

Public Notice

Education

State Board of Education

Notice of Action on Petition for Rulemaking

Educational Facility Planning Standards

Educational Facilities

N.J.A.C. 6A:26-6.3

Petitioner: Robert J. Chester, Esq.

Take notice that on June 9, 2022, the New Jersey State Board of Education (State Board) received a petition for rulemaking from the petitioner, requesting the State Board amend N.J.A.C. 6A:26-6.3.

The petitioner sought amendments at N.J.A.C. 6A:26-6.3(b), which sets forth 13 general design and construction requirements that, along with the educational facility planning standards delineated at N.J.A.C. 6A:26-6.3(c) through (h) and the Uniform Construction Code (UCC), form the requirements for the design and construction of public schools. N.J.A.C. 6A:26-6.4 sets forth specific standards for school facilities housing preschool students.

The petitioner sought to amend the general design and construction requirements for public schools to add new N.J.A.C. 6A:26-6.3(b)14 to include, in each classroom, video cameras with audio aimed at the teacher recording and live streaming, as well as on-demand lessons, for the purposes of enabling sick students to participate remotely to avoid disease transmission, encourage greater transparency and better parental involvement, improve educational equity and accountability, and assist in teacher improvement efforts.

The petitioner also sought to add new N.J.A.C. 6A:26-6.3(b)15 to require, in each classroom, video cameras with audio aimed at the students for the purposes of enabling police awareness and student safety in active shooter situations, improving educational equity and accountability, and assisting in teacher improvement efforts.

The petitioner further sought to add new N.J.A.C. 6A:26-6.3(b)16 to require, in each special education classroom, video cameras with audio aimed at all parts of the room for the purposes of enabling police awareness and student safety in active shooter situations, preventing abuse of students who are unable to communicate that they are being abused, improving educational equity and accountability, and assisting in teacher improvement efforts.

A notice acknowledging receipt of the petition was published in the July 18, 2022 New Jersey Register at 54 N.J.R. 1439(a).

The petitioner's request to require video cameras in each classroom, including each special education classroom, do not require or constitute a facility or furnishing or equipment and, as such, should not be included at N.J.A.C. 6A:26 as a general design and construction requirement. Furthermore, the expenditures associated with the proposed requirements most likely would not qualify for school facilities funding under the Educational Facilities and Construction Financing Act and would constitute an unfunded mandate.

The petitioner's proposed requirements related to video cameras in classrooms also implicate Federal, State, and local laws that govern the privacy of students and teachers, including but not limited to, the Federal Family Educational Rights and Privacy Act (FERPA) student records requirements, the Individuals with Disabilities Education Act (IDEA) privacy requirements, the student records regulations at N.J.A.C. 6A:32-7, and the individual collective bargaining agreements governing school districts' and teachers' employer/employee relationships.

Because the proposed video recording poses privacy and legal questions that may be individual to a school district's programs, employees, and students, it should not be imposed Statewide.

For the reasons indicated above, the petitioner's request is hereby denied.