

Readoption with Amendments of N.J.A.C. 6A:33, School Turnaround and Improvement

The following is the accessible version of the readoption with amendments of N.J.A.C. 6A:33. The notice of adoption includes two sections – [comment and response](#) and [amendments upon adoption](#).

Education

Commissioner of Education

School Turnaround and Improvement

Readoption with Amendments: N.J.A.C. 6A:33

Adopted Repeals and New Rules: N.J.A.C. 6A:33-2 and 3

Adopted Repeal: N.J.A.C. 6A:33 Appendix

Adopted New Rules: N.J.A.C. 6A:33-4

Proposed: June 7, 2021, at 53 N.J.R. 984(a).

Adopted: October 8, 2021, by Dr. Angelica Allen-McMillian, Acting Commissioner, Department of Education.

Filed: October 8, 2021, as R.2021 d.129, **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:7F-6.b, 18A:7F-34, 18A:7F-42, and 18A:7F-60.

Effective Dates: October 8, 2021, Readoption;

November 15, 2021, Amendments, Repeals, and New Rules.

Expiration Date: October 8, 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. Gaye Korley, Retired library media specialist
3. Beth Thomas, President, New Jersey Association of School Librarians

4. Kathleen Galarza, Retired library media specialist
 5. Jessica Tatton, Library media specialist
 6. Coleen Caulfield, Library media specialist
 7. Tricina Strong-Beebe, Library media specialist
 8. Cynthia Capozzi, Library media specialist
 9. Jonathan Pushman, Director, Governmental Relations, New Jersey School Boards Association
 10. Marcella Simadiris
1. Comment: The commenter stated that deleting, at N.J.A.C. 6A:33-1.1(b), the option to withhold the disbursement of funds to local education agencies (LEAs) as a remedy to ensure the effective and efficient expenditure of funds will compromise transparency and will weaken the State's accountability for Federal funds. (10)
Response: The Department disagrees. The deletion at N.J.A.C. 6A:33-1.1(b) aligns the chapter with the Department's collaborative, rather than punitive, approach to school improvement and does not minimize the Commissioner's statutory authority. N.J.A.C. 6A:33-1.1(b) references the Commissioner's authority, pursuant to N.J.S.A. 18A:7F-6.b and 18A:7F-60, to take appropriate action, including redirecting expenditures, if schools are not meeting the New Jersey Student Learning Standards (NJSLS). Further, the Department's collaborative approach enhances, rather than compromises, transparency in the use of Federal funds.
 2. Comment: The commenter objected to charter schools being excluded from N.J.A.C. 6A:33-1.2, which sets forth the chapter's scope. The commenter stated that there should

be no difference in the scope of accountability between traditional public schools and charter schools. (10)

Response: All public schools, traditional and charter, are subject to the provisions of the Federal Every Student Succeeds Act (ESSA), which set forth school accountability parameters. Charter schools are subject to the rules at N.J.A.C. 6A:11, which include provisions for charter school reporting, performance, and remedies for failure to meet the NJSLS. Therefore, there is no need for charter schools to also be subject to N.J.A.C. 6A:33, which addresses reporting, performance, and remedies for schools identified as needing comprehensive or targeted support and improvement.

3. Comment: The commenters expressed support for removing, at N.J.A.C. 6A:33-1.3, professional specialists (literacy coach, data coach, and climate specialist) from the list of intervention strategies since they are not Department-approved certification titles or approved professional education standards. (2, 3, 4, 5, 7, and 8)

Response: The Department thanks the commenters for the support.

4. Comment: The commenters recommended adding school libraries to the list of evidence-based interventions at N.J.A.C. 6A:33-1.3 because there is a current Department-approved title and approved educational standards for certified school library media specialists. The commenters also stated that research suggests that students tend to earn better standardized test scores in schools that have strong library programs. (2 through 8)

Response: The Department declines to make the suggested change, as N.J.A.C. 6A:33-1.3 is not intended to be prescriptive or to include an exhaustive list of resources to implement evidence-based practices. School districts can include school libraries in the

annual school plan based on documentation that they would facilitate the implementation of evidence-based strategies in response to an identified need.

5. Comment: The commenter shared some of the ways certified school library media specialists contribute to the educational environment, including their ability to support their colleagues' classroom objectives and being one of the few educators who work with students as they progress through the grade levels. The commenter also stated that access to a strong school library program ignites the spark for a student's love of reading and it continues to fuel it by providing access to a collection of print and digital books far greater than any classroom collection as certified school library media specialists have access to a nationwide interlibrary loan system. (3)

Response: The Department appreciates the important role of school library media specialists in educating New Jersey's students.

6. Comment: The commenter objected to including, at N.J.A.C. 6A:33-1.3, High Expectations for Students, an element for assessing climate and culture because it burdens students. The commenter recommended, instead, the assessment of "all elements" of the environment. (10)

Response: The Department does not agree and declines to accept the commenter's recommendation. The commenter did not specify what was meant by "all elements" and the term, in general, could be broadly interpreted. Academic research consistently demonstrates a strong correlation between high expectations for students and student achievement. High-quality, student-centered learning environments require collective teacher efficacy and places on adults the primary responsibility to generate an atmosphere that is conducive to positive academic outcomes and to recognize and cultivate students'

realization of their highest potential. Furthermore, the annual school planning process includes the examination of multiple climate and culture elements, including enrollment, student and staff attendance, and discipline. The chapter, as amended, does not preclude schools from examining additional climate and culture metrics that are germane to their specific circumstances. Therefore, the focus on adults having high expectations for students does not unduly burden students.

7. Comment: The commenter indicated that N.J.A.C. 6A:33-1 unnecessarily emphasizes State assessments as a sole indicator of meeting the NJSLs, which the commenter contended is a barrier to equity. (10)

Response: The Department does not agree. In addition to Statewide assessments, N.J.A.C. 6A:33-1.1(b) allows an evaluation of school performance to be used as the basis for determining that an LEA, or one more of its schools, is failing to meet the NJSLs. Additionally, N.J.A.C. 6A:33-2.1 states that the identification of schools in need of comprehensive or targeted support and improvement is based on five indicators, with only one being student proficiency on State assessments. Furthermore, the annual school planning process, at N.J.A.C. 6A:33-3, requires the examination of multiple metrics as part of a comprehensive needs assessment to identify factors that contribute to schools' improvement challenges.

8. Comment: The commenter objected to the inclusion of only one non-academic metric -- chronic absenteeism -- in the school identification process at N.J.A.C. 6A:33-2.1. The commenter stated that this fails to reflect the uniqueness of a school in need of improvement and does not facilitate meaningful differentiation between Comprehensive and Targeted Schools. (10)

Response: The Department does not agree with the commenter. The Department included chronic absenteeism as the school quality indicator in the approved ESSA State Plan following an extensive review of the research, examination of available data sources, and broad stakeholder engagement. The Department's accountability system includes multiple metrics that delineate the schools that need comprehensive support and improvement versus those that need targeted support and improvement. Following identification, LEAs and their schools are required to complete the annual school planning process, which includes the examination of multiple metrics (academic and non-academic) to identify specific needs and the root causes that perpetuate those needs.

9. Comment: The commenter asked who coordinates and convenes the annual school plan team required at N.J.A.C. 6A:33-3.1. The commenter also asked if there is a deadline by which the meeting must take place each year. (9)

Response: LEA leaders have the discretion to determine the protocols for the annual school plan team. School-level administrators coordinate and convene the team and set meeting dates. Team meetings are expected to be scheduled in a manner to satisfy the requirements at N.J.A.C. 6A:33-3.1 and 3.3, which address annual school plan development and progress monitoring, respectively.

10. Comment: The commenter asked what the deadline is for the completion of the comprehensive needs assessment at N.J.A.C. 6A:33-3.1(b). (9)

Response: The deadline for the comprehensive needs assessment varies based on the Department's posting of the requisite guidance and materials on the annual school planning system. The Department will notify LEAs and schools regarding the system's availability and due dates.

11. Comment: The commenter recommended amendments at N.J.A.C. 6A:33-3.1(d) and (c) to add “[t]he plan shall also include written documentation that the plan was shared with the board of education at a public meeting prior to approval by the superintendent.” The commenter stated that the annual school plan must be aligned with the school district’s strategic plan and the recommended amendments will ensure that the district board of education is aware of the annual school plan and can ensure that adequate resources are available to support it. (9)

Response: The Department declines to adopt the suggested amendments as the annual school plan includes an assurance that the annual school plan is aligned with the LEA’s strategic plan. The assurance must be certified by the secretary to the district board of education or school business administrator and by the chief school administrator. The Elementary and Secondary Education Consolidated Application, which is approved by the district board of education, also must include general program elements of the annual school plan and corresponding budget.

12. Comment: The commenter suggested that the Department amend N.J.A.C. 6A:33-3.3(c) to reflect that the results of progress monitoring should be shared with all stakeholders and not just the Department’s field support teams. (10)

Response: The Department recognizes the integral role of all stakeholders in facilitating school improvement. N.J.A.C. 6A:33-3.1(a) requires broad stakeholder representation on the annual school plan team, including, but not limited to, parents/families, community members, teachers, and other school staff. N.J.A.C. 6A:33-3.3(a) and (b) require the annual school plan team, which is comprised of various stakeholders, to facilitate the progress monitoring process, which goes beyond sharing interim updates with stakeholders.

13. Comment: The commenter recommended that the rules proposed for readoption with amendments require that the district board of education be informed about the progress of the annual school plan. The commenter suggested adding a new rule at N.J.A.C. 6A:33-3.3(e) to state “[t]he school plan team shall also share the progress concerning the implementation of the annual school plan with the board of education at a public meeting at least annually.” (9)

Response: The Department declines to adopt the suggested amendment. The Department supports district boards of education receiving annual updates regarding plan implementation and progress. However, LEAs have established protocols that include the chief school administrator, or designee, sharing school-related information with the district board of education. There is no basis to specifically require the annual school team to present to the district board of education at a public meeting.

14. Comment: The commenter stated that N.J.A.C. 6A:33-3 fails to address social and emotional learning. (10)

Response: The Department recognizes the correlation between social-emotional learning and positive student outcomes. N.J.A.C. 6A:33-3.1, which sets forth the requirements for the annual school planning process, includes careful examination of quantitative and qualitative data to identify and address factors that impact student outcomes. It is not necessary for N.J.A.C. 6A:33-3.1 to specify potential areas of focus as the needs assessment process will lead planning teams to identify specific areas of focus, which may include social-emotional learning.

15. Comment: The commenter recommended that the Department revise the exit criteria for Comprehensive Schools at N.J.A.C. 6A:33-4.1(b)4 to “require” stakeholder engagement

in the drafting and monitoring of the annual school plan, rather than stating that stakeholder engagement may be included. (10)

Response: The Department declines to accept the commenter's recommendation. The Department is committed to giving schools every opportunity to demonstrate their capacity for sustained improvement, which results in schools no longer being designated as schools in need of comprehensive support and improvement. The chapter, as readopted with amendments, repeals, and new rules, allows the Department to identify documentation of plan implementation based on local circumstances. Further, the chapter ensures that Comprehensive Schools are not unnecessarily escalated to Comprehensive II status if they have met all other student academic accountability indicators and completed most, but not all, of the interventions during its period of identification as a Comprehensive School.

16. Comment: The commenter recommended an amendment at N.J.A.C. 6A:33-4.1(d)1 to specify who in the school district is responsible for submitting the sustainability plan and to whom the plan must be submitted. (9)

Response: Unless otherwise specified, submissions to the Department are done by the chief school administrator. To ensure clarity, the Department is changing new N.J.A.C. 6A:33-4.1(d)1 upon adoption to specify that the chief school administrator must submit the sustainability plan to the Department.

17. Comment: The commenter recommended an amendment at N.J.A.C. 6A:33-4.1(e)1 to specify who in the school district is responsible for submitting the resource equity report to the Department. (9)

Response: To ensure clarity regarding the submission expectations for the resource equity report, the Department is changing new N.J.A.C. 6A:33-4.1(e)1 upon adoption to specify that the chief school administrator is accountable for submitting the report to the Department.

18. Comment: The commenter stated that, as reflected at N.J.A.C. 6A:33-4.1(e)1, waiting to increase equity in resource distribution after schools are designated as Comprehensive for three years and become Comprehensive II decreases the likelihood of schools ever making sufficient progress to no longer be designated as needing support and improvement. (10)

Response: The Department agrees that timely identification of resource inequities is an essential component of school improvement. The annual school plan requires LEAs with Comprehensive and Targeted Schools to conduct a resource equity review upon identification of such schools, and every year thereafter, as part of the annual school planning process. N.J.A.C. 6A:33-4.1(e)1 also requires LEAs to further examine their protocol for resource distribution and to address any identified inequity(ies) if schools are escalated to Comprehensive II status.

19. Comment: The commenter asked what the funding source is for the new initiatives contingent upon a formal agreement of external program evaluation, as indicated at N.J.A.C. 6A:33-4.1(e)2. The commenter also requested details regarding what will be required in the formal agreement of external program evaluation, the content of the evaluation, and who would conduct the evaluations. (9)

Response: The Department will use Federal school improvement funds available through the Elementary and Secondary Education Act (ESEA), as amended by the ESSA § 1003, for discretionary grant allocations. The discretionary grant is designed to give select school districts with Comprehensive II Schools the opportunity to identify and collaborate with an

external provider to assess and address school improvement challenges. As the funding will be made available through a discretionary grant competition, further details can be shared only upon the release of the notice of grant opportunity.

20. Comment: The commenter asked what the criteria is for a qualified leadership coach, which is required at N.J.A.C. 6A:33-4.1(e)3. The commenter also asked if funding for the position will be provided by the State. (9)

Response: School districts can exercise their discretion when securing services to support school improvement, including the selection criteria for a qualified leadership coach based on the specific needs of school-level administrators. Federal school improvement funds allocated to school districts with Comprehensive II Schools may be used to secure coaching services.

21. Comment: The commenter recommended amendments at N.J.A.C. 6:33-4.1(e)4 that require district board of education members of school districts with Comprehensive II Schools to undergo additional training to strengthen governance and oversight. The commenter requested that the paragraph be revised to read “[a]ll district board of education members of school districts with Comprehensive II Schools shall undergo additional training to strengthen their knowledge and understanding of their governance and oversight responsibilities. This training may be provided by the New Jersey School Boards Association, in consultation with the Department.” The commenter stated that the New Jersey School Boards Association (NJSBA) is the provider of training for district board of education members, pursuant to N.J.S.A. 18A:12-33. (9)

Response: The Department agrees with the recommended emphasis that “all” district board of education members of school districts with Comprehensive II Schools must participate in the training and the clarification of the training’s objective, which is to enhance knowledge

and understanding of governance and oversight responsibilities. The Department is changing new N.J.A.C. 6A:33-4.1(e)4 upon adoption to include the clarification. However, the Department declines to specify any potential training provider. The Department expects district boards of education to exercise their discretion in the review and selection of training providers to facilitate the requirements at N.J.A.C. 6A:33-4.1(e).

22. Comment: The commenter stated that the chapter, as proposed for readoption with amendments, repeals, and new rules, gives school districts sole autonomy for determining which data is appropriate for assessing climate and culture. The commenter also stated that this disenfranchises parents who serve on the annual school planning team. (10)

Response: The Department disagrees. The Department has an unwavering commitment to parent/family involvement in the school improvement process. The chapter, as proposed for readoption with amendments, repeals, and new rules, is aligned with the ESEA §§ 1111(d)(1)(B) and (d)(2)(B) requirements to include parents on teams that develop school improvement plans. N.J.A.C. 6A:33 does not provide LEAs sole autonomy for assessing climate and culture. On the contrary, N.J.A.C. 6A:33-3.1(a) requires parents and families to be part of the annual school teams, which is the entity tasked with conducting an extensive data review as part of the comprehensive needs assessment.

23. Comment: The commenter stated that it does not appear that the Department incorporated recommendations from the New Jersey Interagency Task Force to Combat Youth Bias in the readoption of N.J.A.C. 6A:33. (10)

Response: The Department is committed to addressing factors that negatively impact students, including youth bias. N.J.A.C. 6A:33 has a limited scope focused on school improvement in a small proportion of the State's school districts. The task force's report

includes remedies to address the systemic factors related to youth bias in all school districts, which cannot be adequately addressed in this chapter. However, this does not preclude annual school plan teams from addressing youth bias if a needs assessment finding indicates that it is a primary contributing factor to improvement challenges.

24. Comment: The commenter indicated that the authority for management of public schools should rest with district boards of education. The commenter also stated that the State's authority over school districts should not exceed the scope necessary to ensure a thorough and efficient system of free public education. The commenter further stated that the Department has the authority to intervene in the management of school districts on certain statutory grounds after due process procedures have been followed and the criteria for school districts to resume local control have been established. (9)

Response: The Department acknowledges the balance between the authority of district boards of education and the Department's authority to ensure a high-quality education for all students and the responsibility to intervene, when necessary, in a manner consistent with State statute.

25. Comment: The commenter stated there is a lack of clarity regarding the designation for schools that are not identified as Comprehensive or Targeted. (10)

Response: The comment is beyond the scope of this rulemaking as noncategorized schools are not subject to the rules at N.J.A.C. 6A:33.

26. Comment: The commenter stated that nonprofit entities should not have a role in schools as they may have primarily monetary motives. (1)

Response: The commenter's feedback is outside the scope of this rulemaking, as N.J.A.C. 6A:33 does not include provisions for nonprofit entities to be involved in schools.

Pursuant to the ESEA § 1003(e)(1)(D), the Department requires school districts to recruit, screen, select, and evaluate external partners to ensure that Federal funds are used to secure high-quality professional and/or technical services.

Federal Standards Statement

The rules readopted with amendments, repeals, and new rules comply with Federal requirements under the ESEA, as amended by the ESSA, 20 U.S.C. §§ 6301 et seq. 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:33.

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

Subchapter 4. Exit Criteria

6A:33-4.1 Exit criteria for Comprehensive Schools

(a)–(c) (No change from proposal.)

(d) The Commissioner will notify a Comprehensive School by January 31 as to whether it has met the criteria at (b) above and is eligible to cease to be identified as a Comprehensive School effective June 30.

1. The *[school district]* ***chief school administrator*** shall submit a sustainability plan for an eligible Comprehensive School ***to the Department*** within 30 business days of the date of notification of eligibility by the Commissioner.

2.–3. (No change from proposal.)

(e) Comprehensive Schools that do not meet the exit criteria will remain in status as Comprehensive II Schools. The Commissioner shall notify a Comprehensive School of its Comprehensive II status by January 31.

1. *[School districts with]* ***Chief school administrators of*** Comprehensive II Schools shall provide to the Department, no later than 45 business days after the date of notification of Comprehensive II status, a report describing how the school district will increase equity in resource distribution to the Comprehensive II School relative to previous years.
- 2.–3. (No change from proposal.)
4. *[District]* ***All district*** board of education members of school districts with Comprehensive II Schools shall undergo additional training to strengthen ***their knowledge and understanding of their*** governance and oversight ***responsibilities***.
5. (No change from proposal.)