

## **Education**

### **State Board of Education**

#### **Adult Education Programs**

##### **Readoption with Amendments: N.J.A.C. 6A:20**

##### **Adopted Repeals: N.J.A.C. 6A:20-1.6 and 2.10**

Proposed: September 21, 2020, at 52 N.J.R. 1721(a).

Adopted: January 6, 2021, by the New Jersey State Board of Education, Angelica Allen-McMillan, Ed.D., Acting Commissioner, Department of Education, and Acting Secretary, State Board of Education.

Filed: January 7, 2021, as R.2021 d.010, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 18A:4-15, 18A:7C-1 et seq., 18A:48-1, and 18A:50-13; and the Workforce Innovation and Opportunity Act, 29 U.S.C. §§ 3101 et seq.

Effective Dates: January 7, 2021, Readoption;

February 1, 2021, Repeals and Amendments.

Expiration Date: January 7, 2028.

#### **Summary of Public Comments and Agency Responses:**

The following is a summary of the comments received from members of the public and the Department of Education's (Department) responses. Each commenter is identified at the end of the comment by a number that corresponds to the following list:

1. Elizabeth Franks, New Jersey Teachers of English to Speakers of Other Languages/New Jersey Bilingual Educators – NJTESOL/NJBE

2. Judy Savage, Executive Director, New Jersey Council for Career and Technical Vocational Schools

1. Comment: The commenter expressed support for proposed N.J.A.C. 6A:20-1.1(a)5, which will establish, as one of the Department's responsibilities, the review of data on adults without high school diplomas to help ensure programming is meeting their needs. The commenter stated this is particularly important for the influx of English language learners (ELLs) with interrupted formal education. (1)

Response: The Department thanks the commenter for the support.

2. Comment: The commenter expressed support for the proposed amendments at N.J.A.C. 6A:20-1.2 to the definitions of "adult high school" and "English language proficiency" and for the proposed definition for "English language learner." The commenter stated that an adult high school may be the best option for the influx of students with interrupted formal education since they are usually over age and require options to the traditional high school. The commenter also stated that allowing 16-year old students to attend adult high schools will afford the students an opportunity to receive a high school diploma. The commenter further stated that the definitions are consistent with the definitions at N.J.A.C. 6A:15, Bilingual Education. (1)

Response: The Department thanks the commenter for the support.

3. Comment: The commenter suggested that recodified N.J.A.C. 6A:20-2.6, Award of credit, should include Option 2 flexibility. (1)

Response: Since adult high schools are part of a school district and must adhere to all State and local graduation requirements, Option 2 (otherwise known as individual learning opportunities) is already available to the students at an adult high school.

4. Comment: The commenter urged the Department to reconsider the proposed amendments at N.J.A.C. 6A:20-2.3(a) and recodified N.J.A.C. 6A:20-2.5(a)2. The commenter stated that ELLs in traditional high schools are not required to demonstrate English fluency on an English proficiency assessment. The commenter also stated that ELLs have the opportunity to continue their education at community colleges, which offer ESL courses, and there is no reason to require a certain level of English proficiency upon graduation. The commenter further stated the proposed amendments may discourage ELLs from attending an adult high school. (1)

Response: Adult high schools are part of a school district and must adhere to all State and local graduation requirements. Requiring ELLs in adult high schools to demonstrate language proficiency on a State-approved English proficiency assessment mirrors the requirement at N.J.A.C. 6A:8-5.1(h), which applies to ELLs attending traditional high schools.

5. Comment: The commenter expressed concern that the proposed amendments at recodified N.J.A.C. 6A:20-2.4(a) require adult high schools to consider any recent individualized education program (IEP) or 504 plan developed for a student and, if none are available, a student may be referred to the IEP team for a reevaluation. The commenter stated it is not clear which school district would pay for the evaluation/reevaluation as an adult high school that does not have the capacity to meet a

student's IEP or their English language learning needs may refer the student to another provider. (2)

Response: The proposed amendments at recodified N.J.A.C. 6A:20-2.4(a) reflect the current language of the Federal Americans with Disabilities Act (ADA). Adult high schools must utilize the traditional high school's IEP team to evaluate a student's IEP or 504 plan.

### **Summary of Agency-initiated Changes:**

1. The Department is making changes upon adoption at N.J.A.C. 6A:20-1.2 to the definitions of "English language learner" and "official transcript" and N.J.A.C. 6A:20-1.3(d) for grammatical purposes.
2. The Department is changing the heading at N.J.A.C. 6A:20-2.3 to "English language learners" to reflect the section's content as proposed for amendment. The Department is recodifying existing N.J.A.C. 6A:20-2.3(b), (c), and (d) as new N.J.A.C. 6A:20-2.4(a), (b), and (c). The Department further is changing recodified N.J.A.C. 6A:20-2.4(c) for grammatical purposes. The heading of new N.J.A.C. 6A:20-2.4 is "Individuals with disabilities." As a result of these changes, the Department is updating a cross-reference at N.J.A.C. 6A:20-2.1(b).
3. The Department is making a change upon adoption at recodified N.J.A.C. 6A:20-2.5(a)2 to replace "pursuant to" with "required at" to clarify that the cross-reference to N.J.A.C. 6A:8-5.1 applies to the Statewide assessment for graduation. The Department is also relocating the provision about the portfolio appeals process being in the English language learner's native language, when available, to the end of the paragraph for clarity.

## Federal Standards Statement

The rules readopted with amendments and repeals are in compliance with Federal requirements under the Every Student Succeeds Act (PL 114-95) and will continue to advance the mission to enhance the education of adults to ensure that adults receive either a State-issued or State-endorsed high school diploma. There are no other Federal requirements that impact the rules readopted with amendments and repeals .

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 6A:20.

**Full text** of the adopted amendments follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***):

### Subchapter 1. General Provisions

#### 6A:20-1.2 Definitions

The following words and terms shall have the following meanings when used in this chapter, unless the context clearly indicates otherwise.

...

“English language learner” or “ELL” means a student whose native language is other than English. The term refers to students with varying degrees of English language proficiency in any one of the domains of speaking, reading, writing, or listening and is synonymous with limited **\*[English speaking]\* \*English-speaking\*** ability as used at N.J.S.A. 18A:35-15 through 26.

...

“Official transcript” means a person’s record of high school, adult high school, or college courses, grades, and credits awarded, or a record of an NJHSEA or other assessment\*[s]\* approved by the State Board of Education.

...

#### 6A:20-1.3 Eligibility requirements to earn a State-issued high school diploma

(a)-(c) (No change from proposal.)

(d) Requests **\*by emancipated minors\*** to participate in programs that lead to a State-issued high school diploma **\*[from emancipated minors]\*** shall be accompanied by a Certificate of Consent signed by a judge appointed in the State of New Jersey.

(e) (No change from proposal.)

### Subchapter 2. Adult High Schools

#### 6A:20-2.1 General provisions

(a) (No change from proposal.)

(b) An adult high school program shall develop for each student an educational plan reflecting the student's past academic record, an analysis of past experiences for which credit may be awarded pursuant to N.J.A.C. 6A:20-~~\*[2.5]\*~~**\*2.6\***, graduation requirements, and a proposed schedule of courses for the current school year leading to completion of graduation requirements.

#### 6A:20-2.3 English language learners **\*[and individuals with disabilities]\***

(a) (No change from proposal.)

#### **\*6A:20-2.4 Individuals with disabilities\***

**\*[(b)]\* \*(a)\*** (No change from proposal.)

**\*[(c)]\* \*(b)\*** For an individual who previously had a 504 plan, the principal of the adult high school shall request, with the written consent of the individual, the most recent 504 plan for the individual from the high school of last attendance, provided the evaluation was made within the

last year. \*[A determination shall be made by the]\* **\*The\*** school district **\*shall determine\*** if the 504 plan needs to continue, be discontinued, and/or updated. The principal of an adult high school may request a doctor's note with a rationale and treatment plan to verify the continued need **\*for the 504 plan\***.

\*[(d)]\* **\*c)** An individual with a disability who does not qualify for special education and related services, pursuant to \*[(b)]\* **\*a)** above and N.J.A.C. 6A:14, and who does not have a previous 504 plan shall be counseled regarding educational options that would lead to a high school diploma.

\*[6A:20-2.4]\* **\*6A:20-2.5\*** Graduation

(a) A district board of education operating an adult high school shall adopt policies for adult high school graduation requirements pursuant to N.J.A.C. 6A:8-5.1. Policies shall include passing the Statewide assessment for graduation pursuant to N.J.A.C. 6A:8-5.1.

1. (No change from proposal.)
2. English language learners who are enrolled in an adult high school and are unable to pass the Statewide assessment for graduation, \*[pursuant to]\* **\*required at\*** N.J.A.C. 6A:8-5.1, shall receive further evaluation \*[through the portfolio appeals process in their native language, when available,]\* pursuant to N.J.A.C. 6A:8-5.1(h), and shall demonstrate English language fluency on a Department-approved English proficiency assessment. **\*The portfolio appeals process shall be undertaken in the English language learner's native language, when available.\***

(b)–(f) (No change from proposal.)

Recodify existing 6A:20-2.5 through 2.9 as **\*2.6 through 2.10\*** (No change in text from proposal.)