

## **Readoption with Amendments of N.J.A.C. 6A:31, Renaissance Schools**

The following is the accessible version of the notice of adoption for the readoption with amendments of N.J.A.C. 6A:31.

## **Education**

### **Commissioner of Education**

#### **Renaissance Schools**

#### **Readoption with Amendments: N.J.A.C. 6A:31**

#### **Adopted New Rule: N.J.A.C. 6A:31-4.4**

Proposed: June 21, 2021, at 53 N.J.R. 1054(a).

Adopted: December 7, 2021, by Angelica Allen-McMillian, Ed.D., Acting Commissioner, Department of Education.

Filed: December 7, 2021, as R.2022 d.007, **without change**.

Authority: N.J.S.A. 18A:36C-1 et seq., specifically 18A:36C-13.

Effective Dates:       December 7, 2021, Readoption;  
                                  January 3, 2022, Amendments.

Expiration Date:       December 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 New Jersey 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.     Jean Public
2.     Jonathan Pushman, Director, Governmental Relations, New Jersey School Boards Association
3.     Thomas O. Johnston, Johnston Law Firm LLC

1.     Comment: The commenter asked, in relation to N.J.A.C. 6A:31-7.1, whether the members of board of trustees of a renaissance school project must comply with N.J.S.A.

18A:36A-11.1, which requires criminal background checks for members of a charter school board of trustees. (2)

Response: The board of trustees of a renaissance school project must comply with N.J.S.A. 18A:36A-11.1, pursuant to N.J.S.A. 18A:36C-7.h.

2. Comment: The commenter asked, in relation to N.J.A.C. 6A:31-7.2, whether, in addition to the training requirements at N.J.A.C. 6A:28-4.1, renaissance school project board of trustees members must comply with N.J.A.C. 6A:32-3.2, which contains requirements for the code of ethics for district board of education members and charter school board of trustees members. (2)

Response: Pursuant to N.J.A.C. 6A:31-7.2(a), the members of a renaissance school project board of trustees are school officials as defined in the School Ethics Act (N.J.S.A. 18A:12-23). Therefore, renaissance school project board of trustees members must comply with the provisions of the School Ethics Act and N.J.A.C. 6A:28, School Ethics Commission. Amendments recently proposed at N.J.A.C. 6A:32-3.2 (see 53 N.J.R. 1307(a)) include the addition of renaissance school project boards of trustees.

3. Comment: The commenter requested amendments at N.J.A.C. 6A:31-5.1(a), which requires the Commissioner to periodically review a renaissance school project during its initial 10-year term of the contract to ensure there has been no breach of contract and to assess whether the renaissance school project is meeting its goals and improving student achievement. The regulation, as amended, also requires the school district or State district superintendent(s) of the renaissance school district to notify the Commissioner of any breach of contract. The commenter requested an amendment to add “duly adjudicated”

between “any” and “breach.” The commenter stated that the requested amendment would allow for due process protections to renaissance school projects for contract violations alleged by the renaissance school district or State district superintendent. The commenter also stated that a renaissance school district should not be allowed to unilaterally declare a renaissance school project in contract breach without the renaissance school project having a fair opportunity to defend itself and to have the matter duly adjudicated. The commenter further stated that, absent the requested amendment, a renaissance school project will be subject to last-minute, unproven accusations by a renaissance school district that it breached obligations, and that allegation will be factored into the Commissioner’s decision when reviewing the continued re-authorization of the renaissance school project. (3)

Response: The Department disagrees with the proposed amendment. N.J.A.C. 6A:31-5.1(a) requires the Commissioner, during the renaissance school project’s initial 10-year term contract, to periodically review a renaissance school project to ensure there has been no breach of contract and to assess whether the renaissance school project is meeting its goals and improving student achievement. During the Commissioner’s review, any statements made by the school district or State district superintendent(s) may be considered in determining whether there was a breach of contract. Therefore, the Commissioner determines the validity of the claim of breach of contract, which does not have to be “duly adjudicated” to inform the Commissioner’s periodic review. Further, N.J.A.C. 6A:31-5.2 defines the procedure for filing a petition to the Commissioner for any dispute arising out of the contract.

4. Comment: The commenter expressed concern that the proposed readoption of N.J.A.C. 6A:31-8.3 can be interpreted to mean that parents or guardians who reside outside the renaissance school project must pay tuition, even if admitted through a lottery. The commenter stated the Urban Hope Act does not support that because the law specifically classifies renaissance schools as public schools and allows for admission of non-resident students through a lottery. The commenter also stated that, pursuant to N.J.S.A. 18A:36C-7, a renaissance school project should operate pursuant to the laws and regulations governing charter schools that are not inconsistent with the Urban Hope Act, and parents or guardians of charter school students who reside outside the charter school's district of residence do not have to pay tuition when enrolled through the charter school's lottery process.

Response: The Department disagrees that N.J.A.C. 6A:31-8.3 could be interpreted to mean that a parent or guardian who resides outside the renaissance school project must pay tuition, even if their child is admitted to the renaissance school project through the lottery. N.J.A.C. 6A:31-8.3 does not address the lottery or students who are admitted to the renaissance school project through the lottery. N.J.A.C. 6A:31-8.3(a) states that the renaissance school district accepting non-resident students may charge tuition, while N.J.A.C. 6A:31-8.3(b) states that the non-resident district board of education may agree to pay the tuition. N.J.A.C. 6A:31-4.1(f) and 4.2(f) allow for a lottery that may include students who reside outside of the renaissance school district.

5. Comment: The commenter stated that N.J.A.C. 6A:31-8.3 could be interpreted as ambiguous as to whether a renaissance school student who moves outside the renaissance school project can still attend the renaissance school free of charge. The commenter also

stated that the Urban Hope Act does not contain any language that explains why such students should be treated differently from charter school students who move outside the charter school's district of residence. The commenter further stated that a renaissance school student who moves outside the renaissance school district should be allowed to continue to attend the renaissance school free of charge. (3)

Response: The Department disagrees. N.J.A.C. 6A:31-4.1(a) requires the renaissance school district to allow any student who was enrolled in the renaissance school project in the immediately preceding year to enroll in the renaissance school in the appropriate grade, regardless of residency, unless the appropriate grade is not offered. Further, N.J.A.C. 6A:31-8.3(c) requires the renaissance school district to pay to the renaissance school project the tuition paid by the non-resident school district or parent or guardian pursuant to N.J.A.C. 6A:31-8.3(a) and (b).

6. Comment: The commenter expressed support for local determination of school choice within the public schools. The commenter stated that options could include choice among schools in a school district (intradistrict choice), including charter or magnet schools, or could extend to schools in other school districts (interdistrict choice) when district boards of education have established mutually agreeable contracts. (2)

Response: The Department appreciates the comment.

7. Comment: The commenter stated that nonprofit entities should not have a role in schools because the entities may have primarily monetary motives. The commenter also stated that allowing private nonprofit entities into schools "will turn them into religious schools and pick and choose schools that will favor one nationalist and keep out all others." The

commenter further stated that the idea behind public schools was to turn children into one nation, but the nation is being divided. The commenter also expressed opposition to this law and to other legislation currently being passed by the New Jersey Legislature. (1)

Response: The Urban Hope Act explicitly states that a nonprofit entity may have a role in schools in a renaissance school district. However, N.J.S.A. 18A:36C-7.g prohibits a nonprofit entity from realizing a net profit from its operation of a renaissance school project. The law also states that a private or parochial school shall not be eligible for renaissance school project status.

### **Federal Standards Statement**

There are no Federal standards or requirements that impact the rules readopted with amendments and a new rule; therefore, a Federal standards analysis is not required.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 6A:31.

**Full text** of the adopted amendments and new rule follows:

Text