

(b) (No change.)

(c) [Copies of the] **The “Field Guide to On-Farm Composting”** [may be purchased from the Natural Resource, Agriculture, and Engineering Service, Cooperative Extension, 152 Riley Robb Hall, Ithaca, NY 14853-5701. Purchasing information is also available on the Natural Resource, Agriculture, and Engineering Service’s site on the World Wide Web at <http://www.NRAES.ORG>.] **is available on the Cornell University Library eCommons website at <https://ecommons.cornell.edu/handle/1813/67148>.**

**(d) The “Livestock Mortality and Butcher Waste Composting: Rutgers Recommended Practices” is available on the Rutgers Cooperative Extension website at <http://njaes.rutgers.edu/pubs/>.**

2:76-2A.9 Fencing installation agricultural management practice for wildlife control

(a) The installation of fencing on farmland for protection against wildlife damage shall be a generally accepted agricultural management practice recommended by the Committee.

1. The installation of fencing on farmland for protection against wildlife damage shall be performed in accordance with the following:

i. With respect to high-tensile woven wire fencing, the Rutgers Cooperative Extension publication entitled “High-Tensile Woven Wire Fences for Reducing Wildlife Damage,” FS [8XX] **889**, which the State Agriculture Development Committee hereby adopts and incorporates by reference, as amended and supplemented, pursuant to N.J.A.C. 1:30-2.2[.]. **This publication is available on the Rutgers Cooperative Extension website at <http://njaes.rutgers.edu/pubs/>;**

ii. With respect to electric fencing, the Rutgers Cooperative Extension publication entitled “Vertical Seven-Wire Deer Control Fence,” FS 151, which the State Agriculture Development Committee hereby adopts and incorporates by reference, as amended and supplemented, pursuant to N.J.A.C. 1:30-2.2[.], **This publication is available from the Rutgers Cooperative Extension, Department of Agricultural and Natural Resources, 88 Lipman Dr., New Brunswick, NJ 08901;**

iii. **With respect to portable electric fencing, the Rutgers Cooperative Extension publication entitled “Portable Electric Fencing for Preventing Wildlife Damage”, FS888, which the State Agriculture Development Committee hereby adopts and incorporates by reference, as amended and supplemented, pursuant to N.J.A.C. 1:30-2.2. This publication is available on the State Agriculture Development Committee website at <http://nj.gov/agriculture/sadc>; and**

[iii.] iv. (No change in text.)

2. Pursuant to N.J.S.A. 4:1C-9[.] and N.J.A.C. 2:76-2.3 and [N.J.A.C. 2:76-]2.4, a commercial farm operator shall request a site specific agricultural management practice recommendation from the appropriate County Agriculture Development Board or the State Agriculture Development Committee, in counties where no [County Agriculture Development Board] **county agriculture development board** exists, when installing, maintaining, or utilizing a type of fence not specifically recommended in this agricultural management practice.

[3. Copies of “High-Tensile Woven Wire Fences for Reducing Wildlife Damage” and “Vertical Seven-Wire Deer Control Fence” may be obtained from Rutgers, The State University of New Jersey, Publications Distribution Center, RCE, Cook College, 57 Dudley Road, New Brunswick, NJ 08901-8520.]

(a)

**STATE AGRICULTURE DEVELOPMENT COMMITTEE**

**Agricultural Mediation Program**

**Proposed Amendments: N.J.A.C. 2:76-18.2 and 18.10**

Authorized By: State Agriculture Development Committee, Susan E. Payne, Executive Director.

Authority: N.J.S.A. 4:1C-5.f.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2023-122.

Submit written comments by February 16, 2024, to:

Susan E. Payne, Executive Director  
 State Agriculture Development Committee  
 PO Box 330  
 Trenton, NJ 08625-0330  
 or through email: [SADC@ag.state.nj.us](mailto:SADC@ag.state.nj.us).

The agency proposal follows:

**Summary**

The State Agriculture Development Committee (“SADC” or “Committee”) administers the New Jersey agriculture mediation program as set forth at N.J.A.C. 2:76-18. The State program provides a voluntary and cost-free opportunity for parties to mediate agriculture-related disputes before an SADC-certified mediator.

The U.S. Department of Agriculture, Farm Services Agency (USDA-FSA) has been annually certifying New Jersey’s mediation program since the program’s inception in 2000, in accordance with Federal agricultural mediation program rules at 7 CFR 785. Federal certification of New Jersey’s program allows the State to receive USDA-FSA grant funding to cover part of the State mediation program’s annual administrative costs and expenses.

The SADC proposes to amend N.J.A.C. 2:76-18.2 to clarify and expand the types of disputes, which may be mediated pursuant to the State program. The mediation of the additional disputes set forth in the proposed amendments was authorized by the Federal Agriculture Improvement Act of 2018, Pub. L. 115-334 (commonly known as the 2018 Farm Bill). No changes are proposed to the existing list of issues subject to mediation: nuisance allegations; wetlands determinations; and compliance with farm programs, including conservation, agricultural credit, rural loan programs, and pesticides.

The proposed amendments clarify that mediation is available for disputes regarding activities addressed in the Right to Farm Act, N.J.S.A. 4:1C-1 et seq., as well as other matters that could affect a farm’s agricultural productivity or viability; conflicts between farmers and neighbors or other persons, and conflicts between farmers and local government entities; agricultural lease issues; family farm transition disputes; any issues authorized for mediation by Federal agricultural laws or regulations; and such other issues determined by the New Jersey Secretary of Agriculture, as appropriate, in order to serve the agricultural community.

N.J.A.C. 2:76-18.10 governs the annual renewal of mediator certification for the State program. The rules currently require a minimum of 18 hours of core mediator knowledge skills and training in order for a mediator to qualify for SADC certification, but do not include a continuing training requirement. The proposed amendment requires that, in order for mediators to remain eligible to hear disputes pursuant to the State program, mediators must complete annually four hours of continuing education relating to at least one of the following: mediation and negotiation concepts and skills; other professional matters related to mediation such as ethical issues, case management skills, conflict management and communication skills, and mediation in virtual or hybrid settings; knowledge of agricultural topics appropriate for the State program; and mediation topics covered in a continuing training satisfying R. 1:40-12(b). The annual training can be in-person or virtual.

As the SADC has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

**Social Impact**

The proposed amendments will have a positive social impact. Pursuant to the proposed amendment at N.J.A.C. 2:76-18.2, the agriculture community and affected parties will be able to voluntarily mediate additional issues. Voluntary mediation is a favored public policy, and the increased ability of New Jersey farmers to resolve disputes, without the delays, costs, and risks of litigation, ultimately contributes to the viability of New Jersey agriculture. The continuing training requirement established in the proposed amendment at N.J.A.C. 2:76-18.10 will further increase a certified mediator’s skills, knowledge, and ability to help the parties amicably resolve their agriculture-related disputes.

**Economic Impact**

The proposed amendments will have a positive impact upon the State economy by expanding a program that encourages and assists parties to resolve agriculture-related events in a confidential and cost-efficient manner, instead of resorting to litigation or the formal complaint and public hearing process established in the Right to Farm Act, N.J.S.A. 4:1C-1 et seq. It is anticipated that the proposed amendments will allow additional issues to be mediated, including those issues the Secretary of Agriculture considers appropriate for better serving the State agricultural community, and will contribute to the general economic health and productivity in the State.

**Federal Standards Statement**

The Committee has determined that the proposed amendments do not include any standards or requirements that exceed the standards and requirements imposed by Federal law. Annual Federal certification allows the SADC to obtain partial reimbursement of the expenses incurred by the State program, provided it remains in compliance with Federal financial management and reporting requirements. The proposed amendments to the State agriculture mediation program rules are authorized by the Federal Agriculture Improvement Act of 2018, Pub. L. 115-334.

**Jobs Impact**

The proposed amendments are not expected to result in the generation or loss of jobs in the State.

**Agriculture Industry Impact**

The proposed amendments will have a positive impact on the agriculture industry by expanding the list of cases that can be mediated, encouraging an alternate dispute resolution process that can save parties the time, expense, and risk of litigation, and promoting trust in the mediation process by ensuring that mediators maintain their qualifications.

**Regulatory Flexibility Analysis**

The proposed amendments at N.J.A.C. 2:76-18.10 establishes a continuing education requirement for the currently nine State program mediators, some of whom may be considered small businesses as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The additional recordkeeping, reporting, and compliance requirements are minimal and should not impose an undue burden upon persons who have elected to become State program mediators. The four-hour annual continuing education requirement in the proposed rule also aligns with that at R. 1:40-12(b)2 for certified mediators in the State’s court system. Several of the current SADC-certified mediators are practicing New Jersey attorneys who are already subject to mandatory continuing legal education requirements, including credit offerings for completion of mediation training. Agriculture mediators must maintain their qualifications in order to be certified by the Committee and to effectively discharge their responsibilities pursuant to the State program; accordingly, no exceptions to the continuing education requirement can be made for small businesses.

**Housing Affordability Impact Analysis**

SADC does not anticipate that the proposed amendments will have any impact on housing affordability or evoke a change in the average costs of housing because the proposed amendments concern expanding mediation

for agriculture-related issues and continuing education for the certified mediators.

**Smart Growth Development Impact Analysis**

The proposed amendments will potentially have a positive impact on smart growth by providing for the mediation of additional types of disputes which may help retain and increase the economic viability of farms located in PA-4 and PA-5. The proposed amendments will not have an impact on Planning Areas 1 and Planning Areas 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey.

**Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The SADC has evaluated the proposed amendments and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

SUBCHAPTER 18. AGRICULTURAL MEDIATION PROGRAM

2:76-18.2 Definitions

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

- ...
  - “Dispute” means a disagreement between two or more parties who perceive incompatible goals and/or interference from the other party in achieving their goals with respect to one or more of the following issues:
    - 1.-5. (No change.)
    - 6. Pesticides; [or]
    - 7. As concerns activities as addressed in [N.J.S.A. 4:1C-9] **the Right to Farm Act, N.J.S.A. 4:1C-1 et seq., and disputes or other matters that could adversely affect a farm’s agricultural productivity or viability;**
    - 8. **Farmer-neighbor disputes—including issues between a farmer and neighbor; and issues between a farmer and local government entity;**
    - 9. **Lease disputes—including issues related to leasing land, equipment, livestock, storage facilities, farm buildings, solar energy generation facilities, and other farm-related items;**
    - 10. **Farm transition matters—including transfer and succession issues within a family; between a family, person, or entity and an unrelated person, family, or entity; or that occur prior to, during, or after a farm transition planning or implementation process;**
    - 11. **Any issues authorized for mediation by Federal agricultural laws or regulations; or**
    - 12. **Such other issues as the Secretary of Agriculture considers appropriate for better serving the agricultural community and persons eligible for mediation.**

2:76-18.10 Annual renewal of mediator certification

(a) The Committee shall annually review and renew the certificates of certified mediators to [insure] **ensure** satisfactory performance of mediation responsibilities **and completion of continued training** by June 30th of each year.

1. In order to have his or her certification renewed, a certified mediator, if assigned a case(s) during the fiscal year, must have satisfied the requirements of this subchapter, **and must have completed continued training pursuant to (c) below.**

2. If a certified agricultural mediator has not been assigned a case(s) during the fiscal year, his or her certification shall be renewed, **provided they have completed the continued training pursuant to (c) below.**

(b) (No change.)

(c) **Continuing training. Commencing in the year following certification as an agricultural mediator, all mediators shall annually complete, in-person or in a virtual setting, four hours of continued training and shall file with the Committee, as appropriate, an annual certification of compliance. This requirement shall be deemed**

satisfied if the continued training reinforces and/or enhances at least one of the following:

1. Mediation and negotiation concepts and skills;
2. Other professional matters related to mediation, including ethical issues associated with mediation practice, case management skills, conflict management and communication skills, how to conduct mediation in a virtual or hybrid setting, or other matters;
3. Knowledge of agricultural topic areas appropriate to the Agricultural Mediation Program; and
4. Mediation topics covered in a continuing training that satisfies the requirements pursuant to N.J. Court Rule 1:40-12(b).

## EDUCATION

### (a)

#### STATE BOARD OF EDUCATION

#### Controversies and Disputes

#### Proposed Readoption with Amendments: N.J.A.C. 6A:3

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

Authority: N.J.S.A. 18A:6-9, 18A:6-10, 18A:7-4, 18A:7A-15, 18A:7A-42.a(3), 18A:7F-9, 18A:7F-12, 18A:11-3, 18A:12-29, 18A:20-36, 18A:26-10, 18A:28-8, 18A:29-4, 18A:29-14, 18A:33-2, 18A:38-1, 18A:38-13, 18A:39-28 et seq., 18A:54-4, and 18A:60-1; and P.L. 2007, c. 260 and P.L. 2012, c. 26.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2023-119.

Submit written comments by February 16, 2024, to:

Christopher Huber, Esq., Assistant Commissioner  
Division of Legal and External Services  
New Jersey Department of Education  
PO Box 500  
Trenton, New Jersey 08625-0500  
Email: [chapter3@doe.nj.gov](mailto:chapter3@doe.nj.gov)

The agency proposal follows:

#### Summary

The Department of Education (Department) proposes to readopt with amendments N.J.A.C. 6A:3, Controversies and Disputes. In accordance with N.J.S.A. 52:14B-5.1, the chapter was scheduled to expire on August 7, 2024. As the Department submitted this notice of proposal to the Office Of Administrative Law prior to that date, the expiration date was extended 180 days to February 3, 2025, pursuant to N.J.S.A. 52:14B-5.1.c(2).

This chapter sets forth the rules of procedure established by the Department for the filing of petitions with the Commissioner of Education (Commissioner) to hear and decide controversies and disputes arising under school laws, in accordance with N.J.S.A. 18A:6-9. The chapter also establishes special rules of procedure for the following specific types of controversies: 1) the filing of tenure charges, pursuant to N.J.S.A. 18A:6-10 et seq.; 2) the termination of sending-receiving relationships, pursuant to N.J.S.A. 18A:38-13; 3) appeals from decisions of the New Jersey State Interscholastic Athletic Association, pursuant to N.J.S.A. 18A:11-3; 4) denials of entitlement to attend school, pursuant to N.J.S.A. 18A:38-1; 5) review of penalties recommended by the School Ethics Commission, pursuant to N.J.S.A. 18A:12-29; and 6) hearings prior to suspension or revocation of school bus driver endorsements, pursuant to N.J.S.A. 18A:39-28 et seq.

The procedures set forth in the rules proposed for readoption with amendments remain substantially the same as existing rules. Unless otherwise noted in this Summary, all proposed amendments are to eliminate gender-specific pronouns in this chapter, correct cross-

references to the New Jersey Administrative Code, update names of Department offices, or for clarity or stylistic or grammatical improvement.

The following summarizes the chapter and the proposed amendments.

#### Subchapter 1. General Provisions

##### N.J.A.C. 6A:3-1.1 Purpose and Scope

This section sets forth the general purpose and scope of the chapter.

The Department proposes new N.J.A.C. 6A:3-1.1(e) to specify that N.J.A.C. 6A:3 does not apply to matters concerning streamline tenure of charter school employees, which are decided by the Commissioner pursuant to N.J.A.C. 6A:11-6.4.

##### N.J.A.C. 6A:3-1.2 Definitions

This section defines terms used throughout the chapter.

The Department proposes to amend the definitions of “day” and “filing” to eliminate the statements that filings received after 4:15 P.M. shall be deemed filed on the next business day. The increase in popularity of filing through email has led to a greater number of submissions outside of standard business hours and the time-of-day requirement has caused confusion to members of the public, particularly *pro se* petitioners. The deleting of the provision will allow the date of submission to be the same as the date of filing to avoid confusion. In addition, the term “legal” holiday is added to the time calculation of days.

The Department proposes to amend the definition of “district board of education” to add the board of trustees of a renaissance school project, consistent with N.J.S.A. 18A:36C-7, which designates renaissance schools as public schools.

The Department proposes to amend the definition of “filing” to delete the option to file by facsimile because the Office of Controversies and Disputes no longer uses facsimile to communicate with parties, as email filing is free and more accessible for *pro se* petitioners than facsimile. The Department proposes throughout the chapter to delete references to “facsimile” or “fax numbers” and requirements to provide or update fax numbers for the same reason.

##### N.J.A.C. 6A:3-1.3 Filing and Service of Petition of Appeal

This section prescribes the procedures for filing a petition of appeal initiating a contested case before the Commissioner.

The Department proposes to amend N.J.A.C. 6A:3-1.3(a) to delete “original” before “petition” and to add that electronic filings must be submitted to the email address designated by the Office of Controversies and Disputes. Petitioners will still have the option to submit a petition and supporting materials to the specified mailing address.

The Department proposes an amendment at N.J.A.C. 6A:3-1.3(h)2 to delete the requirement that an affidavit of service must be sworn or affirmed to be true in the presence of a notary public or other person authorized to administer an oath or affirmation. This provision was relaxed during the COVID-19 pandemic due to difficulties in obtaining notary services, without issue. The proposed amendment will codify the change. The Department proposes to amend N.J.A.C. 6A:3-2.2 to delete the requirement that a petition for declaratory ruling must be sworn or affirmed to be true in the presence of a notary public or other person authorized to administer an oath or affirmation for the same reason.

##### N.J.A.C. 6A:3-1.4 Format of Petition of Appeal

The section prescribes the format for preparing a petition of appeal.

##### N.J.A.C. 6A:3-1.5 Filing and Service of Answer

The section sets forth the filing and content requirements for an answer to a petition.

##### N.J.A.C. 6A:3-1.6 Emergent Relief or Stay

This section prescribes the requirements for the filing and disposition of motions for emergent relief.

##### N.J.A.C. 6A:3-1.7 Amendment of Petition and Answer

This section prescribes the parties’ right to file amendments to pleadings.