

New Jersey Department of Education



Readoption with Amendments N.J.A.C. 6A:5, Regulatory Equivalency and Waiver

Office of the State Board of Education

May 1, 2024





Purpose



- The chapter provides regulatory flexibility for school districts and other applicable entities to meet the requirements of State education regulations in Title 6A of the New Jersey Administrative Code (N.J.A.C. 6A).
- The Commissioner, with authority delegated by the State Board, may approve on a case-by-case basis a waiver or equivalency to a specific rule so school districts or other entities can provide effective and efficient programs.
- The Department also uses equivalency and waiver requests to identify rules that are overly prescriptive or need to be modified or eliminated when a chapter is amended.



Equivalency



- “Equivalency” means approval to achieve the intent of a specific rule through an alternate means that is different from, yet judged to be comparable to or as effective as, those prescribed within the rule.
 - **Example:** Allow school districts to conduct 10 mini-observations under the Marshall Teacher Evaluation Rubric instead of the two 20-minute observations for tenured teachers as required at N.J.A.C. 6A:10-4.4(c).



Waiver



- “Waiver” means approval to avoid compliance either with the specific procedures or the substantive requirements of a specific rule for reasons that are judged educationally, organizationally, and fiscally sound.
 - **Example:** Waive the deadline of December 1 of the previous school year for a charter school to submit an amendment request to increase enrollment in the subsequent school year (N.J.A.C. 6A:11-2.6(a)2ii).



Criteria



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

1. Spirit and intent of State education laws (N.J.S.A. 18A), applicable Federal laws and regulations, and N.J.A.C. 6A are served by granting the equivalency or waiver.
2. The provision of a thorough and efficient education to students is not compromised as a result of the equivalency or waiver; and
3. There will be no risk to student health, safety, or civil rights by granting the equivalency or waiver.



Covered Entities – Section 1.1



Entities covered by the existing rules include:

- School districts;
- Charter schools;
- Renaissance schools;
- County vocational school districts;
- County special services school districts;
- Educational services commissions;
- Jointure commissions;
- Regional day schools;
- Marie Katzenbach School for the Deaf;
- Approved private schools for students with disabilities (APSSDs);
- College-operated programs; and
- Programs operated by the State Departments of Children and Families, Human Services, and Corrections.

School districts can submit an application related to preschool services provided by contracted Head Start agencies and private preschool providers.





Applications



- Between January 2023 and April 2024, the Department received approximately 155 equivalency and waiver applications.
- Since the beginning of 2024, the Department has received 17 applications related to the following chapters:
 - Chapter 11, Charter Schools – one application
 - Chapter 13, Programs and Practices to Support Student Achievement – one application; and
 - Chapter 13A, Elements of High-Quality Preschool Programs – 15 applications.
- Approvals are for up to three years and school districts can reapply for continued relief, if still necessary.



Proposed Amendments – Section 1.1



- Replace “renaissance schools” with “renaissance school projects” to update the term;
- Add “educator preparation programs” because they can seek relief from rules that apply to their operations and all students in a program (N.J.A.C. 6A:9A, New Jersey Educator Preparation Programs); and
- Add statement that “school district” refers throughout the chapter, unless otherwise indicated, to each of the entities referenced at N.J.A.C. 6A:5-1.1(b).





Proposed Amendments – Section 1.3



- Existing rules state that certification requirements at N.J.S.A. 18A:26-2 shall not be violated;
- Proposed rule will state that no equivalencies or waivers related to N.J.A.C. 6A:14, Special Education, shall be granted. Prohibition already exists in Chapter 14 but will be repeated in Chapter 5; and
- Proposed rule will state that the Department shall not accept any application that seeks relief from any title of the New Jersey Statutes or any title of administrative code other than Title 6A . The proposed rule is intended to streamline the review process because the Commissioner cannot approve requests related to State statute or other State agencies' rules.



Proposed Amendments – Sections 1.4 and 1.5 *(slide 1 of 3)*



- Existing rules state that the Commissioner, with authority delegated by the State Board, may approve an equivalency to, or a waiver of, a specific rule based on a Department-developed application submitted by a school district.
 - Adding “or the Commissioner’s designee” so a designee can approve an equivalency or waiver if the Commissioner must recuse from decisions regarding a specific school district or is otherwise unable to render the decision.



Proposed Amendments – Sections 1.4 and 1.5 *(slide 2 of 3)*



- Existing rules require chief school administrator to sign the application and the district board of education to approve it.
 - Proposed rule will state current practice for chief school administrator to submit equivalency or waiver application to executive county superintendent (ECS) and will require the submitted materials to include the approved district board of education resolution, or other documentation indicating the district board of education’s approval of the application. This will save time since the State Board Office will not have to use other means to verify the district board of education’s approval.



Proposed Amendments – Sections 1.4 and 1.5 *(slide 3 of 3)*



- Adding that the executive county superintendent (ECS) shall review the application for compliance with Section 1.3 and forward, to the State Board Office (SBO), the application submitted and ECS's recommendation. This is current practice, but the addition will reinforce that the ECS provides a recommendation and does not make a final determination.
- Adding that an educator preparation program shall submit its application directly to the SBO. Educator preparation programs are Statewide and do not interact with ECSs in the same way school districts do, so this will clarify to which office an application from an educator preparation program needs to be submitted.



Proposed Amendments – Section 1.7



- Existing rule states that any party seeking to challenge an action by a district board of education on the grounds that the action violates school laws shall initiate a contested case pursuant to N.J.A.C. 6A:3, Controversies and Disputes.
 - Adding “as that term is defined at N.J.A.C. 6A:3-1.2” after “district board of education” to clarify which entities are subject to the provisions at N.J.A.C. 6A:3.



Thank You!



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