

Executive Order No. 103 Notices

Education

The Commissioner

Notice of Rule Waiver/Modification/Suspension Pursuant to Executive Order No. 103 (2020)

COVID-19 State of Emergency

Verification of Payroll Check Distribution

N.J.A.C. 6A:23A-5.7, 18.4, and 22.8

Authorized: September 30, 2020, by Keven Dehmer, Interim Commissioner, Department of Education.

Authority: N.J.S.A. App.A:9-45 and App. A:9-47; and Executive Order No. 103 (2020).

Effective Date: September 30, 2020.

Expiration Date: Upon the Termination of the Emergency Declaration Made Pursuant to

Executive Order No. 103 (2020).

This is an emergency adoption of temporary modification and suspension of rules governing the effective and efficient expenditure of educational funds in school districts as a condition for the receipt of State aid. Section 6 of EO 103, issued in response to the COVID-19 pandemic, authorizes agency heads to waive/suspend/modify any existing rule, where the enforcement of the rule would be detrimental to the public welfare during the emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Pursuant to that authority, and with the approval of the Governor and in consultation with the State Director of Emergency Management and the Commissioner of the Department of Health, the Commissioner of Education is modifying Department of Education (Department) rules as follows:

Current Department rules require a school district to demonstrate that all educational expenditures will be used effectively and efficiently in order to enable students to achieve the New Jersey Student Learning Standards pursuant to N.J.S.A. 18A:7F-60. Current Department rules also specify conditions for the receipt of state aid pursuant to P.L. 2007, c. 260, the School Funding Reform Act of 2008 (SFRA). Specifically, N.J.A.C. 6A:23A-5.7 requires school districts to verify payroll once every three years by having all employees report to a central location, produce photo identification, and sign a release for their paycheck or direct deposit voucher. N.J.A.C. 6A:23A-22.8 imposes the same requirement on charter schools to ensure the effective and efficient use of public school funds. Both rules also require verification of the school district's or charter school's compliance with this requirement in its annual audit, which is due in December following the close of the school year. The extended public health-related school closures made it impossible and unsafe to comply with the face-to-face interaction required by the rules for any payroll verification over the three months of school closures during the 2019-2020 school year and, therefore, impractical to verify compliance in the annual audit for the year ending on June 30, 2020. Therefore, it is necessary to temporarily suspend this requirement for school districts and charter schools, including the required compliance verification in the annual audit for the remainder of the public health emergency.

N.J.A.C. 6A:23A-18.4(h) states that a new school shall not begin operations before July 1 of the school year immediately following the school year in which the APSSD received approval to operate, except for an APSSD operating in, and affiliated with, a public school district. The ongoing public health emergency has slowed school construction and the Department's new school approval process, which requires an in-person inspection of the new school by the county office of education. Therefore, it is necessary to waive this requirement for APSSDs for the

duration of EO 103 to allow schools to relocate their program to the completed new school before July 1, 2021, if construction is completed and new school approval is obtained during the course of the 2020-2021 school year.

Following the termination of Executive Orders No. 103 and No. 151, school districts, charter schools, and APSSDs will be required to meet the requirements of the above rules.

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

Subchapter 5. Additional Measures to Ensure Effective and Efficient Expenditures of District Funds

6A:23A-5.7 Verification of payroll check distribution

(a)-(e) (No change.)

(f) The requirements at (a) through (e) above are temporarily suspended for the duration of the COVID-19 Public Health Emergency.

Subchapter 18. Tuition for Private Schools for Students with Disabilities

6A:23A-18.4 New approved private schools for students with disabilities

(a) – (h) (No change.)

(i) The requirements at (h) above are temporarily suspended for the duration of the COVID-19 Public Health Emergency.

Subchapter 22. Financial Operations of Charter Schools

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

(a)-(e) (No change.)

(f) The requirements at (a) through (e) above are temporarily suspended for the duration of the COVID-19 Public Health Emergency.