

Notice of Readoption for N.J.A.C. 6A:25, Qualified Zone Academy Bond Program

The following is the accessible version of the notice of readoption for N.J.A.C. 6A:25. The notice includes one section, which is the [summary](#) of the chapter.

Adoptions Section

Education

State Board of Education

Notice of Readoption

Qualified Zone Academy Bond Program

Readoption: N.J.A.C. 6A:25

Authority: N.J.S.A. 18A:4-15, 18A:7G-26, and 18A:36A-18; and 26 U.S.C. § 54E.

Authorized By: New Jersey State Board of Education, Angelica Allen-McMillan, Ed.D., Acting Commissioner, Department of Education, and Acting Secretary, State Board of Education.

Effective Date: February 9, 2022.

New Expiration Date: February 9, 2029.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 6A:25 were scheduled to expire on April 6, 2022. The Department of Education (Department) proposes to readopt N.J.A.C. 6A:25, Qualified Zone Academy Bond Program, without amendment through a notice of readoption. Through the Federal Taxpayer Relief Act of 1997 (Pub. L. 105-34) and codified at 26 U.S.C. § 1397E, Congress created a school financing instrument -- the Qualified Zone Academy Bond (QZAB) -- to enable state and local governments, such as school districts, to borrow money from financial institutions at no interest, for costs incurred, to rehabilitate and repair schools, train teachers, develop curriculum, and invest in technology for "qualified zone academies" that serve large concentrations of low-income families. Federal code allocates to state education agencies the bond cap, which is the dollar limit on interest-free state bonding capacity that can be used to finance the costs at qualified zone academies; state education agencies, in turn,

allocate the state bond cap to qualified zone academies within the state. As New Jersey's State education agency, the Department is authorized to allocate the QZAB bond cap in New Jersey.

N.J.A.C. 6A:25 implements the Federal QZAB program for New Jersey. The rules include eligibility requirements for the QZAB program, procedures for application submission for school districts and charter schools applying on behalf of qualified zone academies, and criteria used for the Department's review of applications.

This State's QZAB program is best understood within the context of the Federal QZAB statutory and regulatory requirements. The Federal government subsidizes QZABs for a period of time, typically up to 15 years, by providing to bondholders tax credits that are approximately equal in value to the interest that state and local government entities would normally pay the holders of taxable bonds. As the Federal government provides the interest payment by means of a tax credit, the borrower, in this case, the debt issuer for a school district or charter school, is responsible only for repaying the QZAB principal. Certain banks, insurance companies, and corporations actively involved in the business of lending money can receive a tax credit as an incentive to hold QZABs.

To participate in the QZAB program, a public school must be designated as a "qualified zone academy" according to Federal requirements. A qualified zone academy must be located in a Federal empowerment zone or enterprise community, or have at least 35 percent of its student body qualify for free or reduced-price lunch under the National School Lunch Act. In collaboration with a private entity, a public school also develops a comprehensive educational program to expand learning opportunities and provide students with skills needed for the rigors of college and the increasingly complex workplace. The comprehensive educational program must be approved by the school's district board of education or board of trustees, and its students must be subject to the same academic standards and assessments as other students in the school district or charter school. Private entities that collaborate with a qualified zone academy must

contribute the equivalent of 10 percent of the QZAB principal issued for the school.

Contributions may include cash, goods, or services, such as technical assistance.

This chapter, originally adopted effective June 3, 2002, addressed the initial phase of the QZAB program, which was implemented by integrating the newly enacted Federal QZAB program with the bonding authority for school construction projects authorized under the State Educational Facilities Construction and Financing Act (EFCFA). Amendments to the chapter effective in 2003 broadened the program beyond the initial phase by removing restrictive language. The chapter's most recent readoption in 2007 included the addition of Subchapter 5 to provide for the participation of eligible charter schools in accordance with P.L. 2002, c. 10, which amended the State's Charter School Program Act. Since that change, charter schools have been eligible to participate in the program. Pursuant to N.J.S.A. 18A:36-10, charter schools are not eligible for State facility construction funds. Therefore, Federal funds or Federal programs like the QZAB program are the only public facility construction funds for which charter schools are eligible.

The Federal QZAB program was last authorized for calendar years 2015 and 2016. Recent Federal bills proposed reauthorization of the program but have not been enacted to date. As the program has not been reauthorized, the Department is lacking information needed to propose amendments to New Jersey's QZAB rules. However, the Department is proposing to readopt N.J.A.C. 6A:25 without change to ensure that New Jersey is prepared should a QZAB reauthorization occur. Once the Federal program is reauthorized, the Department will review the chapter to determine if substantive changes are warranted.

The following summarizes the content of each section.

Subchapter 1. General Provisions

N.J.A.C. 6A:25-1.1 Purpose and applicability of rules

This section describes the purpose of the rules, which is to implement the QZAB program in New Jersey. The QZAB program may finance the costs of school facilities projects approved pursuant to the EFCFA and charter school capital projects. The section also states that the chapter applies to all district boards of education and charter schools in the State, as well as to the bondholders and private entities that participate in the program.

N.J.A.C. 6A:25-1.2 Definitions

This section defines terms used in the chapter. The rules also state that terms not defined in the chapter have the meanings defined for qualified zone academy bonds as set forth at 26 U.S.C. § 54E and the Federal regulations and for the State program of school construction as set forth in EFCFA and at N.J.A.C. 6A:26, Educational Facilities.

Subchapter 2. Eligibility for QZAB Funding

N.J.A.C. 6A:25-2.1 School requirements

This section sets forth the criteria that a school must meet to be designated as a qualified zone academy and be eligible for QZAB funding. The rules supplement the Federal eligibility criteria by requiring the school to be in a “school district” as defined at N.J.S.A. 18A:7G-3 and N.J.A.C. 6A:26-1.2.

N.J.A.C. 6A:25-2.2 QZAB project requirements

This section provides that a QZAB-eligible project must: (i) be located in a school that qualifies as a qualified zone academy; (ii) be included in a school district's approved long-range facilities plan; (iii) be approved by the Department as a school facilities project; (iv) not be completed at the time the QZAB funding application is submitted; (v) consist of rehabilitation work, including equipment related to the rehabilitation of the school facility that houses a qualified zone academy; and (vi) be located in a school facility eligible for a private business contribution by a private entity. This section also provides that a school district can apply for one

or more school facilities projects in one or more school facilities provided each facility and each project meet the chapter's requirements.

N.J.A.C. 6A:25-2.3 Private collaboration requirement

This section describes the type of written commitment that a school must receive from a private entity to meet the private business contribution requirement of not less than 10 percent of the bond issue's proceeds. The section also sets forth a list of the allowable types of private business contributions.

N.J.A.C. 6A:25-2.4 Comprehensive educational plan requirements

This section describes the comprehensive educational plan that a school must design in cooperation with one or more private entities to meet Federally defined purposes such as preparing students for the rigors of college.

Subchapter 3. Application for QZAB Funding

N.J.A.C. 6A:25-3.1 Application requirements

This section describes the requirements for a QZAB program funding application. The application must include information regarding school eligibility, project approval, the comprehensive educational plan, the private entity collaboration, and the school district approval of the QZAB bond issuance.

N.J.A.C. 6A:25-3.2 Application review and approval

This section requires school districts to submit QZAB program applications to the Department by July 1. The rules also govern the Department's review of applications and notification of approvals or denials.

N.J.A.C. 6A:25-3.3 Appeals of Department determinations

This section requires appeals of Department determinations with respect to QZAB program eligibility to be made in accordance with N.J.A.C. 6A:3, Controversies and Disputes.

Subchapter 4. Charter School Eligibility for QZAB Funding

N.J.A.C. 6A:25-4.1 Charter school requirements

This section requires a charter school to have an approved charter and meet the Federal eligibility criteria to qualify as a qualified zone academy and receive QZAB funding.

N.J.A.C. 6A:25-4.2 QZAB project requirement

This section requires a charter school capital project to meet the following criteria to be eligible for QZAB program funding: (i) consist of rehabilitation work, including equipment related to the rehabilitation of the charter school facility that houses a qualified zone academy; (ii) not be completed at the time an application for QZAB funding is submitted; (iii) be located in a charter school that qualifies pursuant to N.J.A.C. 6A:25-2.1(a); and (iv) be located in a charter school eligible for a private business contribution by a private entity.

N.J.A.C. 6A:25-4.3 Private collaboration requirement

This section describes the type of written commitment that a charter school must receive from a private entity to meet the private business contribution requirement of not less than 10 percent of the bond issue's proceeds. The section also refers to the list of the allowable types of private business contributions.

N.J.A.C. 6A:25-4.4 Comprehensive educational plan requirements

This section describes the comprehensive educational plan that a charter school must design in cooperation with a private entity to meet Federally defined purposes, such as preparing students for the rigors of college.

Subchapter 5. Charter School Application for QZAB Funding

N.J.A.C. 6A:25-5.1 Application requirements

This section describes the requirements for a charter school's application for QZAB funding. The application must demonstrate the charter school's eligibility and include the capital

project, the comprehensive educational plan, the private entity collaboration, and charter school approval of the QZAB bond issuance.

N.J.A.C. 6A:25-5.2 Application review and approval

This section requires charter schools to submit QZAB program applications to the Department by July 1. The rules also govern the Department's review of the application and notification of approvals or denials.

N.J.A.C. 6A:25-5.3 Appeals of Department determinations

This section requires appeals of Department determinations with respect to a charter school's QZAB program eligibility to be made in accordance with N.J.A.C. 6A:3.

Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted without amendment and shall continue in effect for a seven-year period.