

## Public Notice

### Education

#### State Board of Education

#### Notice of Receipt of 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 December 3, 2021, the New Jersey State Board of Education (State Board) received a petition for rulemaking from the above petitioner, requesting the State Board of Education amend N.J.A.C. 6A:26-6.3 to require video cameras with sound in each special education classroom.

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 request is 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), *Endrew F. v. Douglas County School District RE-1*, 137 S.Ct. 988 (580 U.S. \_\_\_\_ (2017)), and Article VIII, Section IV of the New Jersey State Constitution.

The petitioner's stated interest is the following: to ensure that every student receives the best free, appropriate public education (FAPE) for each child in the least restrictive environment; for every student in New Jersey to learn in a safe environment free from abuse by staff and others

and from political and ideological bias; to participate fully in the marketplace of ideas; 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 to amend the general design and construction requirements for public schools to include, in each special education classroom, video cameras that can record sound and that are aimed at all visible areas. The petitioner also seeks to require the recordings from the video cameras to be kept according to the New Jersey State Archives' record retention guidelines. The petitioner further seeks to require the recordings to be accessible on demand by the parents and guardians of the students with disabilities in the classroom at the time.

The petitioner states that the requested rule is necessary because New Jersey's most vulnerable students cannot verbalize when something is wrong and can least articulate abuse. The petitioner also states that the parents of students with the most severe disabilities cannot report what they do not know. The petitioner further states that staff, teachers, and administrators always appear to be happy, but what happens inside a school can be a different matter. The petitioner also contends that COVID-19 protocols intended to keep students and staff safe instead have caused parents to be further removed from the school setting, denied access to a school building and classrooms, and denied the opportunity to tour potential placement sites before a student is placed in a school. The petitioner provided documentation of events that took place in a lunchroom involving a student with a disability and claimed the documentation illustrates the abuse that students with disabilities are subject to in school without a parent's knowledge.

The petitioner contends that the requested amendment will reduce opportunities for abuse of the most vulnerable students and that those benefits far outweigh the costs that a local education agency (LEA) would incur to comply with the requirement to install video cameras in

special education classrooms. The petitioner also contends that the requirement will reduce liability expenses from litigation settlements relating to institutional abuse by LEAs. The petitioner further contends that the proposed amendment will reduce the educational inequity for students with disabilities, by helping them to be safe, which will allow them to learn better.

**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 with sound in each special education classroom aimed at all visible areas, with recordings kept according to the Record Retention Guidelines of the New Jersey Archives, accessible on demand by the parents and guardians of the special education students in that classroom at the time.**

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.