

Public Notice

Education

State Board of Education

Notice of Receipt of Petitions for Rulemaking

Educational Facilities

Educational Facility Planning Standards

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

Petitioner: Robert J. Chester, Esq.

Take notice that on October 7 and 8, 2021, the New Jersey State Board of Education (State Board) received two petitions for rulemaking from the above petitioner, requesting the State Board of Education amend N.J.A.C. 6A:32-6.3. As the first petition originally filed lacked the specific amendment sought, the petitioner provided the language on October 8, 2021.

The petitioner seeks an amendment 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 states the requests are being made pursuant to N.J.A.C. 1:30-4.1, the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015 (P.L. 115-141), and *Andrew F. v. Douglas County School District* RE-1, 137 S.Ct. 988 (580 U.S. ____ (2017)).

The petitioner's stated interest is the following: to ensure that every student with a disability receives the best free, appropriate public education (FAPE) for each child; for every student in New Jersey to learn in a safe environment; to minimize any potential for inequity in

any form; to encourage educational innovation, accountability, and transparency; to empower parents in advocating for their children's education; and to minimize procedural issues that may inadvertently incentivize unnecessary conflict.

The petitioner seeks amend the general design and construction requirements for public schools to include, in each classroom, a video camera(s) with sound that faces the teacher, for the purposes of student safety, student access to lectures and lessons while students are home sick, and parental access to what their children are learning in the classroom. The petitioner also seeks to amend the general design and construction requirements to require each classroom to be heated and air conditioned, the air quality to be monitored, and the heating, ventilation, and air conditioning (HVAC) to be at least the minimum efficiency reporting value (MERV) 16 and to conform to American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) standards.

The petitioner states that the request to require video cameras as part of the general design and constructions for public schools is necessary because classrooms can become incubators of diseases and that ripples through the economy. The petitioner also states that the best place for children to learn is in the classroom with an excellent teacher and their peers, and that fewer absences leads to better learning. The petitioner further states that putting a camera in each classroom where a sick student can watch the lesson from home, and rewatch if necessary, is an opportunity for a sick day to turn into a learning day and is an excellent way to help students catch up at home, without any stigma of staying after school for extra help. The petitioner also states that cameras in classrooms would allow parents to see what is being taught in their children's schools and that would help in terms of transparency and to reduce conflict.

The petitioner states that the request to amend the general design and construction requirements to require heating and air conditioning in classrooms, air quality testing, and specific HVAC standards will make schools healthier places to learn. The petitioner also states that HVAC

systems have been designed to heat and, in most places, cool, and that the filtration in HVAC systems was designed to protect the HVAC motor equipment, not improve and protect air quality.

The petitioner contends that the requested amendments should make it easier for students in more difficult socioeconomic situations, students with disabilities, and students who have medical issues to catch up, receive extra help, and not fall further behind. The petitioner also contends that the requested amendments will reduce inequities from children being in poorly designed and maintained schools.

The petitioner further contends that the requested amendments will lead to less disruption to New Jersey's economy because they will reduce parents getting sick and missing their jobs due to other children being sent to school even though they are sick.

Full text of the requested amendments are as follows (additions in boldface **thus**):

6A:26-6.3 Educational facility planning standards

(a) (No change.)

(b) General design and construction requirements shall be as follows:

1. – 13. (No change.)

14. Video cameras in each classroom aimed at the teacher recording and live streaming, as well as on demand lessons (to enable sick students to remotely participate to avoid disease transmission, encourage greater transparency, better parental involvement, improve educational equity, and assist in teacher improvement efforts).

15. Each classroom must be heated and air conditioned, that the air quality be monitored, and that the HVAC must be a minimum of minimum efficiency reporting value (MERV) 16 and conform to American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) standards.

In accordance with N.J.A.C. 1:30-4.2, the Department shall subsequently mail to the petitioner, and file with the Office of Administrative Law, a notice of action on the petitions.