the Department Directives

This section allows the Department to place an APSSD on conditional approval status if the school fails to comply with Department directives, such as failure to refund tuition as a result of a Department audit.

N.J.A.C. 6A:23A-18.18 Sale of Assets of an Approved Private School for Students with Disabilities

This section requires an APSSD that sells its assets to a new or existing APSSD to provide the Department with a copy of the sale agreement, the allocation of purchase price, and a

financial report within 90 days of the sale showing asset disposition and any corresponding refund to the sending districts based on the sale of assets.

N.J.A.C. 6A:23A-18.19 Annual Disclosure Statement

This section establishes the procedures an APSSD must follow in submitting annual disclosure statements to the Department.

N.J.A.C. 6A:23A-18.20 Nepotism

This section sets forth the requirements for APSSDs to establish policies regarding nepotism and to disclose incidents of nepotism to the Department.

N.J.A.C. 6A:23A-18.21 Travel

This section sets forth the requirements for APSSDs to establish policies regarding the use of funds for travel by employees and officials, and details travel-related costs that are not permitted to be included in the calculation of the actual cost per pupil.

N.J.A.C. 6A:23A-18.22 Behavior Modification

This section requires APSSDs to adopt a policy regarding the types of behavior modification used by the school and includes what the policy shall and shall not include.

N.J.A.C. 6A:23A-18.23 Child Nutrition

This section sets forth the procedures that an APSSD must follow when providing meals to students. and the section also establishes when the cost of providing meals can be included in the certified actual cost per student.

Subchapter 19. Emergency State Aid and Residency Determination

N.J.A.C. 6A:23A-19.1 Emergency Aid

This section sets forth the procedures a school district must follow when applying for emergency aid from the State.

N.J.A.C. 6A:23A-19.2 Method of Determining the District of Residence

This section establishes the criteria for determining the district of residence for financial responsibility for students who are placed in State facilities or placed by State agencies.

The Department proposes an amendment at N.J.A.C. 6A:23A-19.2(a)1 to clarify that “resident enrollment” is the defined term at N.J.S.A. 18A:7F-45.

The Department proposes an amendment at N.J.A.C. 6A:23A-19.2(a)3 to shift financial responsibility to the State for subsequent years after a child resides in a domestic violence shelter, homeless shelter, or transitional living facility that is outside the district of residence for more than one year. The proposed amendment will align the rule with P.L. 2017, c. 83, and P.L. 2012, c. 80, which amended N.J.S.A. 18A:7B-12.d.

The Department proposes an amendment at N.J.A.C. 6A:23A-19.2(g) to align the rule with statutes N.J.S.A. 18A:7B-12 and 18A:38-1.d for determining residency, and is further amended to differentiate between this rule and the proposed amendments at N.J.A.C. 6A:23A-19.2(a)3 to clarify that the new school district is responsible for the student’s educational costs pursuant to N.J.A.C. 6A:23A-19.2(g) only when the State has not been deemed responsible pursuant to N.J.A.C. 6A:23A-19.2(a)3.

N.J.A.C. 6A:23A-19.3 Address Submission for Determining the District of Residence

This section establishes how financial responsibility for a student’s education is assigned based on the address of the child’s parent(s) or guardian(s), the address of the resource family home parents, or the State.

The Department proposes an amendment at N.J.A.C. 6A:23A-19.3(a)1 to shift the district of residence for a student in a family resource home from the school district in which the resource family parents reside to the district of residence of the parent or guardian with whom

the child lived prior to the most recent placement for students placed after the law's effective date, September 9, 2010. The district of residence remains the school district in which the resource family parents reside for students placed prior to that date. The proposed amendments will align the rule with P.L. 2010, c. 69 (N.J.S.A. 18A:7B-12.a).

Subchapter 20. Purchase and Loan of Textbooks

N.J.A.C. 6A:23A-20.1 Eligibility

This section requires a district board of education in which a nonpublic school is located to purchase and loan, without charge, textbooks to students who are State residents and attend nonpublic schools situated in the school district.

N.J.A.C. 6A:23A-20.2 Responsibility of the District Board of Education

This section requires the school district to distribute textbooks on an equitable basis and without discrimination to both public and nonpublic students, pursuant to N.J.S.A. 18A:58-37.1 et seq.

N.J.A.C. 6A:23A-20.3 Individual Requests

This section sets forth the process by which a nonpublic school requests textbooks from the school district. The section also states that requests are due on or before March 1 preceding the school year.

N.J.A.C. 6A:23A-20.4 Ownership and Storage of Textbooks

This section requires a school district to maintain the ownership of textbooks and the responsibility for their receipt and inventory. The section also permits the district board of education to require the return of the textbooks at the end of the school year or to enter into an agreement with a nonpublic school to store the books.

N.J.A.C. 6A:23A-20.5 Accounting Entries

This section permits a district board of education to include, on school district financial statements, the cost of freight or postage in expenditures for the purchase of textbooks. The section also requires the district board of education to enter the cost of textbooks for public school students in the general expense fund and the cost of textbooks for nonpublic students in the special revenue fund in the minimum charter of accounts.

The Department proposes an amendment at N.J.A.C. 6A:23A-20.5(b) to state that the cost of electronic textbooks shall be treated in the same manner.

N.J.A.C. 6A:23A-20.6 Charge for Textbook Loss or Damage

This section allows each district board of education to make reasonable rules and regulations governing the loan of textbooks to both public and nonpublic school students. The section allows the district board of education's rules and regulations to require student reimbursement to the district board of education for damage, loss, or destruction of the loaned textbooks.

Subchapter 21. Management of Public School Contracts

N.J.A.C. 6A:23A-21.1 Change Orders and Open-End Contracts

This section sets forth procedures for use of change orders.

The Department proposes an amendment at N.J.A.C. 6A:23A-21.1(a)4 to require the authority, responsibility, and required procedures to be clearly spelled out in advance, by resolution, when a district board of education's or charter school board of trustees' authority is to be exercised by a school official. The proposed amendment will replace vague language and clarify that the best practice is required.

The Department proposes an amendment at N.J.A.C. 6A:23A-21.1(e)2ii to state that the contract is for "professional services," as defined at N.J.S.A. 18A:18A-2.h, for clarity.

The Department proposes amendments at N.J.A.C. 6A:23A-21.1(f)1 to clarify when a purchase can be made under an existing open-ended contract and when a change order is necessary.

N.J.A.C. 6A:23A-21.2 Acceptance of Bonds under the Public School Contracts Law

This section provides requirements related to performance, bid, and/or labor and material bonds.

N.J.A.C. 6A:23A-21.3 Public Sale of Bonds

This section sets forth procedures related to public sale of bonds.

The Department proposes to amend N.J.A.C. 6A:23A-21.3(a) and (b) and 21.6 to delete the references to the Local Finance Board and the Department of Community Affairs because the adopting authority of the cross-referenced rules is not necessary.

N.J.A.C. 6A:23A-21.4 Contracts for Behind-the-Wheel Driver Education

This section establishes procedures regarding award of contracts for behind-the-wheel-driver education.

N.J.A.C. 6A:23A-21.5 Joint Purchasing Systems

This section allows a district board of education or charter school board of trustees to establish, by resolution, joint purchasing systems pursuant to N.J.S.A. 40A:11-11 and upon approval of the Director of the Division of Local Government Services in the Department of Community Affairs.

N.J.A.C. 6A:23A-21.6 Multi-Year Leasing

This section requires a district board of education or charter school board of trustees to execute multi-year leases only as authorized by the Public School Contracts Law and in accordance with N.J.A.C. 5:34-3.

Subchapter 22. Financial Operations of Charter Schools

N.J.A.C. 6A:23A-22.1 Definitions

This section establishes that the words and terms used in the subchapter are defined at N.J.A.C. 6A:23A-15.1.

The Department proposes an amendment to amend the cross-reference to include N.J.A.C. 6A:23A-1.2.

N.J.A.C. 6A:23A-22.2 Bookkeeping and Accounting for Charter Schools

This section requires charter schools to comply with GAAP and other requirements and provisions at N.J.A.C. 6A:23A-16.

N.J.A.C. 6A:23A-22.3 Certification

This section requires charter schools to employ, or contract with, a person who holds a New Jersey standard or provisional school business administrator certificate to oversee the charter school's fiscal operations.

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

This section limits the amount of time a charter school can incur debt, permits the charter school board of trustees to lease property for use as a school facility, and requires the charter school be granted a charter by the Commissioner before it can receive any payments from a district board of education. The section also requires the charter school's share of per pupil expenditures for classroom instruction to be comparable to the average share of classroom instruction expenditures for other public schools in the State. The section further requires charter school boards of trustees' bylaws to include provisions for the distribution of assets upon insolvency or non-renewal of the charter school charter.

N.J.A.C. 6A:23A-22.5 Public School Contract Law

This section requires charter schools to comply with the Public School Contracts Law.

N.J.A.C. 6A:23A-22.6 Public Relations and Professional Services; Board Policies; Efficiency

This section requires each charter school board of trustees to establish, by policy(ies), a strategy(ies) to minimize the cost of public relations, as defined at N.J.A.C. 6A:23A-9.3(c)14, and professional services.

N.J.A.C. 6A:23A-22.7 Charter School Response to Office of Fiscal Accountability and Compliance (OFAC) Investigation Report

This section requires a charter school that has been subject to an audit or investigation by the Department's Office of Fiscal Accountability and Compliance (OFAC) to discuss the findings of the audit or investigation at a public meeting of the charter school board of trustees no later than 30 days after receipt of the findings.

N.J.A.C. 6A:23A-22.8 Verification of Payroll Check Distribution

This section requires all charter schools to verify payroll at least once every three years.

N.J.A.C. 6A:23A-22.9 Board of Trustees Expenditures for Non-Employee Activities, Meals, and Refreshments

This section provides the allowable and prohibited expenditures for non-employee activities, meals, and refreshments.

N.J.A.C. 6A:23A-22.10 Nepotism Policy

This section requires charter school boards of trustees to implement a nepotism policy that prohibits certain administrators from hiring or supervising a relative. The section also prohibits certain charter school administrators from negotiating or voting on any contract when their relative is a member of the affected collective bargaining unit.

N.J.A.C. 6A:23A-22.11 Contributions to Board Members and Contract Awards

This section requires charter schools to establish policies and procedures to ensure the maintenance of honest and ethical relations with vendors and to guard against favoritism.

The Department proposes to amend N.J.A.C. 6A:23A-22.11(a) to replace the reference to the public law with a reference to the statute where the definitions appear because the statute has been amended twice, most recently at P.L. 2023, c. 30. The Department also proposes, throughout the section, to delete the public law references because the corresponding statutes also were amended pursuant to P.L. 2023, c. 30.

N.J.A.C. 6A:23A-22.12 Internal Controls

This section requires charter schools to establish specific policies and procedures on internal controls to promote operational efficiency and effectiveness, provide reliable financial information, and safeguard assets and records.

N.J.A.C. 6A:23A-22.13 Segregation of Duties; Organization Structure

This section requires charter schools to segregate duties of all financial processes among business office staff based on available charter school resources, assessed vulnerability, and the associated cost-benefit.

N.J.A.C. 6A:23A-22.14 Standard Operating Procedures (SOPs) for Business Functions

This section requires charter schools to establish standard operating procedures (SOPs) for each task or function of the charter school's business operations.

The Department proposes to amend N.J.A.C. 6A:23A-22.14(b)5 to separate the specific purchasing tasks in the SOP manual for charter schools. The Department also proposes new N.J.A.C. 6A:23A-22.14(b)5ii to stipulate the requirements for renaissance school project SOP manuals. The two subparagraphs are the same, except renaissance school projects are not subject to bid and quote requirements for purchasing.

**N.J.A.C. 6A:23A-22.15 Approval of Amounts Paid in Excess of Approved Purchase Orders;
Board Policy**

This section requires charter schools to adopt a policy establishing the approval process for a remittance of payment for invoice amounts greater than the approved purchase order. The section includes specific programming requirements for the charter schools' financial systems. The section also requires the school business administrator to review on a monthly basis all change reports made in excess of the originally approved purchase order amount.

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

Social Impact

The rules proposed for readoption with amendments govern essential activities that support the educational process and enhance fiscal accountability. The proposed amendments increase protections in the public interest by clarifying existing rules regarding fiscal accountability, increasing the proportion of instructional costs within APSSD tuition charges, improving the audit process for APSSDs, and ensuring salary limits for APSSDs are consistently applied for all hired staff. The proposed amendments are essential to promote sound administrative practices and provide for the proper expenditure of public funds.

Economic Impact

The rules proposed for readoption with amendments will have a positive impact on public schools, charter schools, renaissance school projects, and APSSDs through the rules' promotion of the proper expenditure of public funds by providing an orderly and efficient method for conducting essential education support activities. The proposed amendments will continue this process and create an overall positive economic impact in terms of the degree of protection and

accountability the rules provide for the proper expenditure of public funds. The rules proposed for readoption with amendments will not require the employment of additional personnel and will not impose a negative economic impact on school districts, charter schools, renaissance school projects, APSSDs, or the State.

Federal Standards Statement

There are no Federal standards or requirements applicable to the rules proposed for readoption with amendment; therefore, a Federal standards analysis is not required.

Jobs Impact

The Department anticipates the rules proposed for readoption with amendments will have no impact upon the generation or loss of jobs in the State. The rules proposed for readoption with amendments concern the fiscal operations of district boards of education, charter school boards of trustees, renaissance school project boards of trustees, and APSSDs.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact upon the agriculture industry in the State. The rules proposed for readoption with amendments concern the fiscal operations of district boards of education, charter school boards of trustees, renaissance school project boards of trustees, and APSSDs.

Regulatory Flexibility Analysis

APSSDs meet the definition of a small business as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. There are 135 APSSDs in New Jersey.

The rules proposed for readoption will continue to require APSSDs to meet reporting, recordkeeping, and other compliance requirements. As in prior years, APSSDs are required to maintain financial records in a manner consistent with GAAP on an accrual basis of accounting

and in accordance with the Uniform Minimum Chart of Accounts for New Jersey Public Schools. The records include, but are not limited to, the following: a cash receipts journal; a cash disbursements journal; a general ledger; a tuition ledger; a payroll journal; and a fixed assets inventory. As in previous years, the rules proposed for readoption allow APSSDs to charge, for the entire school year, one per diem tuition rate that is based on the certified cost per student, which reduces the reporting and recording requirements. As in previous years, the APSSDs are required to file a year-end audit report, which must be prepared by a licensed public school accountant.

The proposed amendments do not impose additional reporting requirements on APSSDs. The proposed amendments may require APSSDs to maintain records for longer than is currently required and imposes deadlines for APSSDs to comply with or respond to requests from the Department. As professional services necessary to comply with the regulatory requirements can be included in the tuition rate charged to a district board of education, the proposed amendments for compliance will not impose a financial burden on APSSDs. The proposed amendments also reduce accounting requirements by increasing the threshold for capitalizing fixed asset expenditures. There are no capital costs associated with the rules proposed for readoption with amendments. As compliance requirements and costs are minimal, there should be no adverse impact on small businesses.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will not have an impact on the affordability of housing in New Jersey. There is an extreme unlikelihood the rules proposed for readoption with amendments will evoke a change in the average costs associated with housing

because the rules proposed for readoption with amendments pertain to the fiscal operations of school districts, charter schools, renaissance school projects, and APSSDs.

Smart Growth Development Impact Analysis

There is an extreme unlikelihood the rules proposed for readoption with amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because the rules proposed for readoption with amendments pertain to the fiscal operations of school districts, charter schools, renaissance school projects, and APSSDs.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

There is an extreme unlikelihood the rules proposed for readoption with amendments would have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State because the rules proposed for readoption with amendments pertain to the fiscal operations of school districts, charter schools, renaissance school projects, and APSSDs. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 6A:23A-16 through 22.

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

Subchapter 16. Double-Entry Bookkeeping and GAAP Accounting

6A:23A-16.1 Prescribed system of double-entry bookkeeping and GAAP accounting

- (a) Each district board of education and charter school **and renaissance school project** board of trustees shall maintain a uniform system of financial bookkeeping and reporting.
- (b) Each district board of education and charter school **and renaissance school project**

board of trustees shall ensure that the uniform system is fully consistent with [the “generally accepted accounting principles” (henceforth referred to as “[GAAP[”]), as set forth in the Governmental Accounting and Financial Reporting Standards Original Pronouncements, published annually by the Governmental Accounting Standards Board (GASB; 401 Merritt 7, PO Box 5116, Norwalk CT), incorporated herein by reference, as amended and supplemented, and is compatible with the financial accounting terminology and classifications established in the Federal accounting manual, Financial Accounting for Local and State School Systems, 2014 Edition, by [the National Center for Education Statistics (NCES; K Street NW, Washington, DC 20006)], incorporated herein by reference, as amended and supplemented, as prepared, published, and distributed by the Commissioner[, as required by] **in accordance with N.J.S.A. 18A:4-14, and the 2024-2025 Uniform Minimum Chart of Accounts for New Jersey Public Schools and Approved Private Schools for Students with Disabilities, which is incorporated herein by reference, as amended and supplemented, and available at <https://www.nj.gov/education/finance/fp/af/coa/>.**

6A:23A-16.2 Principles and directives for accounting and reporting

- (a) Each district board of education and charter school **and renaissance school project** board of trustees shall use accounting and reporting directives as prepared, published, and distributed by the Commissioner, in addition to any books, materials, or bulletins, for the guidance of school officials in establishing and maintaining the double-entry bookkeeping and accounting system mandated in this subchapter.
- (b) Each district board of education and charter school **and renaissance school project** board of trustees shall develop a system of accounting and reporting objectives that

makes it possible to:

1. Present fairly and with full disclosure [the] **all** funds and activities of the district board of education [and] **or** charter school **or renaissance school project** board of trustees in conformity with GAAP; and
 2. (No change.)
- (c) Each district board of education and charter school **and renaissance school project** board of trustees shall develop an accounting system that is organized and operated on a fund basis and shall:
1. (No change.)
 2. Establish and maintain [those] funds required by law and sound financial administration. Only the minimum number of funds consistent with legal and operating requirements should be established;
 - 3.-4. (No change.)
- (d) Each district board of education and charter school **and renaissance school project** board of trustees shall adopt an annual budget and shall include the adopted annual budget in the minutes of the board.
1. A district board of education or charter school **or renaissance school project** board of trustees shall develop a detailed budget statement, which includes the classification of expenditures by program and function and is prepared on a fund basis in accordance with N.J.S.A. 18A:22-8 and on a form prescribed by the Commissioner.
 2. A district board of education or charter school **or renaissance school project** board of trustees shall prepare a detailed budget for each special project, each

capital project as separately identified in a referendum, and each Federal or State grants and maintain the detailed budget, along with all authorized revisions, on file in the [district board of education or charter school board of trustees'] **central** business office.

3. Each district board of education and charter school **and renaissance school project** board of trustees shall take appropriate action, as necessary, to maintain a balanced budget.
- (e) Each district board of education and charter school **and renaissance school project** board of trustees shall ensure that the accounting system provides the basis for appropriate budgetary control.
- (f) Each district board of education and charter school **and renaissance school project** board of trustees shall use common terminology and classification consistently throughout the budget, accounts, and financial reports of each fund, and shall adopt a **prepared** chart of accounts [prepared in conformity] **that conforms** with the following:
1. Each district board of education and charter school **and renaissance school project** board of trustees shall use, for financial reporting to the Department [of Education], [a uniform minimum chart of accounts] **the 2024-2025 Uniform Minimum Chart of Accounts for New Jersey Public Schools** published and distributed by the Commissioner consistent with **the** Financial Accounting for Local and State School Systems, 2014 Edition, developed by [the National Center for Education Statistics ([NCES]); K Street NW, Washington DC 20006[]], incorporated herein by reference, as amended and supplemented, **in accordance with N.J.S.A. 18A:4-14.**

2. A district board of education or charter school **or renaissance school project** board of trustees [wishing] **that formally adopts a resolution** to expand upon the minimum requirements for the budget system [established in] **at (f)1** above shall:
[compile]

i. Be subject to the budgetary and over expenditure controls pursuant to N.J.A.C. 6A:23A-16.10(a)3;

ii. Compile budget data in the expanded and minimum format each month and at the end of the fiscal year[,]; and [shall use]

iii. Use, for such expanded systems, the Financial Accounting for Local and State School Systems, developed by NCES, as published and distributed by the Commissioner.

3. A district board of education and charter school **and renaissance school project** board of trustees shall approve and adopt any modifications to the chart of accounts, and shall ensure [conformance of] the modifications [to] **conform with** the standards [established in] **at (f)1** and 2 above.

(g) Each district board of education and charter school **and renaissance school project** board of trustees shall establish an adequate internal control structure and procedures for financial reporting.

(h) Each district board of education and charter school **and renaissance school project** board of trustees shall prepare monthly financial statements and reports of financial condition, operating results, and other pertinent information, in accordance with directions issued by the Commissioner, to facilitate management control of financial operations, legislative oversight, and, where necessary or desired, for external reporting

purposes.

- (i) Each district board of education and charter school **and renaissance school project** board of trustees shall prepare and publish [a Comprehensive Annual Financial Report (henceforth referred to as CAFR)] **an ACFR** in compliance with the standards set forth by the Government Accounting and Financial Reporting Standards Original Pronouncements, incorporated herein by reference, as amended and supplemented, as prepared, published, and distributed by [the Governmental Accounting Standards Board (GASB[401 Merritt 7, PO Box 5116, Norwalk CT 06856-5116)] and GAAP, covering all activities of the district board of education or charter school **or renaissance school project** board of trustees. The district board of education and charter school **and renaissance school project** board of trustees shall ensure that the [CAFR] **ACFR** includes, but is not limited to: an introductory section; basic financial statements; required supplementary information; schedules, narrative explanations, and a statistical section. Each district board of education and charter school **and renaissance school project** board of trustees shall use the uniform program as published and distributed by the Commissioner for preparing the [Comprehensive Annual Financial Report] **ACFR**.

1. A district board of education or charter school **or renaissance school project** board of trustees shall cause an audit of the annual financial statements to be made pursuant to N.J.S.A. 18A:23-1 et seq., and shall engage, **to conduct the annual audit**, only a licensed public school accountant [to conduct the annual audit] who has an external peer/quality report performed in accordance with Government Auditing Standards (Yellow Book) by the Comptroller General of the United States (U.S. Government Printing Office, Stop SSOP, Washington, DC

20402-0001). The district board of education or charter school **or renaissance school project** board of trustees shall ensure that the external peer/quality report is completed within the time established by Government Auditing Standards issued by the Comptroller General of the United States unless the accountant or firm can show good cause as to why there is a delay.

2. A district board of education or charter school **or renaissance school project** board of trustees shall require the submission of the most recent external peer/quality report and letter of comment to the district board of education or charter school **or renaissance school project** board of trustees for review and evaluation prior to each appointment of a licensed public school accountant to conduct the annual audit.
 - i. A district board of education or charter school **or renaissance school project** board of trustees shall acknowledge the receipt, review, and evaluation of the external peer/quality report in the public session and minutes in which the district board of education or charter school **or renaissance school project** board of trustees authorizes the engagement of the accountant or firm to perform the audit.
 - ii. A district board of education or charter school **or renaissance school project** board of trustees shall require the submission of an updated external peer/quality report of the **engaged** licensed public school accountant [engaged by the district board of education], within 30 days after the issuance date of the external peer/quality report if such report is issued prior to the date of the audit opinion for the most recent fiscal year.

- iii. In accordance with NJOMB Circular Letter 15-08, Single Audit Policy for Recipients of Federal Grants, State Grants and State Aid, including any amendments or revisions thereto, a district board of education or charter school **or renaissance school project** board of trustees shall ensure that the public school accountant provides a copy of the most recent external peer/quality report to the Department, within 30 days after the initial engagement of a licensed public school accountant or firm and within 30 days after the issuance of a subsequent peer/quality report.
3. A district board of education or charter school **or renaissance school project** board of trustees shall engage a public school accountant during the audit engagement period for non-auditing, management, or other consulting services only if the services comply with the independence standards as established in Government Auditing Standards (Yellow Book) by the Comptroller General of the United States.
4. [A] **The Commissioner may prohibit, for good cause,** a district board of education or charter school **or renaissance school project** board of trustees [may be prohibited for good cause by the Commissioner] from engaging a particular licensed public school accountant, or may [be directed by the Commissioner on] **direct the use of** a process [to be used in] **for** the appointment of a licensed public school accountant. For the purpose of this provision, good cause shall include documented violations of N.J.S.A. 18A:23-1 et seq., reported deficiencies or violations identified through the American Institute of Certified Public Accountants (AICPAs) Peer Review Process as applied by the New Jersey

Society of Certified Public Accountants (NJSCPA), disciplinary action by the State Board of Accountancy or AICPA, or after an investigation by the Department and hearing before the Commissioner or [his or her] **Commissioner's** designee.

5. Documented violations of N.J.S.A. 18A:23-1 et seq. will be reported to the State Board of Accountancy with a recommendation by the Commissioner to cancel the license of the licensed public school accountant. A district board of education or charter school **or renaissance school project** board of trustees [is] **shall be** prohibited from employing any accountant subject to this provision until the State Board of Accountancy makes a determination on the cancellation of the license.

(j) [Each] **Pursuant to N.J.S.A. 18A:4-14, each** district board of education shall[, pursuant to N.J.S.A. 18A:4-14,] maintain [legal reserves as defined at N.J.A.C. 6A:23A-1.2] **restricted fund balance categories stipulated by constitution, external resource providers, or through an enabling law in accordance with GAAP accounting standards** and published by [the Governmental Accounting Standards Board (]GASB[; 401 Merritt 7, PO Box 5116, Norwalk, CT)] for encumbrances, **or legal restrictions imposed or permitted by the State** or [other government-imposed or permitted legal restrictions] **another government**. A district board of education may request approval to establish a legal reserve other than those authorized herein by submitting a written request to the [Office of School Facilities and] **Division of Finance and Business Services** in accordance with the annual audit program.

6A:23A-16.3 Conflicts between legal provisions and GAAP

(a) If financial statements prepared in conformity with GAAP do not demonstrate finance-

related legal and Federal or State contractual compliance, a district board of education or charter school **or renaissance school project** board of trustees shall present such additional schedules and narrative explanations in the [Comprehensive Annual Financial Report] **ACFR** as may be necessary to report its legal compliance responsibilities and accountabilities.

- (b) Each district board of education and charter school **and renaissance school project** board of trustees shall maintain the accounting system on a legal-compliance basis, and shall include sufficient additional records to permit GAAP-based reporting.

6A:23A-16.4 Minimum bond requirements for treasurer of school moneys

- (a) Each district board of education and charter school **and renaissance school project** board of trustees shall use as the minimum requirements for the surety bond for the treasurer of school moneys, such percentage of the current year's school budget as required in the schedule set forth below:

Total School Budget	Minimum Bond Required
Up to \$100,000.00	20 percent of budget (Minimum \$10,000)
\$100,000.01 to \$250,000.00	\$20,000 plus 15 percent of all over \$100,000
\$250,000.01 to \$500,000.00	\$42,500 plus 13 percent of all over \$250,000
\$500,000.01 to \$750,000.00 -	\$75,000 plus eight percent of all over \$500,000
\$750,000.01 to \$1,000,000.00	\$95,000 plus four percent of all over \$750,000
\$1,000,000.01 to \$2,000,000.00	\$105,000 plus two percent of all over \$1,000,000
\$2,000,000.01 to \$5,000,000.00	\$125,000 plus one percent of all over \$2,000,000
\$5,000,000.01 to \$10,000,000.00	\$155,000 plus 1/2 percent of all over \$5,000,000
\$10,000,000.01 and upwards	\$180,000 plus 1/4 percent of all over \$10,000,000

- (b) A district board of education or charter school **or renaissance school project** board of trustees, in fixing such minimum bond, shall round to the nearest \$1,000.
- (c) A district board of education and charter school **and renaissance school project** board of trustees shall ensure that the independent school auditor verifies the adequacy of the treasurer's surety bond, [which is required by] **pursuant to** N.J.S.A. 18A:17-32, and includes appropriate comment and a recommendation, if needed, in the annual school audit report.
- (d) **If a district board of education or charter school or renaissance school project board of trustees eliminates the position of treasurer, the person assuming the duties shall have a bond equal to the treasurer's bond or shall have their bond increased up to the amount of the treasurer's bond.**

6A:23A-16.5 Supplies and equipment

- (a) Criteria to distinguish between supplies and equipment for accounting purposes as prescribed by GAAP pursuant to N.J.A.C. 6A:23A-16.1 and contained in the Financial Accounting for Local and State School Systems, which is established by [the National Center for Education Statistics (]NCES[)], and further specified in the [New Jersey] Department's [of Education's] Uniform Minimum Chart of Accounts for New Jersey Public Schools, is incorporated by reference herein, as amended and supplemented, and on file and may be reviewed at the Office of Administrative Law, Quakerbridge Plaza, Building 9, PO Box 049, Trenton, New Jersey and the Department of Education, PO Box 500, Trenton, New Jersey.
- (b) For the purpose of this section, "food supplies" includes only [those] supplies that are [to be eaten or drunk] **consumable as food or drink** and [those] substances that may enter

into the composition of a food in the operation of a school cafeteria or in a home economics class.

- (c) Whenever any district board of education or charter school **or renaissance school project** board of trustees elects to purchase food supplies pursuant to this section, it shall adopt a policy stating what food supplies will be purchased without advertising for bids, pursuant to N.J.S.A. 18A:18A-5, designating a person(s) [or persons] authorized to purchase food supplies, describing the procedure by which interested vendors may become eligible to submit quotations, and outlining the method by which the district board of education or charter school **or renaissance school project** board of trustees will solicit and accept quotations. A district board of education or charter school **or renaissance school project** board of trustees shall adopt this policy before the opening of school each year, and shall make the policy known to the public.
- (d) A district board of education or charter school **or renaissance school project** board of trustees shall provide definite and uniform specifications governing standards of quality to each eligible vendor from whom quotations are solicited.
1. Each time a purchase of food supplies is to be made, the person(s) designated by the district board of education or charter school **or renaissance school project** board of trustees to purchase food supplies shall solicit quotations from interested, eligible vendors in the manner prescribed in the [adopted district board of education or charter school board of trustees'] policy **adopted in accordance with (c) above**. Quotations for fresh or frozen fruits, vegetables, and meats need not be solicited more than once in any two-week period.
 2. The person(s) designated to purchase the food supplies shall purchase them from

the vendor giving the lowest quotation, unless the person(s) designated [by the district board of education or charter school board of trustees] to purchase food supplies can justify the purchase from one of the other vendors submitting a quotation. The person(s) designated shall retain, **for a minimum of three years**, such justification, together with all quotations received, in permanent record form, which shall be available to school officials, the district board of education or charter school **or renaissance school project** board of trustees, and the Department [of Education] for review and for audit [for a minimum of three years].

3. Contingent upon approval of the district board of education or charter school **or renaissance school project** board of trustees in its adopted policy, the person(s) designated [by the district board of education or charter school board of trustees] to purchase food supplies may purchase food supplies for any school cafeteria or home economics class [to the extent of] **in an amount** not more than \$500.00 in any month without soliciting quotations, provided a statement signed by the purchaser is filed with the invoice indicating the reason why quotations could not be obtained, and shall retain such record for **at least seven years for** review and for audit.

(e) (No change.)

6A:23A-16.6 Mechanical bookkeeping systems

A district board of education or charter school **or renaissance school project** board of trustees **or charter school board of trustees** that contracts for electronic data processing bookkeeping services shall annually have an audit prepared, or obtain a copy of an audit of the internal

controls of the service company or agency and maintain a copy of such audit on file. The audit shall be performed as prescribed by Statement of Standards for Attestation Engagements (SSAE) No. 16, Reporting on Controls at a Service Organization, **as produced by the American Institute of Certified Public Accountants.**

6A:23A-16.7 Employee organizational dues

- (a) Pursuant to [provisions of] N.J.S.A. 52:14-15.9e, any person holding employment with a district board of education or charter school **or renaissance school project** board of trustees in this State may have deductions made from this compensation for the purpose of paying dues to a bona fide employee organization.
- (b) A district board of education or charter school **or renaissance school project** board of trustees shall require that employees desiring payroll deductions of organizational dues indicate, in writing, their choice of employee organization. [Any such] **An employee may withdraw** written authorization [may be withdrawn at any time by filing a notice with the secretary of the district board of education or charter school board of trustees] **in accordance with the procedures set forth at N.J.S.A. 52:14-15.9e.**
- (c) Any [secretary of a] district board of education **secretary** or [employee of a] charter school **or renaissance school project** board of trustees' **employee** responsible for making organizational payroll deductions shall submit to the designated employee organization, **at least on a monthly basis**, all deductions made for such purposes.

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 **or renaissance school project** board of trustees may establish 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 **or renaissance school project** board of trustees establishing a petty cash fund shall:

1. Indicate the [amount or amounts] **amount(s)** authorized for each fund;
- 2.–3. (No change.)
4. Establish the minimum time period in which the designated person shall report to the district board of education or charter school **or renaissance school project** board of trustees on amounts disbursed from each fund; and
5. (No change.)

(c) (No change.)

6A:23A-16.9 Summer payment plan

[A] **In accordance with N.J.S.A. 18A:29-3, a** district board of education or charter school **or renaissance school project** district board of education[, in accordance with N.J.S.A. 18A:29-3,] **or a charter school or renaissance school project board of trustees** shall establish [, in accordance with N.J.S.A. 18A:29-3,] shall establish a summer payment plan to provide for withholding 10 percent of the salary of 10-month employees during the academic year[. The district board of education], **and** shall ensure that the amount withheld earns interest and is available to the employee either at the end of the academic year or in installments prior to September 1.

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

(a) A district board of education or charter school **or renaissance school project** board of trustees shall implement controls over budgeted revenues and appropriations as follows:

1. A district board of education or charter school **or renaissance school project**

board of trustees shall [only] approve an encumbrance or expenditure (liability or payment) **only after ensuring** that, when added to the total of existing encumbrances and expenditures, **the encumbrance or expenditure** does not exceed the amount appropriated by the district board of education or charter school **or renaissance school project** board of trustees in the applicable line item account established pursuant to the minimum chart of accounts referenced [in] **at** N.J.A.C. 6A:23A-16.2(f)1.

2. A district board of education or charter school **or renaissance school project** board of trustees shall approve the recording of revenues only 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] **A** district board of education or charter school **or renaissance school project** board of trustees **that** adopts an expanded chart of accounts, pursuant to N.J.A.C. 6A:23A-16.2(f)2, [such district board of education or charter school board of trustees] shall **also** 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:23A-16.2(f)1. [If a] **A** district board of education or charter school **or renaissance school project** board of trustees **that** fails to adopt such a policy[, such school district or charter school] shall apply the restrictions [in] **at** (a)1 above to line item accounts that exceed the minimum level

of detail.

4. A district board of education or charter school **or renaissance school project** 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] **at** (a)1 and 3 above. A district board of education or charter school **or renaissance school project** board of trustees shall make [these] **the** transfers prior to the approval of encumbrances or expenditures[. A district board of education or charter school board of trustees], **and** shall make all transfers in accordance with N.J.S.A. 18A:22-8.1, 18A:22-8.2, and 18A:7G-31, and N.J.A.C. 6A:23A-13.14.
- (b) A district board of education or charter school **or renaissance school project** 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] **pursuant to** N.J.A.C. 6A:23A-16.2(c), shall proceed in the following manner:
1. The district board of education or charter school **or renaissance school project** board of trustees shall direct the chief school administrator[, or charter school lead person,] to notify the executive county superintendent, or the Department in the case of charter schools **or renaissance school projects**, within two working days[,] of the following:
 - i. - ii. (No change.)
 2. The district board of education or charter school **or renaissance school project** 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] **ACFR** for that year. The corrective action plan shall include:

- i. (No change.)
 - ii. A detailed [list] **accounting** of the line items and the actual or projected deficit amount comprising the overall fund deficit;
 - iii.–iv. (No change.)
3. (No change.)
 4. The office of the executive county superintendent, or the Department in the case of charter schools **and renaissance school projects**, shall immediately investigate to determine if the corrective action being taken by the district board of education or charter school **or renaissance school project** 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 **or renaissance school project** board of trustees in determining what further corrective action can be taken, or request assistance from the [Division of] **Office of School Finance**.
 5. The executive county superintendent, or the Department in the case of charter schools **or renaissance school projects**, 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 **or renaissance school project** board of trustees is not taking adequate action to avoid the

overexpenditure/deficit.

(c) Each district board of education or charter school **or renaissance school project** board of trustees shall ensure the following occurs at [every] **each of its** regular [district board of education or charter school board of trustees] meetings:

1. The school business administrator/board secretary shall present to the district board of education or charter school **or renaissance school project** 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 shall be in addition to the report required [by] **pursuant to** 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 **or renaissance school project** board of trustees any change(s) in anticipated revenue amounts and revenue sources.
3. A district board of education or charter school **or renaissance school project** board of trustees shall obtain a certification from the school business administrator/board secretary each month **stating** 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 **or renaissance school project** 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] **Department** approvals are required pursuant to N.J.A.C. 6A:23A-13, or to direct the school business administrator/board secretary, or the chief school administrator, or charter school **or renaissance school project** lead person, as appropriate, to request **Department** 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 **the Department with** 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 **or renaissance school project** board of trustees shall make such transfers in accordance with this subchapter, **N.J.A.C. 6A:23A-13 and 14**, and N.J.S.A. 18A:22-8.1, 18A:22-8.2, and 18A:7G-31.

4. A district board of education or charter school **or renaissance school project** 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 **or 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 **or renaissance school project** board of trustee's financial obligations for the remainder of the fiscal year.

- i. If the district board of education or charter school **or renaissance school project** board of trustees is unable to make such a certification, the board shall direct the chief school administrator or charter **or renaissance** school lead person to initiate the steps [outlined in] **at** (b) above and shall reflect such directive in the minutes of the board.
- ii. If the district board of education or charter school **or renaissance school project** 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(s) of the member(s) who voted no, and the reason for the no vote.
- iii. Within 60 days of the month's end, or later upon approval of the executive county superintendent, **district boards of education or charter school or renaissance school project boards of trustees selected at the Commissioner's discretion, and** 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] shall provide to the executive county superintendent a copy of the school business administrator/board secretary's and treasurer's monthly financial reports **as** submitted to the district board of education [under] **or charter school or renaissance school project board of trustees pursuant to** (c)1 above and [as required pursuant to] N.J.S.A. 18A:17-9 and 18A:17-36.

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

required pursuant to N.J.S.A. 18A:17-9 [to a district board of education] shall immediately report this noncompliance to the executive county superintendent.

(d) The executive county superintendent shall report to the Commissioner by August 15, 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 or renaissance school project 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 or renaissance school project board of trustees** in determining what further action can be taken, or request assistance from the [Division of] **Office of School Finance**.
3. The executive county superintendent shall immediately notify the Commissioner, in writing, if it appears the district board of education **or charter school or renaissance school project board of trustees** is not taking adequate action to remediate the fund(s) deficit.

(e) A district board of education or charter school **or renaissance school project** 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. (No change.)
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 **in State aid** shall be made in the following descending order:

i.–vii. (No change.)

3. A district board of education or charter school **or renaissance school project** 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] **If** 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] **In** the case of a charter school, [that its charter be revoked] **the Commissioner may revoke the charter**, pursuant to N.J.S.A. 18A:36A-17.
- (g) **If the procedures at (b) above result in corrective action that is not sufficient to avoid a deficit on a budgetary basis or to correct an actual fund deficit on a budgetary basis, the following shall apply:**

1. **A district board of education with an appointed State monitor may apply for an advance of State aid pursuant to N.J.S.A. 18A:7A-56 on a Commissioner-prescribed application; or**
2. **A district board of education that does not have an appointed State monitor may apply for Emergency Aid pursuant to the annual Appropriations Act on a Commissioner-prescribed application.**

6A:23A-16.11 Internal service funds

- (a) Internal service funds are used to account for and report any activity that provides goods and services from one department or office to other departments or offices of the district board of education **or charter school or renaissance school project board of trustees**, or to other district boards of education, **boards of trustees**, and governmental units, on a cost-reimbursement basis. Internal service funds are cost accounting and distribution entities and are intended to recover their costs annually or over a reasonable time period.
- (b) A district board of education or charter school **or renaissance school project** board of trustees providing a shared service under a shared service agreement with another **district** board of education, **board of trustees**, or external entity shall account for the shared service costs in an internal service fund in accordance with GAAP.
 1. The district board of education or charter school **or renaissance school project** board of trustees providing the shared service shall allocate the costs on a user-charge basis to all participating entities on an annual basis at a minimum.
 - i. A district board of education or charter school **or renaissance school project** board of trustees that is receiving the services shall report user charges in the applicable line item account for the goods or services

received.

- ii. A district board of education or charter school **or renaissance school project** board of trustees shall report as revenues the sales and purchases of goods and services for a price approximating their external exchange value ("Services Provided to Other Funds") in provider/seller funds.
 2. The district board of education or charter school **or renaissance school project** board of trustees shall ensure that the shared service agreement includes an agreed-upon mechanism for the use and/or distribution of any unexpended balance(s).
 3. The district board of education or charter school **or renaissance school project** board of trustees shall evaluate annually any unexpended balance(s) to determine the amount of monies, if any, due back to the shared service entities.
- (c) A district board of education **or charter school or renaissance school project board of trustees** providing a shared service within the **school** district may allocate costs on a user charge or other basis.

6A:23A-16.12 Student activity funds

- (a) Student activity funds, **as defined by GAAP**, are [used to account for funds derived from athletic events or other activities of pupil organizations and to account for the accumulation of money to pay for student group activities] **maintained and reported in the ACFR as agency funds. Revenue and expenditures generated by student groups for specific uses, such as academic clubs and senior class trips, are reported as student activity funds.** A district board of education or charter school **or renaissance school project** board of trustees shall establish student activity funds by resolution. Such

funds shall be maintained under the jurisdiction of the board [of education or charter school board of trustees] and supervision of the school business administrator/board secretary, who may appoint a designee for purposes of administering the funds. **The district board of education or charter school or renaissance school project board of trustees shall establish a policy that includes the following:**

- 1. Purpose of the student activity fund and a timeline for the use of the funds generated; and**
- 2. Methodology for distribution of funds remaining subsequent to completion of the purpose for which the funds were generated.**

(b) Each district board of education [and] **or charter school or renaissance school project** board of trustees shall maintain student activity funds in an interest-bearing account separate from all other funds, [of the district board of education or charter school board of trustees. The district board of education or charter school board of trustees] **and** shall disburse interest on this account(s) to each student activity fund in proportion to the balances on deposit for each activity.

(c) Each district board of education [and] **or charter school or renaissance school project** board of trustees shall ensure, through adoption of a formal board policy, that all financial and bookkeeping controls are adequate to ensure appropriate fiscal accountability and sound business practices. [The district board of education or charter school board of trustees] **This policy** shall include [in its policy] the following minimum requirements:

1. Receipts [are detailed showing] **shall include the** date, sources, purpose, and amount. The district board of education or charter school **or renaissance school project** board of trustees shall promptly deposit all receipts in the bank[. The

district board of education or charter school board of trustees], **and** shall ensure that all deposits agree with the entries in the cash receipt book and are traceable to the actual receipts or groups of receipts.

2. Disbursements shall be recorded chronologically showing date, vendor, check number, purpose, and amount. The district board of education or charter school **or renaissance school project** board of trustees shall make all disbursements by check bearing a minimum of two authorized signatures, and shall support all disbursements by a claim, bill, or written order to persons supervising the fund.
3. Book balances shall be reconciled with bank balances. The district board of education or charter school **or renaissance school project** board of trustees shall retain canceled checks and bank statements for examination by the licensed public school accountant as part of the annual audit required [under] **pursuant to** N.J.S.A. 18A:23-1 et seq., and [stated in] N.J.A.C. 6A:23A-16.2(i).

4.–5. (No change.)

- (d) The district board of education or charter school **or renaissance school project** board of trustees shall not be responsible for the protection of and the accounting for funds collected by any teacher or pupil for an outside organization, and shall not approve such funds for deposit in a school activity account.

6A:23A-16.13 School store business practices

A district board of education **or charter school or renaissance school project board of trustees**, or any organization under its auspices, shall comply with sales tax rules established by the New Jersey Department of the Treasury's Division of Taxation when operating a school store or offering goods for sale.

6A:23A-16.14 Dismissal or reassignment of a school business administrator

- (a) [In order to] **To** protect the integrity of the school business administrator office, a district board of education **or charter school or renaissance school project board of trustees** shall submit to the executive county superintendent, a written justification for the non-renewal, dismissal for cause, reassignment, or elimination of the position of a school business administrator, or the individual duly certified and performing the duties of a school business administrator, within 48 hours of [said] **the notification to the affected employee** by the district board of education [to the affected employee] **or charter school or renaissance school project board of trustees**.
- (b) The affected employee may request a meeting with the executive county superintendent to discuss the justification submitted by the district board of education **or charter school or renaissance school project board of trustees**. The executive county superintendent shall initiate any follow-up action as warranted on issues [under] **pursuant to** the Department's jurisdiction.

Subchapter 17. Tuition Public Schools

6A:23A-17.1 Method of determining tuition rates for regular public schools

- (a) (No change.)
- (b) The term "actual cost per [student] **pupil**" for determining the tuition rate(s) [or rates] for a given year [referred to in] **pursuant to** N.J.S.A. 18A:38-19 and 18A:46-21 means the local cost per student in average daily enrollment, based upon audited expenditures for that year for the purpose for which the tuition rate is being determined and consistent with the grade/program categories [in] **at** N.J.S.A. 18A:7F-50 and 18A:7F-55, that is, regular education classes: preschool and kindergarten, grades one through five, grades six

through eight, and grades nine through 12; and special class programs as [defined in] **set forth at** N.J.A.C. 6A:14-4.7. [Districts] **School districts** that receive preschool education aid shall determine an actual cost per student only for kindergarten students. Pursuant to N.J.A.C. 6A:13A-2.1, **school** districts that receive preschool education aid and charge tuition to another **school** district and/or parent or guardian, as permitted [under] **pursuant to** N.J.A.C. 6A:13A, may charge any amount, not to exceed the per pupil amount established pursuant to N.J.S.A. 18A:7F-54.

1. The receiving district board of education shall include in its calculation all expenditures for each purpose except Federal and State special revenue fund expenditures and [those] **expenditures** specifically excluded [in] **pursuant to** (e)5 below.

[2. "Average daily enrollment," for the purpose of determining the "actual cost per student," means the sum of the days present and absent of all students enrolled in the register or registers of the program for which the rate is being determined during the year divided by the number of days school was actually in session, but in no event shall the divisor be less than 180 days.]

(c) The receiving district board of education shall obtain certification of its "actual cost per [student] **pupil**" for each tuition category for a given year from the Commissioner based upon either:

1. (No change.)

2. A report prepared annually by the Commissioner for each receiving district board of education. This report establishes the "actual cost per [student] **pupil**" for each tuition category using the following:

- i. (No change.)
 - ii. Supplemental data for average daily enrollment and items of expenditure [detailed in] **at (e)2** below submitted by category by the receiving district board of education on a form prescribed by the Commissioner; and
 - iii. Criteria [contained in] **at (e)** below.
- (d) [Once having determined to annually submit the] **A receiving district board of education that submits tuition reports to the Commissioner** pursuant to (c)1 above [to the Commissioner, a receiving district board of education] **and seeks to change the certification method to the method at (c)2 above** shall submit a written request to the Commissioner for review and approval [in order to change to the certification method in (c)2 above. The receiving district board of education shall indicate] **and shall indicate the reason(s) for the change. A district board of education that determines to change the certification method shall notify the executive county superintendent and the Office of School Finance prior to March 1 preceding the September of the school year for which the tentative tuition rate is being determined.**
- (e) [The] **A receiving district board of education approved to use the method at (c)1 above** shall determine the share of each item of expenditure for each grade/program category on the report [in] **at (c)1** above on a pro rata or actual basis as follows:
- 1. (No change.)
 - 2. Expenditures submitted by category on the supplemental data report and determined on either an actual basis or an equitable basis of allocation, such as square footage or average daily enrollment selected by the receiving district board of education and supported by documentation for the following items:

- i.–iii. (No change.)
 - iv. [Local vocational] **Career and technical education** programs;
 - v. (No change.)
 - vi. Building use charges as defined [in] **at** (e)6 and 7 below;
 - vii. Other support services, special education [students];
 - viii.–ix. (No change.)
3. Unallocated expenditures for general education class categories as reflected in the receiving district board of education's annual independent audit and allocated in proportion to the average daily enrollment in the grade categories for general education classes for the following items:
- i. Other salaries for instruction such as teaching assistants and aides, as well as other[s] **staff** providing, or assisting directly in, the instructional program;
 - ii.–vi. (No change.)
 - vii. Other support services, [regular students] **general education**;
 - viii.–x. (No change.)
4. Expenditures, including related employee benefits and equipment, as reflected in the receiving district board of education's annual independent audit and allocated in proportion to the average daily enrollment in each category for all categories [listed in] **at** (b) above for the following items:
- i.–ix. (No change.)
 - x. Food service expenditures of the general fund; [and]
 - xi. Direct instructional expenditures for salaries, equipment, and other

expenses for bilingual education programs and **for** home instruction[.];

- xii. **Programs for before/after school, summer school, alternative education, and other supplemental at-risk programs;**
- xiii. **Energy, including natural gas, gasoline, and oil; and**
- xiv. **Security, care and upkeep of grounds, custodial services, and required maintenance of school facilities.**

5. Expenditures that are excluded from the actual cost per [student] **pupil** for tuition purposes for the following items:

- i. (No change.)
- ii. Employee retirement and [social security] **Social Security** contributions for TPAF members that are fully funded by the State;
- iii.–vii. (No change.)
- viii. Extraordinary services provided to [special education] students **with disabilities** for which a district board of education may bill directly.

6. Building use charge determined as follows:

- i. (No change.)
- ii. Multiply the debt service interest charges paid on debt for the buildings in which the program is located by the ratio of State support obtained [in] **at** (e)6i above;
- iii. Subtract the amount obtained [in] **at** (e)6ii above from the debt service interest charge paid on debt for the buildings in which the program is located; and
- iv. Distribute the amount obtained [in] **at** (e)6iii above in accordance with (e)2 above.

7. Special building use charge determined as follows:
- i. Whenever a receiving district board of education receives more than 50 percent of the average daily enrollment in a program for which a tuition rate is being determined, the receiving district board of education may include, in accordance with (e)2 above, the amount expended for principal and interest on major repairs and major renewals of furniture, equipment, and apparatus for the building in which the program is located, provided:
 - (1) Such major repairs or major renewals were funded by the issuance of bonds, [as provided in] **pursuant to** N.J.S.A. 18A:21-1;
 - (2)–(3) (No change.)
 - ii. (No change.)
 - iii. A receiving district board of education for which this section is applicable may include, in accordance with (e)2 above, a facilities acquisition and construction service charge, which is determined by the straight line amortization over three years of that part of the total expenditure for facilities acquisition and construction services that is over and above the amount stated in the budget certified for taxes and used [in] **at** (e)2v above.
8. In addition to the tuition charged for each grade category, a receiving district board of education may charge, for students receiving services in a resource room, an additional amount up to the actual direct instructional cost per [student] **pupil** for such services calculated on an hourly basis (an example of the calculation is contained in Policy Bulletin: 100-1 issued by and available from the [Office of

School Facilities and] **Division of Finance and Business Services**, Department of Education, PO Box 500, Trenton, New Jersey 08625-0500).

(f) The receiving district board of education and the sending district board of education shall establish, by written contractual agreement, a tentative tuition charge for budgetary purposes. [Such] **The** tentative **tuition** charge shall equal an amount not in excess of the receiving district board of education's "estimated cost per [student] **pupil**" for the ensuing school year for the purpose or purposes for which tuition is being charged, multiplied by the "estimated average daily enrollment of students" expected to be received during the ensuing school year. [Such] **The** written [contract] **contractual agreement** shall be on a **Commissioner-prepared** form [prepared by the Commissioner].

1. "Estimated cost per [student] **pupil**" shall be determined by the receiving district board of education using the appropriate supporting schedule in its annual budget for the ensuing year. In lieu of completing the form [specified in] **at** (c)1 above, a receiving district board of education that has elected to use (c)1 above to certify actual cost per [student shall have the option of setting] **pupil may set** an estimated cost per [student] **pupil** up to an amount that shall be determined by multiplying the most recent year's certified cost per [student] **pupil** by one plus the Consumer Price Index (CPI) as defined [in] **at** N.J.S.A. 18A:7F-45 for the budget year or 2.5 percent, whichever is greater. If this option is selected and more than one fiscal year has elapsed since the most recent cost per [student] **pupil** certification, the receiving district board of education shall further increase the estimated cost per [student] **pupil** by multiplying the above by the sum of one

plus the CPI for each additional year.

i. **For any given fiscal year, the method used to certify the final certified tuition rate shall be consistent with the method used to establish the tentative tuition rate at (f) above.**

2. (No change.)

3. The sending district board of education and the receiving district board of education shall enter into a written contractual agreement for tuition for the ensuing school year, except for a contractual agreement for a student enrolled in a special education class, no later than seven days prior to the date on which the proposed budget for the ensuing school year is required to be submitted to the executive county superintendent. **The contractual agreement shall require the sending district board of education [shall be required in the contractual agreement] to pay 10 percent of the tentative tuition charge no later than the first of each month from September through June of the contract year.** The contractual agreement, except for a contractual agreement for a student enrolled in a special education class, shall require all adjustments resulting from a difference in cost or in the number of students sent to be made only during the second school year following the contract year. All contractual agreements shall contain a payment schedule for all adjustments that may be necessary.

4. The sending district board of education shall notify, in writing, the receiving district board of education of the estimated average daily enrollment of students in each tuition category expected to be sent during the ensuing school year no later than **the preceding** December 15 [preceding the beginning of the ensuing school

year]. The receiving district board of education shall notify, in writing, the sending district board of education of the estimated cost per [student] **pupil** in each tuition category for the ensuing school year and the tentative tuition charge no later than **the preceding** February 4 [preceding the beginning of the ensuing school year]. The receiving district board of education shall submit to the sending district board of education, on a form prepared by the Commissioner, a copy of its calculations to determine the estimated cost per [student] **pupil** in each tuition category for the ensuing school year no later than **the preceding** February 4 [preceding the beginning of the ensuing school year].

5. The executive county superintendent in the county in which the receiving district board of education is located shall review any unique circumstances or variations in methodology and mediate all disputes that arise from the determination of tentative tuition charges, including challenges to the estimated average daily enrollment counts generated using the formula [in] **at (f)2** above. [Such a] **The** review shall include examination of the following documents:

i.–v. (No change.)

6. (No change.)

7. If the Commissioner later determines that the tentative charge established by written contractual agreement, except for a contractual agreement for a student enrolled in a special education class, was less than the actual cost per [student] **pupil** during the school year multiplied by the actual average daily enrollment received, the receiving district board of education may charge the sending district board of education all or part of the amount owed by the sending district board of

education, to be paid during the second school year following the school year for which the tentative charge was paid. Such adjustment for a contractual agreement for a student enrolled in a special education class shall be made no later than the end of the second school year following the contract year. The executive county superintendent [of schools] of the county in which the sending district board of education is located may approve the payment of the additional charge over another period, if the sending district board of education can demonstrate that payment during the second school year following the school year for which the tentative charge was paid would cause a hardship.

8. If, at the end of the contract year, a **sending or receiving** district board of education anticipates a tuition adjustment will be required in the second year following the contract year, the district board of education may restrict **general** fund balance of up to 10 percent of the estimated tuition cost **defined as estimated cost per pupil multiplied by the estimated average daily enrollment** in the contract year in a [legal] reserve for tuition adjustments. [established by] **The district board of education** resolution [at] **shall identify an exact dollar amount to be reserved and shall be adopted on or prior to** June 30. In such case, the district board of education shall:
 - i. Make full appropriation of the legal reserve for the tuition adjustment in the second year following the contract year; **and**
 - [ii. Exclude from the net budget cap calculation, if applicable, the budgeted fund balance and appropriation of the legal reserve in the second year following the contract year for such tuition adjustments; and]

[iii.] **ii.** Transfer to the general fund **at least annually**, by **district board of education** resolution, any interest earned on the investments in a tuition reserve account [on an annual basis]. [Such transfer] **The district board of education** may [be made] **make the transfer** on a more frequent basis [at the discretion of the district board of education].

(g) The receiving district board of education shall use **Commissioner-prepared** forms [prepared by the Commissioner] for certification of the “actual cost per [student] **pupil**” for each tuition category according to the rules in this section, for contracts, and for establishing the estimated cost per [student] **pupil** for each tuition category for the ensuing school year.

(h) In any year in which the receiving district board of education can prove, to the **Commissioner’s** satisfaction [of the Commissioner], that the charge for the use of the school facilities pursuant to (e)6 above is not adequate, the Commissioner may approve an additional charge [for the use of such school facilities] **in accordance with (e)7 above.**

6A:23A-17.2 Method of determining tuition rate in a new district board of education **program**

(a) During the first year of operation of a district board of education program that is to receive students, the receiving district board of education shall set the estimated cost per [student] **pupil** in each program for which the tuition rate is required and shall base the estimate on budgeted costs. The receiving district board of education shall submit the established estimated cost(s) [or costs] per [student] **pupil** to the Commissioner for approval or disapproval no later than January 1 preceding the beginning of the first year of operation.

- (b) If the Commissioner approves the estimated cost(s) [or costs] per [student] **pupil** , each sending district board of education shall pay tentative tuition charges based upon these estimated costs per student during the first year of operation.
- (c) If[, after the first year of operation,] the Commissioner determines, **after the first year of operation**, that the tentative tuition charge was greater than the actual cost, the receiving district board of education shall return[, except if the tentative tuition charge was for a student who was enrolled in a special education class,] **to each sending district board of education** in the second school year following the first year of operation, [to each sending district board of education] the amount by which the tentative charge exceeded the actual cost, or, at the option of the receiving district board of education, shall credit each sending district board of education with the amount by which the tentative tuition charge exceeded the actual cost. [The receiving district board of education shall remit payment or credit for a student who was enrolled in a special education class no later than the end of the second school year following the first year of operation.]
- (d) If[, after the first year of operation,] the Commissioner determines, **after the first year of operation**, that the tentative tuition charge was less than the actual cost, the receiving district board of education may charge the sending district board of education all or part of the amount owed [by the sending district board of education,] to be paid[, except if the amount owed is for a student who was enrolled in a special education class,] during the second school year following the first year of operation. [The sending district board of education shall pay the amount owed for a student who was enrolled in a special education class no later than the end of the second school year following the first year of operation.]

6A:23A-17.3 County vocational school districts funding; public school district tuition payments, post-secondary vocational-technical education fund sources

(a) The board of education of any county vocational school district (CVSD) may receive, but not be limited to, the following general fund revenue and fund sources for programs and services provided to students of [local public] school districts within or outside the county:

1. (No change.)
2. Funds as may be appropriated by the county pursuant to N.J.S.A. 18A:54-29.2 and designated for the programs and services provided to students of [local public] school districts within the county;
3. Tuition from the sending **school** districts in which the pupils attending the CVSD reside for a sum not to exceed the actual cost per pupil as determined for the applicable program as follows:
 - i. Tuition rates shall be calculated separately for the following:
 - (1) One tuition rate for regular vocational-technical programs for students sent by [local public] school districts; **and**
 - (2) One tuition rate for all learning disability program categories for special education programs provided during the regular school year for students sent by [local public] school districts; [and]
 - [(3) One tuition rate for all learning disability program categories for special education programs provided for extended periods beyond the regular school year (extended school year programs) for students sent by local public school districts;]

4. A nonresident fee in addition to tuition for [any] pupils of sending school districts who are not residents of the county whenever funds have been appropriated by the county.
 - i. (No change.)
 - ii. The maximum fee per nonresident student shall be calculated by dividing the total county appropriation to the CVSD, pursuant to N.J.S.A. 18A:54-29.2 and (a)2 above, by the average daily enrollment (ADE) of students who are residents of the county and are sent on a tuition basis to the CVSD by the [public] school districts of the county in which the CVSD is located; and
5. Reimbursement for any extraordinary special education services provided to an individual student from the student's resident **school** district. The cost of extraordinary special education services shall not be included in the actual cost per pupil for purposes of determining tuition rates for special education programs.

(b) (No change.)

6A:23A-17.4 Method of determining tuition rates for county vocational school districts

- (a) The term "actual cost per [student] **pupil**" for determining the tuition rate or rates for a given year referred to [in] **at** N.J.S.A. 18A:46-21 and 18A:54-20.1 means the adjusted net cost per [student] **pupil** in average daily enrollment, based upon audited expenditures for that year for the purpose for which the tuition rate is being determined.
 1. The CVSD board of education shall determine tuition rates for each applicable program category [consistent] **in accordance** with N.J.A.C. 6A:23A-17.3(a)3.

[2. "Average daily enrollment" for the purpose of determining the "actual cost per student" means the sum of the days present and absent of all students enrolled during the year in the register or registers of the program for which the rate is being determined, divided by the number of days school was actually in session, but in no event shall the divisor for the regular school year programs be less than 180 days.]

[3.] 2. The CVSD board of education shall adjust the "actual cost per [student] **pupil**" for all tuition categories to reflect net costs plus a reasonable surplus **in accordance with (f) below.**

(b) Each CVSD board of education will receive from the Commissioner certification of the "actual cost per [student] **pupil**" for each tuition category for a given year utilizing the following:

1. (No change.)
2. Average daily enrollment data by category submitted by the CVSD on a **Commissioner-prescribed** form [prescribed by the Commissioner].

(c) (No change.)

(d) The maximum tuition rate per pupil for each education program for sending [public] school districts shall be based on the net cost calculated by reducing the amount of general fund expenditures by the following:

- 1.-2. (No change.)
3. All direct and indirect expenditures that are not associated with the education program for sending [public] school districts such as post-secondary vocational-technical programs;
4. All expenditures associated with each education program for sending [public]

school districts [but] that are funded through sources other than the tuition rate such as extraordinary special education costs, which are separately reimbursed for individual students;

5. Expenditures for Teachers' Pension and Annuity Fund (TPAF) pension and [social security] **Social Security**; and
6. Refunds of prior-year tuition adjustments made to sending [public] school districts.

(e) The Commissioner shall develop and disseminate workpapers for the purpose of allocating revenue, other fund sources, and expenditures amongst the various programs and services within the general fund.

1.–2. (No change.)

3. Expenditures shall be allocated on a direct and indirect basis amongst the various general fund programs and services when funded through sources other than tuition, such as extraordinary special education services.

- i. Direct instructional expenditures for salaries and related benefits, textbooks, teaching supplies, purchased services, equipment, and other expenses for [each program or learning disability program category] **the regular and special education programs**, as applicable, shall be allocated on an actual basis.
- ii. When allocating indirect expenditures amongst major programs, such as regular vocational-technical education, special vocational-technical education, post-secondary vocational-technical education, and other programs, indirect expenditures, except expenditures for [Teachers' Pension

and Annuity Fund (JTPAF[]) pension and [social security] **Social Security**, shall be allocated amongst the various programs based on the percent of direct expenditures in each program to the total of all direct expenditures since there is no common average daily enrollment (ADE) equivalent among all programs.

iii. (No change.)

iv. When allocating indirect expenditures between the [learning disability] **regular and special education** program categories of the regular school year [and the extended school year], indirect expenditures, except expenditures for [Teachers' Pension and Annuity Fund (JTPAF[]) pension and [social security] **Social Security**, shall be allocated in proportion to the average daily enrollment.

(f) The CVSD board of education shall adjust, as appropriate, its net cost determined for each tuition category [in] **at** (d) above to include in the certified maximum tuition rate for each category an amount that will permit the CVSD board of education to maintain, at its discretion for the year the tuition rate applies, an ending general fund unassigned balance not to exceed the amount permitted pursuant to N.J.S.A. 18A:7F-7.

1.-2. (No change.)

(g) (No change.)

(h) Calculation of tentative tuition rates, execution of written contractual agreements, payment of tuition (including the nonresident fee), and adjustments to tentative tuition charges upon **Commissioner** certification of actual tuition rates [by the Commissioner] shall be made by the CVSD board of education in accordance with N.J.A.C. 6A:23A-

17.1[(e)](f), except that the CVSD board of education shall base the tentative tuition rates on its estimated adjusted net cost per [student] **pupil** consistent with the calculation [in] **at (d), [through] (e), and (f)** above.

- (i) The CVSD board of education shall use the "actual cost per [student] **pupil**" certification forms, contract forms, and tentative tuition rate forms as prepared and provided by the Commissioner.

6A:23A-17.5 County special services school districts funding; budget limitations; tuition payments

- (a) The board of education of any county special services school district may receive, but not be limited to, the following revenue and fund sources:

- 1. (No change.)
- 2. Tuition from the sending **school** districts in which the pupils attending the county special services school district reside for a sum not to exceed the actual cost per pupil as determined for each special education program as follows:
 - i. (No change.)
 - ii. Tuition may be determined and charged as follows:
 - (1) One [tuition rate for the regular school year program; or one] tuition rate for each learning disability program category within the regular school year program; and
 - (2) (No change.)
- 3. A nonresident fee, in addition to tuition for [any] pupils who are not residents of the county, whenever funds have been appropriated by the county.
 - i. (No change.)
 - ii. The maximum fee per nonresident student shall be calculated by dividing

the total county appropriation to the county special services school district by the number of students who are residents of the county and are sent on a tuition basis to the county special services school district by the [public] school districts of the county in which the special services school district is located; and

4. Reimbursement for extraordinary special education services provided to an individual student from the student's resident **school** district. The cost of extraordinary special education services shall not be included in the actual cost per pupil for purposes of determining tuition rates for regular year or extended year programs.
- (b) Tuition [rates] shall be [at] the same rate per pupil for each sending **school** district whether within or outside the county [and consistent with the methodology as chosen in (a)2 above].
 - (c) The annual aggregate amount of all estimated tuition may be anticipated by the **county special services school district** board of education [of the county special services school district] with respect to the **school district's** annual budget [of the county special services school district].
 - (d) Tuition charged to the resident **school** district shall be deducted from the resident **school** district's State aid and transferred directly to the county special services school district by the Department [of Education].
 1. The transfers shall equal 1/20th of the tuition charged and shall occur on the same schedule of State aid payments for resident **school** districts.
 2. Beginning in May of the preceding year, the county special services school

district shall report to the [department] **Department** and resident **school** districts the current enrollments and tuition rates by **school** district. Enrollment changes reported at least 30 days in advance of a scheduled transfer shall be honored.

(e) (No change.)

6A:23A-17.6 Calculation of [the maximum general fund budget net of county contribution and maximum average] **estimated** tuition rate **for county special services school districts**

(a) Pursuant to N.J.S.A. 18A:46-31, the county special services school district general fund budget, exclusive of any county contribution received pursuant to N.J.S.A. 18A:46-41, shall not exceed the general fund budget, exclusive of any county contribution received pursuant to N.J.S.A. 18A:46-41, in the prebudget year adjusted by the CPI or three percent, whichever is greater, plus an enrollment factor.

1. The general fund budget, exclusive of any county contribution, in the prebudget year shall be the sum of all originally budgeted general fund revenue and other fund sources of the prebudget year, except the county contribution of the prebudget year received pursuant to N.J.S.A. 18A:46-41, and shall include, but not be limited to, the following:

- i. (No change.)
- ii. Tuition from sending [public] school districts for the regular school year programs;
- iii. Tuition from sending [public] school districts for any extended school year programs;
- iv. Prior-year tuition adjustments received from sending [public] school districts;

- v. Tuition for programs other than programs for students of sending [public] school districts;
 - vi. (No change.)
 - vii. Reimbursements from sending [public] school districts for extraordinary special education costs;
 - viii.–ix. (No change.)
2. (No change.)
- (b) The [maximum] general fund budget net of county contribution shall establish the [maximum] **estimated** amount of tuition revenue receivable and the associated tuition rates a county special services school district can charge to [local public] school districts for special education programs for the regular school year.
- 1. The [maximum] **estimated** tuition revenue for the regular school year special education programs shall be calculated by deducting from the [maximum] general fund budget net of county contribution calculated pursuant to this section, all budget year revenue sources and other funding sources of the general fund as delineated in this subsection, except for the county contribution and estimated tuition for the regular school year special education programs.
 - 2. The [maximum average] **estimated** tuition rate per pupil for the regular school year special education program shall be calculated by dividing the [maximum] **estimated** tuition revenue for the regular school year program calculated [in] **at** (b)1 above by the estimated ADE for the budget year.
- (c) Any undesignated general fund balance replenishment amount to be included in the tuition rates pursuant to [the provisions of] N.J.S.A. 18A:46-31 shall not exceed the

lesser of the amount needed to maintain a 10 percent undesignated general fund balance or the amount that may be added to the tuition rate without exceeding the [maximum] general fund budget net of county contribution.

6A:23A-17.7 Method of determining tuition rates for county special services schools

- (a) The term "actual cost per [student] **pupil**" for determining the tuition [rate or rates] **rate(s)** for a given year [referred] **pursuant** to [in] N.J.S.A. 18A:46-31 means the adjusted net cost per student in average daily enrollment for special education classes, based upon audited expenditures for that year.
 1. (No change.)
 - [2. "Average daily enrollment" for the purpose of determining the "actual cost per student" is the sum of the days present and absent of all students enrolled during the year in the register or registers of the program for which the rate is being determined divided by the number of days school was actually in session, but in no event shall the divisor for the regular school year program be less than 180 days.]
- (b) Each county special services school district board of education shall obtain from the Commissioner certification of the "actual cost per [student] **pupil**" for a given year either for the county special services school district as a whole or for each special education program by learning disability category based on the following:
 1. (No change.)
 2. Average daily enrollment data by category submitted by the county special services school district on a **Commissioner-prescribed** form [prescribed by the Commissioner].
- (c) The [maximum] **estimated** tuition rate per pupil for the regular school year special

education program shall be sufficient to enable the county special services school district to cover the net cost of [said] **the** program subject to the statutory [maximum] general fund budget net of county contribution and statutory limitations on undesignated, unreserved general fund balance.

- (d) The tuition rate per pupil for the regular school year special education program for sending [public] school districts shall be based on the net cost calculated by reducing the amount of general fund expenditures by the following:
1. All revenue sources other than tuition (such as the county contribution, nonresident fees, Medicaid reimbursements, and miscellaneous revenue) available to fund the regular school year special education program for sending [public] school districts;
 2. All direct and indirect expenditures that are not associated with the regular school year special education program for sending [public] school districts;
 3. All expenditures associated with the special education program for sending [public] school districts [but] that are funded through sources other than the regular school year tuition rate such as extraordinary special education costs, which are separately reimbursed for individual students, and the extended school year special education program for which an additional tuition fee is charged; and
 4. Refunds of prior-year tuition adjustments made to sending [public] school districts.
- (e) The Commissioner shall develop and disseminate workpapers for the purpose of allocating revenue, other fund sources, and expenditures amongst the various programs and services within the general fund.

- 1.-2. (No change.)
 3. Expenditures shall be allocated on a direct and indirect basis amongst the various general fund programs and services when funded through sources other than tuition, such as extraordinary special education services.
 - i. (No change.)
 - ii. When allocating indirect expenditures amongst major programs, such as regular school year special education, extended school year special education and other programs, indirect expenditures, except expenditures for Teachers' Pension and Annuity Fund (TPAF) pension and [social security] **Social Security**, shall be allocated amongst the various programs based on the percent of direct expenditures in each program to the total of all direct expenditures since there is no common ADE equivalent among the programs.
 - iii. (No change.)
 - iv. When allocating indirect expenditures amongst the learning disability program categories of the regular school year or amongst the learning disability program categories of the extended school year, indirect expenditures, except expenditures for [Teachers' Pension and Annuity Fund (TPAF)] pension and [social security] **Social Security**, shall be allocated amongst all learning disability program categories in proportion to the average daily enrollment.
- (f) Pursuant to N.J.S.A. 18A:46-31, an undesignated general fund balance of 10 percent of the general fund budget exclusive of tuition adjustments of prior years may be maintained.

1. When estimating the tuition rate for the budget year, the estimated ending undesignated general fund balance of the budget year for this purpose shall be the estimated beginning fund balance of the budget year less [any] prior-year tuition adjustment refunds to be made to sending [public] school districts during the budget year.
 - 2.–3. (No change.)
 4. When undesignated general fund balance is under 10 percent of the general fund budget exclusive of tuition adjustments of prior years, an amount may be added to adjusted expenditures calculated pursuant to (d) above for purposes of calculating the regular school year special education program tuition rate subject to the maximum general fund budget net of county contribution calculated pursuant to [the provisions of] N.J.A.C. 6A:23A-17.6(a)2.
- (g) Calculation of tentative tuition rates, execution of written contractual agreements, payment of tuition (including the nonresident fee), and adjustments to tentative tuition charges upon **Commissioner** certification of actual tuition rates [by the Commissioner] shall be made by the county special services school district board of education in accordance with N.J.A.C. 6A:23A-17.1(e), except that the county special services school district board of education shall base the tentative tuition rates on the county special services school district board of education's estimated adjusted net cost per student consistent with the calculation [in] **at** (c) through (f) above. The tentative tuition rate and actual cost per [student] **pupil** for a given fiscal year shall be calculated in the same manner chosen pursuant to (b) above.
- (h) The county special services district board of education shall use the "actual cost per [student] **pupil**" certification forms, contract forms, and tentative tuition rate forms as prepared and provided by the Commissioner.

- (i) A new county special services school district board of education shall use the method of determining tentative tuition rates [contained] in **accordance with** N.J.A.C. 6A:23A-17.2.

Subchapter 19. Emergency State Aid and Residency Determination

6A:23A-19.1 Emergency aid

- (a) (No change.)
- (b) A district board of education may request emergency aid pursuant to N.J.S.A. 18A:58-11 as follows:
 - 1. The district board of education shall submit to the executive county superintendent [as follows] **the following**:
 - i. (No change.)
 - ii. A detailed statement about the emergency condition[, which] **that** indicates the reason why the condition was unforeseeable and/or why the costs associated with the condition were unforeseeable;
 - iii. The **district board of education** secretary's latest monthly financial report, accompanied by a statement showing the projected end-of-the-year general fund free balance and a detailed accounting of how the emergency aid will be expended; and
 - iv. A statement included in the [board's] **district board of education's** minutes that no other funds can be reallocated within the existing budget for the emergency condition without adversely impacting the district board of education's ability to meet the New Jersey Student Learning Standards.
 - 2. (No change.)

- (c) (No change.)
- (d) The executive county superintendent shall submit a recommendation regarding a request for emergency aid and all of the information submitted by the district board of education making the request to the [Office of School Facilities and] **Division of Finance and Business Services** to determine whether to recommend to the Commissioner that a request be sent to the State Board of Education for approval.

1.-2. (No change.)

- (e) (No change.)

6A:23A-19.2 Method of determining the district of residence

- (a) The district of residence for school funding purposes shall be determined according to the following criteria:
 - 1. The "present district of residence" of a child in a residential State facility, [defined in] **pursuant to the definition of “resident enrollment” at N.J.S.A. 18A:7F-45** and referred to [in the first paragraph of] **at N.J.S.A. 18A:7B-12.b**, means the New Jersey district of residence of the child's parent(s) or guardian(s) as of the last school day prior to October 16.
 - 2. The "present district of residence" of a child placed by a State agency in a group home, skill development home, approved private school for students with disabilities, or out-of-State facility, also referred to [in] **at N.J.S.A. 18A:7B-12.b**, means the New Jersey district of residence of the child’s parent(s) or guardian(s) as of the date of the child’s most recent placement by the State agency. In subsequent school years spent in the educational placement made by a State agency, the child’s “present district of residence” shall be determined in the same

manner as for a child in a residential State facility as set forth [in] **at** (a)1 above.

3. If the State becomes the child's legal guardian after the date of the child's initial placement by a State agency, **or if the child has resided in a domestic violence shelter, homeless shelter, or transitional living facility located outside the district of residence for more than one year**, the State will assume financial responsibility for the child's educational costs in subsequent school years.
- (b) The **Commissioner, or the Commissioner's designee, shall determine the** "present district of residence" or "district of residence" referred to [in] **at** N.J.S.A. 18A:7B-12.b [shall be determined by the Commissioner or his or her designee] based upon the address submitted by the Department of Corrections, the Department of Children and Families, or the Juvenile Justice Commission on forms prepared by the Department of Education.
- (c) The [district board of education shall be notified by the] Department **shall notify the district board of education** of the determination of the district of residence. [In order to] **To** prevent a lapse in the child's education and/or child study services, the district board of education shall be bound by [such] **the** determination unless and until it is reversed on redetermination or appeal pursuant to [the provisions of] (e) and (f) below.
- (d) A district board of education contesting the Department's determination of district of residence shall submit [a written notification of a dispute] to the [Office of School Facilities and] **Division of Finance and Business Services, a written notification of the dispute** within 30 days of the receipt of a final notice that a child was determined to be a resident of the **school** district for purposes of State funding. As part of this written notice, the following information shall be submitted:
 1. (No change.)

2. Written rationale for rejecting the **Department's** determination [of the Department]; and
 3. (No change.)
- (e) The [Office of School Facilities and] **Division of Finance and Business Services** shall attempt to resolve the dispute administratively and shall notify the district board of education whether a redetermination of district of residence will be made within 90 days of the receipt of written notification that a dispute exists.
- (f) A district board of education may initiate a formal proceeding before the Commissioner to resolve such a dispute if the [Office of School Facilities and] **Division of Finance and Business Services** is unable to resolve a dispute within the 90-day time limit, by filing a Petition of Appeal with the Commissioner pursuant to [the provisions of] N.J.A.C. 6A:3, Controversies and Disputes.
- (g) [As prescribed by] **In accordance with** N.J.S.A. 18A:7B-12, the [“]district of residence[“] for a homeless child whose parent(s) or guardian(s) temporarily moves from one school district to another is the **school** district in which the parent(s) or guardian(s) last resided prior to becoming homeless. This **school** district shall be designated as the district of residence [for as long as] **until** the parent(s) or guardian(s) [remains homeless] **establishes a domicile in a new school district in accordance with N.J.S.A. 18A:38-1.d and, unless the child lives in one of the dwellings set forth at (a)3 above, the new school district shall become the district of residence pursuant to N.J.S.A. 18A:38-1.d.**

6A:23A-19.3 Address submission for determining the district of residence

- (a) The address submitted to the Department for determining the district of residence for

school funding purposes for a child described below shall be the address defined below:

1. If the State has custody of the child or if a court or the State has appointed a third party as the **child's** custodian [of the child], the present address of the parent(s) or guardian(s) with whom the child resided immediately prior to [his or her] **the child's** most recent admission to a State facility or placement by a State agency shall be submitted. If the child resides in a resource family home **where the child was placed prior to September 9, 2010**, the present address of the resource family parent(s) shall be submitted pursuant to N.J.S.A. 18A:7B-12.a(1). **For a child placed in a resource family home on or after September 9, 2010, the present address of the parent(s) or guardian(s) with whom the child lived prior to such placement shall be submitted pursuant to N.J.S.A. 18A:7B-12.a(2).**
2. If the child's parents are divorced with joint guardianship, the present address of the individual parent with whom the child resided as of the date required [by] **at** N.J.A.C. 6A:23A-19.2(a)1 or 2 shall be submitted.
3. If the child's parents are divorced with joint guardianship and the child resides with each parent equally, the present address of both [the child's father and mother] **parents** as of the date required [by] **at** N.J.A.C. 6A:23A-19.2(a)1 or 2 shall be submitted.
4. (No change.)
5. If the child resides in a non-resource family home with a relative for less than one year immediately prior to the child's most recent admission to a State facility or most recent placement by a State agency, the present address of the child's

parent(s) or guardian(s) at the time of this placement [is] **shall be** submitted.

6. If the child resides in a non-resource family home with a relative pursuant to N.J.S.A. 18A:38-1.d for one or more years immediately prior to the child's most recent admission to a State facility or most recent placement by a State agency, the present address of the child's relative(s) at the time of this placement [is] **shall be** submitted.
7. If the child is age 18 or older or has been legally emancipated; and has lived on [his or her] **the child's** own before the initial placement, the present address of the child as of the date required [by] **at** N.J.A.C. 6A:23A-19.2(a)1 or 2 [is] **shall be** submitted.

Subchapter 20. Purchase and Loan of Textbooks

6A:23A-20.1 Eligibility

- (a) (No change.)
- (b) **Pursuant to** N.J.S.A. 18A:58-37.1 et seq., [requires] each district board of education [in which a nonpublic school is located,] **shall be required** to purchase and to loan[,] without charge, upon individual requests, textbooks to students in the nonpublic [school or] schools located within the school district when such students are residents of [the State] **New Jersey**.
- (c) Children who are enrolled in a nonpublic school whose parents or legal guardians do not maintain a residence in [this] **the** State, [are] **and children whose tuition is paid by a district board of education shall not be** eligible to receive [such] textbooks. [Children who are enrolled in a nonpublic school whose tuition is paid by a district board of education are not eligible to receive such textbooks.]

6A:23A-20.3 Individual requests

- (a) Individual written requests signed by the parent(s) or legal guardian(s) of nonpublic school students for the loan of textbooks [are] **shall be** addressed to the district board of education in which the nonpublic school is located.
- (b) Individual requests [are] **shall be** submitted directly to the district board of education in which the nonpublic school is located or to the nonpublic school. In the latter case, the nonpublic school official shall forward [such] **the** requests collectively to the district board of education.
- (c) Individual requests [are] **shall be** due on or before March 1 preceding the school year.
- (d)–(e) (No change.)

6A:23A-20.4 Ownership and storage of textbooks

- (a) All textbooks purchased [under the provisions of] **pursuant to** N.J.S.A. 18A:58-37.1 et seq., remain the property of the district board of education, which shall indicate [such] ownership [in each book] by [a label] **labeling each book**.
- (b) The district board of education shall be responsible for the receipt of the textbooks from the vendor and **maintaining an** inventory of such textbooks.
- (c) The district board of education may require that the textbooks be returned to the district board of education at the end of the school year, or may enter into agreements with the nonpublic schools to store [such] **the** books. In the event of such [an] agreement(s), the district board of education shall not pay storage charges of any kind to [a] **the** nonpublic schools for this service.

6A:23A-20.5 Accounting entries

- (a) Expenditures for the purchase of textbooks may include the cost of freight or postage for

transporting [such] **the** books from the vendor to the district board of education.

- (b) The district board of education shall enter the cost of textbooks for students enrolled in [the] **its** public schools in the general current expense fund in the account designated in the minimum chart of accounts. **The cost of electronic textbooks shall be treated in the same manner.**
- (c) (No change.)

6A:23A-20.6 Charge for textbook loss or damage

- (a) Each district board of education shall make reasonable rules and regulations governing the loan of textbooks, which may contain requirements for [reimbursement by] students to **reimburse** the district board of education for damage, loss, or destruction of the loaned textbooks.
- (b) [Such] **These** rules and regulations [are] **shall be** applicable to both public and nonpublic school students.

Subchapter 21. Management of Public School Contracts

6A:23A-21.1 Change orders and open-end contracts

- (a) Changes in quantities, work performed, services rendered, materials, supplies, or equipment delivered or provided shall not be authorized, permitted, or accepted, except by the procedures established in this section. All change orders [are subject to] **shall be in accordance with** N.J.A.C. 5:30-11, as applicable, and the following:
 - 1.-3. (No change.)
 - 4. [Responsibility] **Responsibilities that are** required by this section to be exercised specifically by the district board of education or charter **school** board of trustees may not be delegated. In those instances in which authority is to be exercised by a school

official, the authority, responsibility, and required procedures [should] **shall** be clearly spelled out in advance, by resolution.

- (b) Orders placed under open-end contracts [are] **shall not be** considered change orders for purposes of this section.
- (c) Change orders for capital project contracts [are governed by] **shall be in accordance with** N.J.A.C. 6A:26-4.9.
- (d) Change orders for contracts for materials, supplies, and equipment that are not part of a capital project contract [are] **shall be** governed by the following:
 - 1. (No change.)
 - 2. Change orders [may] **shall** not be used to substantially change the quality or character of the items to be provided, inasmuch as such factors would have been a factor in the original bidding.
 - 3. [Such] **The net cost of** changes shall not [cause] **exceed** the originally awarded contract price [to be exceed cumulatively] by more than 20 percent [net].
 - 4. (No change.)
 - 5. Changes may be effectuated by the school official authorized to serve as purchasing agent, subject to [such] contracts or approval requirements [as] the district board of education or charter school board of trustees [may] lawfully imposes.
 - 6. Change orders may be authorized by the purchasing agent for price adjustment for petroleum products, provided:
 - i. [There has been a determination by the] **The** school board attorney **has determined** that such a price adjustment is authorized by law;

ii.-iv. (No change.)

(e) Change order for professional and extraordinary unspecified services (EUS) contracts are governed by the following:

1. Changes shall be within the scope of activities of the original contract, and not for the purpose of undertaking new or different work or projects. Changes in payments for activities within the scope of **the contract's** activities [of the contract] shall be in accordance with a schedule of specific charges or rates contained in the contract and shall be effectuated by a written change order authorized by the appropriate school official. If such a schedule is not included in the contract, the contract shall be amended to provide for same.

2. If the change is not within the scope of **the original contract's** activities [of the original contract]:

i. (No change.)

ii. If the consulting contract was not a **contract for “professional services,” as defined at N.J.S.A. 18A:18A-2.h**, and was required to be subject to competitive bidding, any change beyond the original scope of activity shall be by new contract based on new bidding.

3.-4. (No change.)

(f) The issuance of purchase orders pursuant to an open-end contract [is] **shall be** considered to be the carrying out of the contract and not a change order. The following requirements **shall** apply:

1. A district board of education or charter school **or renaissance school project** board of trustees shall not [use] **issue or order purchase** orders under open-end

contracts for purposes [such as changing] **that would change** the quality or character of items to be provided, or exceed the maximum number(s) of items or units provided for in the original specifications and contract. Such changes [would constitute a] **may be made only pursuant to an approved** change order;

2. The district board of education or charter school **or renaissance school project** board of trustees shall execute [such] **an open-ended** contract for a period not to exceed the requirements of **the Public School Contracts Law, N.J.S.A.**

18A:18A-1 et seq., [the Public School Contracts Law,] unless specifically authorized by law;

3. The district board of education or charter school **or renaissance school project** board of trustees shall execute a certificate of availability of funds [each time an order is placed] covering the amount of the order **each time an order is placed against the open-ended contract**, unless the district board of education or charter school **or renaissance school project** board of trustees [wishes] **decides** to commit and certify **at the outset** the full amount of the open-end contract [at the outset].

The certificate [must] **shall** be executed before the district board of education or charter school **or renaissance school project** board of trustees incurs a contractual liability on its part; and

4. The school official authorized to serve as purchasing agent pursuant to N.J.S.A. 18A:18A-2 shall place such orders subject to [such] **the** controls or approval requirements [as] **that are lawfully imposed by** the district board of education or charter school **or renaissance school project** board of trustees [may lawfully impose].

6A:23A-21.2 Acceptance of bonds [under] **pursuant to** the Public School Contracts Law

- (a) A district board of education or charter school board of trustees may require the following bonds, as authorized [by] **at** N.J.S.A. 18A:18A-23 [to] **through** 25:
- 1.–3. (No change.)
- (b) A district board of education or charter school board of trustees may require, in the notice to bidders or in the specifications, that bidders guarantee they will enter into a contract with the district board of education or charter school board of trustees and will furnish any prescribed performance bond or other security required as a guarantee or indemnification. The guarantee may be given, at the option of the bidder, by certified check, cashier's check, or bid bond. When the guarantee is given in the form of a bid bond, the district board of education or charter school board of trustees shall ensure that [such] **the bid bond will be given by:**
1. [Be given by a] A responsible surety or insurance company licensed to operate in New Jersey. A district board of education or charter school board of trustees [is] **shall be** prohibited from requiring [that] bidders **to** submit a bid bond from a particular surety or insurance company; or
 2. [Be given by a] A responsible individual residing in New Jersey. The district board of education or charter school board of trustees may reject [such] **an** individual bid bond if not satisfied with the sufficiency of the individual surety offered.
- (c) The district board of education or charter school board of trustees shall ensure that the bond is in the form of a certificate[, identifying] **that identifies** the bidder whose acts are guaranteed, the name of the surety company, insurance company or individual surety, and

the district board of education or charter school board of trustees in whose favor the bonds are given.

(d)–(e) (No change.)

6A:23A-21.3 Public sale of bonds

- (a) A district board of education may accept a financial surety bond in lieu of a certified, cashier's, or treasurer's check as a bid deposit pursuant to N.J.S.A. 18A:24-41.a, and in accordance with [the rule adopted by the Local Finance Board at] N.J.A.C. 5:30-2.10.
- (b) A district board of education may [choose to] conduct the public sale of bonds through the submission of electronic bids or proposals, as authorized at N.J.S.A. 18A:24-36.a, and in accordance with [the rules adopted by the Department of Community Affairs at] N.J.A.C. 5:30-2.9 and 2.10.

6A:23A-21.4 Contracts for behind-the-wheel driver education

- (a) A district board of education or charter school board of trustees shall negotiate or award, by resolution at a public meeting, contracts with private driver education schools providing behind-the-wheel driver education for any term not exceeding **three years** in the aggregate [three years], pursuant to N.J.S.A. 18A:18A-42.i, without public advertising for bids. The district board of education or charter school board of trustees shall [indicate in such] **require through the resolution that** the private driver education school [is required to] **shall** provide behind-the-wheel driver education that is substantially equivalent to [that] **the program** provided by the district board of education or charter school board of trustees at [less] **a lower** cost than current or other proposed programs.
- (b) A district board of education or charter school board of trustees shall negotiate or award such contracts with [approved] **only** private driver education schools[. A driver education

school holding] **that hold** a current license or certificate of approval issued by the Chief Administrator of the Motor Vehicle Commission [is considered approved by the Commissioner of Education] for the purpose of providing behind-the-wheel driver education. The district board of education or charter school board of trustees shall obtain from the private driver education school a copy of [such] **its** current license or certificate of approval and **shall** maintain the copy on file with the contract.

6A:23A-21.5 Joint purchasing systems

A district board of education or charter school board of trustees may **establish**, by resolution, [establish] joint purchasing systems, pursuant to N.J.S.A. 40A:11-11. Such joint purchasing system is effective only upon approval of the Director of the Division of Local Government Services in the Department of Community Affairs.

6A:23A-21.6 Multi-year leasing

A district board of education or charter school board of trustees shall execute multi-year leases only as authorized by the Public School Contracts Law at N.J.S.A. 18A:18A-42.f and 18A:20-4.2(f) and in accordance with [rules promulgated by the Department of Community Affairs at] N.J.A.C. 5:34-3.

Subchapter 22. Financial Operations of Charter Schools **and Renaissance School Projects**

6A:23A-22.1 Definitions

The words and terms as used in this subchapter are defined [in] **at N.J.A.C. 6A:23A-1.2 and 15.1.**

6A:23A-22.2 Bookkeeping and accounting for charter schools **and renaissance school projects**

A charter school board of trustees **and renaissance school project board of trustees** shall comply with GAAP and other requirements and provisions [as] set forth [in] **at N.J.A.C.**

6A:23A-16.

6A:23A-22.3 Certification

A charter school board of trustees **and renaissance school project board of trustees** shall employ, or contract with, a person who holds a New Jersey standard or provisional [school business] administrator certificate **with a school business administrator endorsement**, in accordance with N.J.A.C. 6A:9B-12.7 to oversee **the school's** fiscal operations [of the charter school].

6A:23A-22.4 Financial requirements

- (a) (No change.)
- (b) A charter school board of trustees **or renaissance school project 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 lease contains a provision terminating the obligation to pay rent upon the denial, revocation, non-renewal, or surrender of the charter **or renaissance school project contract**; and
 - 2. (No change.)
- (c) (No change.)
- (d) A charter school shall be subject to monitoring by the Commissioner to ensure that 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. The calculation for this percentage in both the annual budget and the [Comprehensive Annual Financial Report] **ACFR** is based on [National Center for Educational Statistics] **NCES**, 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, **the Commissioner shall equitably distribute** all assets of the charter school board of trustees[,] **that remain** 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 **school** 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-22.5 Public school contract law

- (a) A charter school board of trustees shall be subject to the provisions of the [public school contracts law] **Public School Contracts Law**, N.J.S.A. 18A:18A-1 et seq.
- (b) Any agency, corporation, person, or entity that enters into a contract or agreement on behalf of a charter school to provide administrative, educational, or other services shall be subject to the provisions of the [public school contract law] **Public School Contracts Law**, N.J.S.A. 18A:18A-1 et seq.

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

- (a) Each charter school **and renaissance school project** board of trustees shall establish by [policy or policies] **policy(ies)**, a [strategy or strategies in order] **strategy(ies)** to minimize the cost of public relations, as defined [in] **at** N.J.A.C. 6A:23A-9.3(c)14, and professional services. The [policy or policies] **policy(ies)** 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] **at** 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.–5. (No change.)

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 **and renaissance school projects** 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 **and renaissance school project** 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 **or renaissance school project** as a whole.

ii. Charter school **and renaissance school project** 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. (No change.)

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 **and renaissance school project** flyers, newsletters, or other materials containing charter school **or renaissance school project** 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 **and renaissance school project** related information of public concern available to local newspapers to publish related articles; and
- (3) Utilizing volunteered services of local community members, charter school **and renaissance school project** employees, members of parent organizations, or local businesses with expertise in related areas such as printing, advertising, publishing, or journalism.

6A:23A-22.7 Charter school **and renaissance school project** response to Office of Fiscal Accountability and Compliance (OFAC) investigation report

- (a) Any charter school **and renaissance school project** that has been subject to an audit or investigation by the Department's Office of Fiscal Accountability and Compliance (OFAC) shall discuss the findings of the audit or investigation at a public meeting of the charter school **or renaissance school project** board of trustees no later than 30 days after receipt of the findings.

- (b) Within 30 days of the public meeting required [in] at (a) above, the charter school board of trustees **or renaissance school project board of trustees** shall adopt a resolution certifying that the findings were discussed in a public board meeting and approving a corrective action plan to address the issues raised in the findings. This resolution shall be submitted to OFAC within 10 days of adoption by the board of trustees.

6A:23A-22.8 Verification of payroll check distribution

- (a) At least once every three years between the months of September through May, charter schools **and renaissance school projects** shall require each charter school **and renaissance school project** employee to report to a central location(s) and produce picture identification and sign for release of [his or her] **the employee's** paycheck or direct deposit voucher. The charter school **or renaissance school project** may exclude per diem substitutes from the required verification.
- (b) Picture identification shall be in the form of a charter school **or renaissance school project** issued identification card, valid drivers' license, official passport, or other picture identification issued by a state, county, or other local government agency.
- (c) The chief school administrator/lead person shall designate an appropriately qualified staff member to match the picture identification to the employee roster maintained by the office of personnel or human resources prior to release of the [pay check] **paycheck** or direct deposit voucher.
- (d) (No change.)
- (e) Upon completion of the payroll check distribution verification procedures set forth in this section, the chief school administrator/lead person shall submit a certification of compliance, in a form prescribed by the Department, to the executive county

superintendent. Verification of the charter school's **or renaissance school project's** compliance with the provisions of this section will be required as part of the annual audit.

6A:23A-22.9 Board of trustees expenditures for non-employee activities, meals, and refreshments

- (a) (No change.)
- (b) Allowable expenditures for non-employee charter school **and renaissance school project** board of trustees activities shall include:
 - 1.-3. (No change.)
 - 4. Expenditures related to charter school **and renaissance school project** employees to the extent such employees are essential to the conduct of the activity.
- (c) A charter school **or renaissance school project** board of trustees shall, at a minimum, take actions regarding student activities as follows:
 - 1.-3. (No change.)
- (d) (No change.)
- (e) Documentation required to support activities, meals, and refreshments at charter school [student] **pupil** or renaissance school project events shall be:
 - 1.-3. (No change.)
 - 4. The names and titles of board **of trustee** members or employees included in the group.

6A:23A-22.10 Nepotism policy

- (a) As a condition of receiving charter school aid, **State school aid, or renaissance school project aid, a** charter school **or renaissance school project** board of trustees shall implement the nepotism policy established by this subsection. The nepotism policy shall include the following:

1. A definition of "relative" [that is consistent] **in accordance** with N.J.S.A. 52:13D-21.2 and N.J.A.C. 6A:23A-1.2 and a definition of "immediate family member" [that is consistent] **in accordance** with N.J.S.A. 52:13D-13 and N.J.A.C. 6A:23A-1.2;
2. A provision prohibiting any relative of a board **of trustee** member, lead person, or chief school administrator from being employed in an office or position in the charter school except that a person employed or to be promoted by the charter school on the effective date of the policy or the date a relative becomes a board **of trustees** member or chief school administrator shall not be prohibited from continuing to be employed or to be promoted in the school, and a charter school **and renaissance school project** may employ a relative of a board **of trustee** member, lead person, or chief school administrator provided the charter school has obtained approval from the executive county superintendent [of schools]. Such approval shall be granted only upon demonstration by the charter school that it conducted a thorough search for candidates and the proposed candidate is the only qualified and available person for the position;
3. A provision prohibiting the chief school administrator/lead person from recommending to the board **of trustees**, pursuant to N.J.S.A. 18A:12-21 through 34, any relative of a board **of trustees** member or chief school administrator/lead person unless the person is subject to the exception [of] **at (a)2** above;
4. A provision prohibiting a charter school **or renaissance school project** administrator from exercising direct or indirect authority, supervision, or control over a relative of the administrator. Where it is not feasible to eliminate such a

direct or indirect supervisory relationship, appropriate screens and/or alternative supervision and reporting mechanisms must be in place;

5. A provision prohibiting a charter school **or renaissance school project** administrator or board **of trustees** member who has a relative who is a member of the bargaining unit from discussing or voting on the proposed collective bargaining agreement with that unit or from participating in any way in negotiations, including, but not limited to, being a member of the negotiating team; nor should [that charter school] **the** administrator be present with the [school] board **of trustees** in closed session when negotiation strategies are being discussed; provided, however, the administrator may serve as a technical resource to the negotiating team and may provide technical information necessary to the collective bargaining process when no one else in the [charter] school can provide such information; and
6. A provision prohibiting a charter school **or renaissance school project** administrator who has an immediate family member who is a member of the same Statewide union in a school district or another charter school **or renaissance school project** from participating in any way in negotiations, including, but not limited to, being a member of the negotiating team or being present with the board **of trustees** in closed sessions when negotiation strategies are being discussed, prior to the board **of trustees** attaining a tentative memorandum of agreement with the bargaining unit that includes a salary guide and total compensation package; once the tentative memorandum of agreement is established, a charter school **or renaissance school project** administrator with an immediate family member who is a member of the same Statewide union in a

school district or another charter school **or renaissance school project** may fully participate in the process, absent other conflicts. Notwithstanding the above in this paragraph, a charter school **or renaissance school project** administrator who has an immediate family member who is a member of the same Statewide union in another charter school **or renaissance school project** may service as a technical resource to the negotiating team and may provide technical information necessary to the collective bargaining process when no one else in the charter school **or renaissance school project** can provide such information.

- (b) A charter school **or renaissance school project** may exclude per diem substitutes and student employment from its board **of trustees** nepotism policy.

6A:23A-22.11 Contributions to board **of trustees** members and contract awards

- (a) As a condition of receiving charter school **or renaissance school project** aid, charter schools **and renaissance school projects** shall have policies that comply with the provisions of this section to ensure that the charter school **or renaissance school project** shall maintain honest and ethical relations with vendors and shall guard against favoritism, improvidence, extravagance, and corruption in its contracting processes and practices. The terms "business entity" and "interest" as used below are defined as set forth [in P.L. 2004, c. 19] **at N.J.S.A. 19:44A-20.7**.

- 1. No board **of trustees** will vote upon or award any contract in the amount of \$17,500 or greater to any business entity that has made a contribution reportable by the recipient [under P.L. 1973, c. 83 (**pursuant to N.J.S.A. 19:44A-1 et seq.,**)] to a member of the charter school board of trustees during the preceding one-year period.

2. Contributions reportable by the recipient [under P.L. 1973, c. 83 (**pursuant to** N.J.S.A. 19:44A-1 et seq.,)] to any member of the charter school board of trustees from any business entity doing business with the charter school **or renaissance school project** are prohibited during the term of a contract.
3. When a business entity referred to [in] **at** (a)2 above is a natural person, a contribution by that person's spouse or child who resides therewith shall be deemed to be a contribution by the business entity. Where a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity.
4. The disclosure requirement set forth [in section 2 of P.L. 2005, c. 271 (**at** N.J.S.A. 19:44A-20.26)] also shall apply when the contract is required by law to be publicly advertised for bids.
5. This subsection shall not apply to a contract when a charter school **or renaissance school project** emergency requires the immediate delivery of goods or services.

6A:23A-22.12 Internal controls

- (a) As a condition of receiving charter school aid, **State school aid, or renaissance school project aid**, each charter school **or renaissance school project** shall establish specific policies and procedures on internal controls to provide management with reasonable assurance that the charter school's goals and objectives will be met and that meet the requirements [of] **at** N.J.A.C. 6A:23A-22.6 through 22.15. Internal controls shall promote operational efficiency and effectiveness, provide reliable financial information, safeguard assets and records, encourage adherence to prescribed policies, and comply with law and regulation.

(i) The specific internal controls [contained] in this subchapter shall be established together with other internal controls [contained] in **accordance with** N.J.A.C. 6A and other law and regulations, required by professional standards, including auditing standards generally accepted in the United States [under] **pursuant to** [Generally Accepted Accounting Principles (]GAAP[)], standards contained in Government Auditing Standards (GAS) issued by the Comptroller General of the United States, and as deemed necessary and appropriate by **the charter school's or renaissance school project's** management. Any charter school **or renaissance school project** may submit a written request to the Commissioner to approve an alternate system, approach, or process for implementing the internal controls required in this subchapter. The application [must] **shall** include documented evidence that includes, but is not limited to, an independent, third-party written assessment that the alternative system, approach, or process will achieve the same safeguards,

efficiency, and other purposes as the specified
internal control requirement(s).

6A:23A-22.13 Segregation of duties; organization structure

- (a) All charter schools **and renaissance school projects** shall evaluate business processes annually and allocate available resources appropriately in an effort to establish a strong control environment.
- (b) The school business administrator shall identify processes that, when performed by the same individuals, are a violation of sound segregation of duties. The school business administrator shall segregate the duties of all such processes among business office staff based on available charter school **or renaissance school project** resources, assessed vulnerability, and the associated cost-benefit.

6A:23A-22.14 Standard operating procedures (SOPs) for business functions

- (a) Each charter school **and renaissance school project** shall establish SOPs for each task or function of the business operations of the charter school **or renaissance school project**.
- (b) An SOP manual shall include sections on each routine task or function of the following areas:
 - 1.-4. (No change.)
 - 5. Purchasing:
 - i. **For charter schools, purchasing**, including such tasks as preparation of requisitions[,], **and** approval of purchase orders and encumbering of funds, bid, and quote requirements; and verification of receipt of goods and services; **or**
 - ii. **For renaissance school projects, purchasing, including such tasks as preparation of requisitions, approval of purchase orders, and**

encumbering of funds; and verification of receipt of goods and services;

6.-13. (No change.)

(c) (No change.)

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

- (a) A charter school board **or renaissance school project board of trustees** 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] **the** 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] **the** 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) (No change.)
- (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 all payments made are properly authorized.